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**Friday, 25 May 2018**

**Chairman: Councillor D Payne  
Vice-Chairman: Councillor P Handley**

**Members of the Committee:**

**Councillor Mrs K Arnold  
Councillor R Blaney  
Councillor Mrs C Brooks  
Councillor B Crowe  
Councillor Mrs M Dobson  
Councillor P Duncan  
Councillor J Lee**

**Councillor Mrs P Rainbow  
Councillor F Taylor  
Councillor Mrs L Tift  
Councillor I Walker  
Councillor B Wells  
Councillor Mrs Y Woodhead**

**MEETING: Planning Committee**

**DATE: Tuesday, 5 June 2018 at 4.00 pm**

**VENUE: Civic Suite, Castle House, Great North Road,  
Newark, Notts, NG24 1BY**

**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.**

If you have any queries please contact Catharine Saxton on [catharine.saxton@newark-sherwooddc.gov.uk](mailto:catharine.saxton@newark-sherwooddc.gov.uk).

## AGENDA

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1. Apologies for Absence	
2. Declarations of Interest by Members and Officers	
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6. Land At Tolney Lane, Newark On Trent - 17/02087/FUL	41 - 67
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8. Land West Of Waterfield Way, Clipstone - 17/02051/RMAM <b>(Site Visit: 09:50 to 10:00 hours)</b>	101 - 122
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12. Land Adjacent Lime Tree House, Halam Hill, Halam - 18/00501/FUL <b>(Site Visit: 10:35 to 10:45 hours)</b>	166 - 184
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16. Primrose Cottage, Mansfield Road, Edingley - 18/00543/FUL <b>(Site Visit: 10:20 to 10:30 hours)</b>	226 - 234
17. Flash Farm, Micklebarrow Hill, Averham - 18/00433/FUL <b>(Site Visit: 11:10 to 11:20 hours)</b>	235 - 250
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**Part 3 - Statistical and Performance Review Items** None

**Part 4 - Exempt and Confidential Items**

22. Exclusion of the Press and Public None

To consider resolving 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 involve the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3 and 7 of part 1 of Schedule 12A of the Act.

NOTES:-

A Briefing Meeting will be held in Room F1, Castle House at 3.00 pm on the day of the meeting between the Business Manager – Growth & Regeneration, the Chairman and Vice-Chairman of the Committee to consider late representations received after the Agenda was published.

# Agenda Item 4

## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 8 May 2018 at 4.00 pm.

PRESENT: Councillor D Payne (Chairman)  
Councillor P Handley (Vice-Chairman)

Councillor Mrs K Arnold, Councillor R Blaney, Councillor Mrs C Brooks, Councillor B Crowe, Councillor Mrs M Dobson, Councillor J Lee, Councillor N Mison, Councillor Mrs P Rainbow, Councillor Mrs S Saddington, Councillor Mrs L Tift, Councillor Mrs Y Woodhead and Councillor R Jackson

APOLOGIES FOR ABSENCE: Councillor I Walker and Councillor B Wells

### 239 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

<u>Member/Officer</u>	<u>Agenda Item</u>
Councillor J Lee	Agenda Item 12 – Land at Junction with Beckingham Road, Brownslow Hall, Coddington (18/00168/FUL). Personal Interest as he supported the residents and has pre-determined the decision.
Councillors Mrs C Brooks and D Payne	Agenda Item 12 – Land at Junction with Beckingham Road, Brownslow Hall, Coddington (18/00168/FUL). Both Members were Directors of Newark and Sherwood Homes and declared their personal interests.

### 240 DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting.

### 241 MINUTES OF THE PLANNING COMMITTEE HELD ON 3 APRIL 2018

AGREED that the minutes of the above meeting be approved as a correct record and signed by the Chairman.

### 242 ORDER OF BUSINESS

With the agreement of the Committee, the Chairman changed the order of business and Agenda Items 12 and 14 were taken after Item 5, the agenda resumed its stated

order thereafter.

243 LAND AT FERNWOOD MEADOWS SOUTH, GREAT NORTH ROAD, FERNWOOD, NEWARK (17/01266/OUTM) (MAJOR)

The Committee considered the report of the Business Manager Growth & Regeneration which sought outline planning consent for a residential scheme of up to 350 dwellings with associated areas of public open space; green and drainage infrastructure. The proposal would include a mix of open market and affordable dwellings.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from Nottinghamshire County Council Education Authority.

Members considered the application and one Member commented that she would have liked to have seen less development and more spent on infrastructure. A Member suggested that Fernwood Parish Council should be given an opportunity for allotment management and maintenance and the ability of another Fernwood Management Company to step in at a later date if the Parish Council were unable to continue. Mains water should also be made available to the allotment site and written into the Section 106 agreement.

A Member also commented that the report was inaccurate in stating that the Council was unwilling to take on the open space. The Council was willing to maintain the open space if an appropriate maintenance sum was provided by the applicant. The cost of this was unpalatable for the applicant.

AGREED (unanimously) that outline planning permission be approved subject to the conditions appended to the report; the completion of an associated Section 106 agreement - to be framed to allow Fernwood Parish Council first approach for allotment management and maintenance; the ability of another Fernwood ManCo to step in at a later date if the Parish were unable; and conditions as recommended (which can be amended provided they achieve substantively the same objective); and the finalisation of conditions in substantive accordance with those Appended within the report (this can include conditions being moved into the Section 106 subject to legal advice).

244 LAND AT JUNCTION WITH BECKINGHAM ROAD, BROWNLOWS HALL, CODDINGTON (18/00168/FUL)

The Committee considered the report of the Business Manager Growth & Regeneration which sought planning permission for the demolition of the existing garage block (comprising six garages) and the erection of three two storey terraced dwellings with associated garden space and parking.

Councillor J Lee having declared a personal interest and pre-determination withdrew himself from the meeting and sat in the public seating area.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Agent and Coddington Parish Council.

Councillor Mrs Cox, representing Coddington Parish Council spoke against the application in accordance with the views of Coddington Parish Council.

Councillor J Lee sought Committee approval to speak as the Local Ward Member for the application. The Chairman allowed Councillor J Lee to return to the meeting and speak on the item. Councillor J Lee did not take part in the debate or voting of the application.

Councillor J Lee, Local Ward Member for Balderton North & Coddington spoke against the application on the grounds of loss of green open space in a conservation area. He commented that this area of land was heavily used by children as a play area and dog walkers and would be a major loss to the local community. The nearest park was a fifteen minute walk. Nottinghamshire County Council had put in double yellow lines in that area and the mobile traffic camera was used to reduce parking issues. He felt the application was of bad design and urged the Committee to refuse the application.

Members considered the application and it was commented that the site had a range of garages and hard standing, the open space wrapped around the garages and would therefore wrap around the proposed development. The proposed houses would be placed on the derelict site. It was also confirmed that the green area left would be accessible by the public. Members also considered the information regarding the current open space being 1851 sqm which would reduce to 1639 sqm and felt that there would be minimal loss. The development would provide three houses to three families on the Newark and Sherwood Homes waiting list and would be valued by those people.

Other Members commented that the site was in the protected open space and was in the Core Strategy. The local community were against the development and it was felt that the site should be cleared and retained as a green open space in line with what the local community wanted. The school traffic issues with car parking were also raised and it was felt that the development would only exasperate that problem.

The Business Manager Growth & Regeneration clarified that whilst the site was dedicated as protected open space in the Core Strategy, as a matter of law planners and indeed members should consider whether other material considerations outweigh the development plan and in this case it was considered by planners that the gaining of three affordable dwellings outweighed the minimal loss of green space cited above.

AGREED (with 8 votes for and 4 votes against) that planning permission be approved subject to the conditions contained within the report, the following amendment to condition 2 and additional condition.

- (i) The updated plan requested to include proposed visibility splays. Condition 2 to be amended to reflect the awaited revised plan which will also show the removal of only one tree;

- and
- (ii) An additional condition be included to restrict the root protection area to be a 'hand dig' zone along with tree protection.

245 LAND ADJACENT TO THE MANOR HOUSE, MAIN STREET, HOVERINGHAM (18/00373/FUL)

The Committee considered the report of the Business Manager Growth & Regeneration, following a site visit, which sought full planning permission for the erection of a two storey, two bedroom dwelling that would be sited in the west of the garden of the Manor House, Hoveringham.

Councillor Lady H Nall, representing Hoveringham Parish Council spoke in support of the application in accordance with the views of Hoveringham Parish Council as contained within the report.

Councillor R Jackson, the Local Ward Member for Dover Beck, spoke in support of the application and commented that the application site was next to the church and Manor House which was the highest point within the village and had not previously flooded. The village was desperate for two bedroom properties for people to downsize and stay in the village.

Members considered the application and it was commented that the reason for Officer refusal was due to the sequential test and Hoveringham being a SP3 village. Members felt that the site visit had shown that the hedge had been a feature in the garden for a long period of time and the access to the proposed development was off the existing access. It was felt that taking both those into consideration it would look like the proposed development had always been in situ. Members were therefore minded to approve subject to appropriate and proportionate mitigation to address the issue of possible flooding.

*(Councillor J Lee was not present for the Officer presentation and took no part in the vote).*

AGREED (unanimously) that contrary to Officer recommendation full planning permission be approved subject to demonstration that the proposal would not increase flood risk to third parties to the satisfaction of Newark and Sherwood District Council and appropriate and proportionate mitigation measures for possible flooding to be secured by conditions as well as other suitable conditions.

246 LAND NORTH OF PETERSMITH DRIVE, OLLERTON (17/00595/FULM)

The Committee considered the report of the Business Manager Growth & Regeneration, which sought full planning permission for a residential development of the site for 305 dwellings with associated open space and ancillary works.

*(Councillor R A Crowe left the meeting at this point).*

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Applicant and Applicant's Archaeologist.

Members considered the application and commented on the two access points from the development; particular concern was raised regarding the 180 degree turn off Petersmith Drive. It was suggested that the turn could be eased through further discussions with the applicant's agent for an improved layout. It was suggested that delegated authority be granted to the Business Manager in consultation with the Planning Committee Chairman and Vice-Chairman to negotiate an improved layout in terms of the T junction.

AGREED (with 11 votes for and 1 abstention) that Planning permission be approved, subject to conditions (including delegated authority to amend draft conditions accordingly should appropriate information be submitted effectively discharging pre-commencement conditions set out in the agenda prior to a decision being issued) and signing and sealing of S106 to secure developer contributions and provisions as set out in report. Officers to seek softening of T junction at western end of the site details of which to be delegated to the Business Manager Growth & Regeneration in conjunction with the Planning Committee Chairman and Vice-Chairman.

247 LAND AT PINFOLD LANE, AVERHAM (17/02307/FUL)

The Committee considered the report of the Business Manager Growth & Regeneration, following a site visit prior to the meeting, which sought full planning permission for the erection of a single detached three bedroom dwelling and detached single garage.

Members considered the application and it was commented that this was a landlocked paddock, access of which would need to be sought from the bungalow which was in the ownership of the applicant. The property had been created to fit onto the site and whilst the concerns of the Parish Council were taken on board this was considered an appropriate infill development in this small settlement.

AGRRED (unanimously) that planning permission be approved subject to the conditions contained within the report.

248 DOWNTOWN GARDEN CENTRE, OLD GREAT NORTH ROAD, GREAT GONERBY (17/02120/NPA)

The Committee considered the report of the Business Manager Growth & Regeneration which related to a planning application seeking outline planning permission within the neighbouring South Kesteven District for the erection of a Designer Outlet Centre of up to 20,479 sqm (GEA) of floor space comprising retail units (A1) restaurants and cafes (A3) and storage. Additional large goods retail (5,574 sqm GEA) garden centre (5,521 sqm GEA) and external display area for garden centre (1,393 sqm) tourist information and visitor centre, training academy, leisure unit and offices including high-tech hub/start up offices. Demolition of existing garden centre



and sales area and existing warehouse. Improvements to existing Downtown Grantham Store elevations. Reconfigured car-parking and provision of new multi storey car park. Increased coach parking. Access improvements, drainage works, hard and soft landscaping and all ancillary works. All matters reserved with the exception of access.

Members were informed that the Council had been consulted on the above planning application and were invited to make comments on the scheme to the decision maker, South Kesteven District Council. A Holding Objection was issued to South Kesteven District Council until such time as the Council had secured professional retail advice on the scheme. The report set out what officers considered those comments should be for Members consideration.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from Carter Jonas – Retail Consultant.

The Business Manager Growth & Regeneration advised Members of the application before them and informed them that the Retail Consultant had advised that it was unlikely that the market would be able to support two large-scale schemes within such close proximity. If one scheme was in place the impact would be £7.1m loss to Newark, the consultant had advised that the impact was just short of significant impact, albeit it was for Members to debate this issue. In any event the Business Manager informed that the view of Queens Counsel had been obtained regarding the proper retail planning test to consider. The issue for us to assess is whether the impact of 2 no. planning consents would be acceptable on the vitality and viability of Newark town centre. Retail advisors to the Council consider that the impact of both schemes to Newark Town Centre would be £11.8m. The Council was also considering the pending application for Marks & Spencer to relocate to Newark North Gate, which would also have an impact on the Town Centre. The Business Manager suggested that both a Planning Officer and an elected Member should attend South Kesteven District Council's Planning Committee to speak against the application, in addition to providing a strong written objection.

Members considered the application and agreed that the application would have a significant adverse impact on Newark Town Centre, particularly when viability margins were lower than ever in difficult market conditions. The loss of a significant town centre retailer would further exacerbate any significant adverse harm. It was suggested that the Newark MP should be informed and asked to seek confirmation that the Secretary of State call the matter in for his own determination should South Kesteven District Council be minded to approve the application. Members also confirmed they supported attendance of both a Planning Officer and an elected Member at the South Kesteven District Council Planning Committee to raise their objection.

AGREED (unanimously) that:

- (i) Strong objection be placed in writing to South Kesteven District Council; and
- (ii) attendance at South Kesteven District Council by both an Officer

and elected Member to speak at their Planning Committee against the scheme due to the retail impact on Newark town centre as per advice set out by Carter Jonas – Retail Consultant as detailed in the late items schedule.

249 RULE NO. 30 - DURATION OF MEETINGS

In accordance with Rule No. 30.1, the Chairman indicated that the time limit of three hours had expired and a motion was proposed and seconded to extend the meeting by one hour.

AGREED (unanimously) that the meeting continue for a further one hour.

250 LAND OFF MILL LANE, NORTH CLIFTON (17/01564/FUL)

The Committee considered the report of the Business Manager Growth & Regeneration, following a site visit, which sought planning permission for the erection of a single holiday unit in the form of a timber construction.

The application had been presented to the Planning Committee in line with the Council's Scheme of Delegation as North Clifton Parish Council had written in support of the application which differed to the professional officer recommendation.

Members at the December Planning Committee unanimously agreed to defer the application pending the submission of a protected species survey and to enable a site visit to take place.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from Newark Showground and the Local Pub.

A further letter of support was hand delivered to the Business Manager Growth & Regeneration at the meeting from Girton sailing club.

Members considered the application and one Member commented that whilst she was not in support of the design, as she felt it did not fit into the area, she was in support of the application. This proposal would provide holiday accommodation to this rural area which was in demand. It was suggested that the development should be changed to look like a log cabin.

Other Members questioned whether the single three bedroom log house was acceptable in this location as holiday accommodation, or whether a future change of use application would be submitted if the accommodation was not viable.

A vote was taken and lost to grant planning permission with 5 votes for, 6 votes against and 1 abstention.

AGREED (with 6 votes for, 4 votes against and 2 abstentions) that planning permission be refused for the reasons contained within the report.

251 LAND AT EPPERSTON ROAD, LOWDHAM (18/00017/OUT)

The Committee considered the report of the Business Manager Growth & Regeneration, following a site visit, which sought outline planning permission for the erection of a single dwelling.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from the Council's Environmental Health Officer which recommended an additional condition as follows:

"The reserved matters application shall be accompanied by Noise Report and Mitigation Strategy which includes proposed measures designed to mitigate the potential for noise disturbance to the occupiers of the proposed dwelling hereby approved. These measures shall include, but are not limited to, a suitable noise barrier/boundary. The approved Mitigation Strategy shall detail the timings of implementation of the measures proposed.

Reason: This proposal would introduce a new residential use close to an existing manufacturing business so the condition is necessary in the interests providing suitable mitigation for future occupiers of the dwelling hereby approved."

It is noted that the proposed access would serve the remainder of the site allocation. In order to ensure that the means of access to the wider allocation site is not prejudiced, a condition to ensure that the access remains outside of the residential curtilage to the proposed dwelling is considered appropriate and necessary as follows:

The reserved matters application shall be accompanied by a plan defining the extent of curtilage to the dwelling hereby approved which shall exclude the proposed shared vehicular access from Epperstone Road.

Reason: So as not to prejudice the remainder of the site allocation from the ability of achieving a single safe and appropriate means of vehicular access point as required by Policy Lo/Ho/1.

Members considered the application and the proposal was considered disappointing as the land had been allocated for five houses and there was a difficulty of securing sites that were surrounded by green belt land.

AGREED (with 10 votes for and 2 abstentions) that outline planning permission be approved subject to the conditions contained within the report and the additional condition detailed in the Schedule of communication and above.

252 J. HARRISON LTD, SOUTHWELL ROAD, LOWDHAM (17/01616/FUL)

The agenda was withdrawn from the application by the Planning Case Officer.

253 MOORBECK HOUSE, MILL LANE, CAUNTON (18/00515/FUL)

The Committee considered the report of the Business Manager Growth & Regeneration which sought full planning permission for the demolition of the existing semi-dilapidated cattle store and its replacement with a building approximately 40% larger occupying approximately the same location.

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from Caunton Parish Council, who had no objection to the application.

Members considered the application and felt that the proposal was acceptable.

AGREED (unanimously) that full planning permission be approved subject to the conditions contained within the report.

254 CORAL BETTING OFFICE, KIRKLINGTON ROAD, RAINWORTH (18/00437/FUL)

The Committee considered the report of the Business Manager Growth & Regeneration which sought full planning permission to change the use of the building from its established A2 use to an A4 use. The change of use would allow the premise to operate as a Micropub to provide between 25 and 30 covers.

Members considered the application and the majority of Members welcomed the Micropub. Concern was raised regarding additional seating being placed on the grass areas surrounding the building and it was proposed that an additional condition be imposed to prevent any additional exterior covers.

AGREED (with 11 votes for and 1 vote against) that planning permission be approved subject to the conditions contained within the report and the additional condition preventing any additional exterior covers.

255 LANCRESSE, 24 STATION ROAD, COLLINGHAM (18/00514/FUL)

The Committee considered the report of the Business Manager Growth & Regeneration which sought full planning permission for the proposed extensions and alterations to the dwelling, including the demolition of a single storey outbuilding and the erection of a western boundary fence.

Members considered the application and felt that the proposals were acceptable.

AGREED (unanimously) that full planning permission be approved subject to the conditions contained within the report.

256 APPEALS LODGED

a

AGREED that the report be noted.

256 APPEALS DETERMINED

b

AGREED that the report be noted.

257 QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

The Committee considered the report of the Business Manager Growth & Regeneration, which updated Members on planning enforcement matters.

The report followed on from the information presented to the 16 January 2018 Planning Committee, which highlighted planning enforcement performance until the end of 2017. The report provided enforcement information up to the quarter from 1 January until 31 March 2018 and provided an update on cases where formal action had been taken. It also included case studies which showed how the breaches of planning control had been resolved through negotiation.

The report presented a snap shot on the general volumes of cases received and dealt with as follows:

- Schedule A outlined the enforcement activity during the quarter (January to March 2018) which captured the overall split to show of the cases investigated, how many were found to be a breach of planning or otherwise.
- Schedule B sets this (on a pro-rata basis) against the activity over previous quarters). The cases closed may have exceeded on occasion, cases received as a case received in an earlier quarter may have been closed.
- Schedule C detailed a summary of formal action taken since the last report was compiled which in this case was for the quarter.
- Schedule D – provided examples of cases where breaches of planning control had been resolved without formal action having been taken.
- Schedule E – Notices complied with.

Members thanked officers for their hard work in preparing the report and were pleased with the scope and content.

AGREED that the report be noted.

Meeting closed at 7.30 pm.

Chairman

## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>17/01616/FUL</b>
<b>Proposal:</b>	<b>Proposed change of use of existing car workshop/showroom and outdoor sales to local convenience store (Retail A1) incorporating relocation of Gonalston Farm Shop (Retail A1), ancillary coffee shop franchise and new local allotment provision</b>
<b>Location:</b>	<b>J Harrison Ltd, Southwell Road, Lowdham, NG14 7DS</b>
<b>Applicant:</b>	<b>Mr D Betts</b>
<b>Registered:</b>	<b>7 September 2017</b>
	<b>Target Date: 2 November 2017</b>
	<b>Extension of Time Agreed until 4 April 2018</b>

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Lowdham Parish Council has written in support of the application which differs to the professional officer recommendation.

### Update to Planning Committee

Members at the April Planning Committee agreed to defer the application pending the submission of Retail Impact Assessment (RIA). The RIA has now been submitted. Officers are in the process of reviewing document which includes the commissioning of independent retail advice which takes time. Therefore Officers reserve the right to withdraw this application from the agenda should the review of RIA not be possible in this timeframe.

For the avoidance of doubt, the report remains the same as previously presented at April Planning Committee other than the addition of neighbour comments received subsequent to this Committee in the Consultations section below (shown is bold and italic text).

### The Site

The application site lies on land to the south of Southwell Road within the parish of Lowdham and comprises c0.65 hectares of land. The majority of the existing site contains a car workshop/showroom (a Peugeot franchise) with ancillary car parking and circulation areas. The workshop/showroom is single storey and industrial in appearance with a part brick and part grey clad construction. The south east corner of the site contains part of an agricultural field which is separated from the application site by a hedgerow which includes a number of trees and a 1 metre high (approx.) fence.

Immediately to the west of the site is the rest of the existing J Harrison site which contains a petrol station, shop, car workshop and ancillary car parking and storage areas. Immediately to the north east of the site is Sunnyside, a two storey residential property. This property is separated from the application site by a 2 metre high (approx.) close boarded fence. Agricultural fields surround the site on all remaining sides.

Access to the site is via an existing access of Southwell Road to the west of the application site (shared with the remainder of the J Harrison site).

The topography of the application site is relatively flat albeit gently sloping towards the south (away from Southwell Road). Land to the north of Southwell Road rises more steeply towards the north.

The site is located outside of the village envelope of Lowdham (as defined by the Allocations and Development Plan Document (DPD)) and is located within the Green Belt.

The majority of the site lies within Flood Zone 2, with a very small part along the frontage located in Flood Zone 3.

### Relevant Planning History

16/00248/FUL Conversion of existing workshop to create additional car showroom and small extension to replace existing canopy – permission 22.04.2016

15/02092/FUL Change of Use of Land to Form Extension of Existing Site (*land relating to the south east corner of the site which contains part of an agricultural field*) – refused 12.05.2016 for the following reason:

*'In the opinion of the District Council the proposed change of use of land to form an extension of the existing site will result in encroachment into the Green Belt detracting from its openness and permanence. The NPPF attaches great importance to Green Belts and the Council considers there are no material considerations in this instance sufficient to constitute the very special circumstances required to outweigh the harm identified. The proposed development would therefore be contrary to Spatial Policy 4b of the Newark and Sherwood Core Strategy (2011) and the National Planning Policy Framework (2012) a material consideration.'*

12/00293/ADV Replacement of old signage with new corporate image signage, 3 no. fascia signs internally illuminated halo illumination, 2 no sets of corner lights – consent 27.04.2012

09/00220/FUL Erection of front extension to car showroom – permission 14.04.2009

09/01758/FUL Erection of temporary car showroom for a period of 2 years (retrospective) – permission 25.01.2010 (*NB this building is not present on site*).

04/02523/ADV Display 6.5m single leg pole sign – refused 15.12.2004

04/02541/ADV Display various signs – consent 12.12.2004

03/00838/FUL Renewal of permission for the extension to the car showroom – permission 16.06.2003

99/50899/ADV Fascia signs and export sign – consent 10.06.1999

98/50998/FUL Extension to showroom and offices – permission 11.05.1998

94/50871/ADV Fascia signs and export sign – consent 26.04.1994

91900046 Removal of conditions 4 and 5 on 91891121 relating to external car sales and external lighting – permission 05.06.1990

91891121 Body shop – permission 28.11.1989

91891087 Extension to showroom and office – permission 03.10.1989

91890469 Erection of sales building canopy islands and install 2 no. U/G storage tanks – permission 06.07.1989

91880571 Demolish existing workshop and construct new body shop – permission 02.08.1988

91860879 First floor office extension – permission 24.10.1986

91850974 Use building (*the car showroom/workshop subject of this current application*) for car repair workshop and land for staff and stock – permission 11.02.1986

91830675AD Illuminated fascia sign – consent 16.08.1983

9180506 New tank and pump installation – permission 05.06.1980

9177470AD Erect illuminated pole sign and other advertisements – consent 12.07.1977

9176421 Re-positioning of pavement crossing to give access to field – refused 27.07.1976

### The Proposal

The application seeks full planning permission for the change of use of the existing car workshop/showroom and outdoor sales to local convenience store (Retail A1) incorporating relocation of Gonalston Farm Shop (Retail A1), ancillary coffee shop franchise and new local allotment provision. The local convenience store building would contain the following:

- Spar Market 259sqm
- Café 81sqm
- Gonalston Farm Shop 108sqm
- Communal entrance 36sqm
- Preparation/Storage/Office Area 117sqm

The proposed hours of opening would be between 07:00 – 23:00 Monday to Saturday and between 10:00 – 16:00 on Sundays and Bank Holidays.

In relation to proposed staff numbers, Gonalston Farm Shop has confirmed that 5 staff would work at the new premises at any one time – these being butchery and fish manager, supervisor and three staff working the counters. Sales would go through the Spar Market's tills. Spar Market has confirmed a staff of 5 at any one time (two on the tills, two behind the scenes and a shelf-stacker). The ancillary coffee franchise would employ between 2 and 3 staff at any one time.

A covered area for external sales is also proposed with a canopy measuring 12.3 metres by 3.6 metres to replace an existing canopy on this position. Four sets of full height aluminium framed windows/doors are proposed within the front and side elevation of the building.



Allotments are proposed on the triangular shaped field to the rear of the existing J Harrison site. A 4 metre wide gap in the existing boundary is proposed for access from the allotments from the existing parking area.

No amendments to the main vehicular access to the site are proposed. The existing car park areas would be reconfigured with existing car sales parking areas to become customer parking. 54 car parking spaces are proposed in total.

The application is supported by the following documents:

- Flood Risk Statement
- Retail Sequential Assessment including a Supplementary Sequential Assessment
- Design and Access Statement

#### Departure/Public Advertisement Procedure

A site notice was displayed near to the site on 26/09/2018.

#### **Planning Policy Framework**

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

##### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of Growth
- Spatial Policy 4A – Extent of the Green Belt
- Spatial Policy 4B – Green Belt Development
- Spatial Policy 7 - Sustainable Transport
- Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
- Core Policy 6 – Shaping our Employment Profile
- Core Policy 8 – Retail Hierarchy
- Core Policy 9 - Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 – Biodiversity and Green Infrastructure
- Core Policy 13 – Landscape Character

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

- Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM5 - Design
- Policy DM11 – Retail and Town Centre Uses
- Policy DM12 - Presumption in Favour of Sustainable Development

##### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- National Planning Practice Guidance PPG
- The Newark and Sherwood Landscape Character Assessment SPD
- Newark and Sherwood Amended Core Strategy DPD 2017

## Consultations

**Lowdham Parish Council** – Lowdham Parish Council meeting was attended by members of the public and local retailers who expressed their concerns at the proposed change of use application. Also representatives from Harrisons and Gonalston Farm Shop who put forward their plans for the new business proposals. Following a long debate the Parish Council voted 5 councillors in favour and 2 councillors against the application for change of use therefore in support of the proposal.

### **NCC Highways Authority –**

Comments received 13.03.2018:

The Agent has confirmed that up to 13 employees are expected on the overall site at one time and 53 parking spaces are shown on dwg. No. 2102/6 Rev. A which also includes a provision for the allotment users. The parking facilities are acceptable to the Highway Authority. A further 8 employees are on site for the workshop use, which will use the existing parking facilities at the rear of the site.

There are no alterations proposed to the existing access arrangements. Therefore, there are no highway objections to this proposal.

*Comments received 01.11.2017:*

This application is for the change of use of part of the existing car showroom/workshop to a convenience store including farm shop, café and local allotment provision. There are no alterations proposed to the existing site access, which also serves a petrol filling station. Could the applicant/agent clarify the number of vehicles expected for repair and for sale at any one time for the showroom/workshop. Also, the number of employees on site at any one time is required for each site.

**Trent Valley Internal Drainage Board** – The site is within the Trent Valley Internal Drainage Board district. The Board maintained Car Dyke, an open watercourse, exists in close proximity of the site and to which Byelaws and the Land Drainage Act 1991 applies.

The Board's consent is required to erect any building or structure (including walls and fences), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the top edge of any Board maintained watercourse or the edge of any Board maintained culvert.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

### **NSDC Policy Officer –**

*Comments received 14.02.2018:*

## Sequential Test

Whilst I welcome the additional 'supplementary sequential assessment' I still retain some significant concerns over the methodology and conclusions.

### *Methodology*

Firstly I don't agree with the view (para 2.2) that to represent a realistic alternative the site must be 'more accessible and better connected to the town centre than the application site'. The paragraph within the PPG referred to merely states that 'preference should be given to accessible sites that are well connected to the town centre'. The purpose of the test should not be lost here, which is to guide main town centre uses towards town centre locations first, then, if no town centre locations are available to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. Viability and vitality of town centres is supported by the test through its placing of existing town centres foremost in both plan-making and decision-taking. The inference being that the better the physical relationship to the centre, then the more likely its viability and vitality will be supported through the generation of footfall and making of linked trips etc.

Accordingly there is no need for accessibility and connection to be better than the application site per se, just for the alternative site to be accessible and well connected to the centre in question. Where these two features are met and the alternative site is deemed suitable and available then its sequential superiority would, in my view, principally derive from its better relationship to the centre. Having said this I would accept that in most cases a site which is closer to the Town Centre is likely to perform better on most measures relevant to the test.

The method followed (para 2.5) seeks to establish equal or superior proximity to bus routes and service provision as valid parameters for the assessment of alternative edge or out-of-centre sites, which I see as problematic. Whilst I would not question the potential relevance of these considerations, in their broadest sense, to accessibility there is no need for alternative sites to perform better in the way that is suggested. Notably the 3 parameters listed below para 2.5 are joined by 'and', suggesting that any alternative site would need to perform better on all 3 measures to be sequentially preferable. On this basis there could be a scenario where there is a site located in an edge-of-centre position but which is deemed to be sequentially worse due to being marginally further from a bus stop than an out-of-centre site, this is clearly not the intention of the test. The method also applies a single distance threshold of 669m, but this is a fairly blunt assessment and does not appear to place any greater weight on a site being edge-of-centre as opposed to out-of-centre. The NPPF provides a clear definition of edge-of-centre, which is a location within 300m of the Primary Shopping Area (PSA). No PSA's are defined in the District beyond that for Newark Town Centre, but in this case I would view the centre boundaries as providing a reasonable proxy.

I have further issues with some of the sources of potential sites ruled out at para 2.7. Within the District most of these would be covered by Spatial Policy 8, and as referred to in my earlier comments the policy allows for their release for development under certain circumstances. I do not consider that they can be as readily ruled out as is suggested. On this point it may be helpful to clarify my earlier suggestion that the open space at Old Tannery Drive should be explored through the application of the test. The open space is located within the village envelope and not the Green Belt as has been suggested. The site is in turn larger than the application site, and so has the

potential for any replacement of the existing built facilities to be kept within the settlement boundary and the open space elements relocated to the Green Belt. Notwithstanding this the provision of appropriate facilities for outdoor sport and outdoor recreation are listed as exceptions to the definition of inappropriate development within the Green Belt (para 89, NPPF). The successful combination of recreational open space convenience retail provision can be seen elsewhere through the enlarged Co-op scheme in Collingham. I would however accept that in this instance the open space cannot be considered suitable due to flood risk issues, and so can be discounted as a reasonable alternative.

In terms of locational requirements I am mindful that the reasoning for the granting of the original farm shop consent would have been to support the diversification of an existing rural business. To have been acceptable there would need to have been some form of geographic tie to the existing business. Clearly such a tie would start to disappear the further the store is located from the wider business. Notwithstanding this it may be reasonable, as per my earlier comments, to have some regard to the desire for the farm shop to retain its existing customer base, but whether this should determine the application of the test as a whole is debatable. The relocation of the farm shop is argued as being the 'primary driver' of the proposal, but in floorspace terms the Spar would be by far the dominant element. It would therefore not be unreasonable to expect the locational and operational requirements of this element of the proposal to be reflected in the parameters for the test.

Even were the ten-minute drive time to be accepted I remain unconvinced that it represents a reasonable geographic parameter. This would actually represent a fairly-wide catchment for what is a modestly sized operation, and suggests willingness on behalf of its clientele to travel some distance to use the store. On this basis why would a slight extension of the ten minute measure (11, 12 or 13 minutes for instance) suddenly render the model of the farm shop unviable? No justification has been provided, such as data over customer location etc. Greater pragmatism could be exercised if the imposition of the measure didn't feel so arbitrary in nature, particularly in line with my earlier comments when this rules out Radcliffe-on-Trent, Calverton and Southwell. Though I would accept that some sites in Southwell and a site in Calverton have been assessed for completeness, but Radcliffe remains disregarded.

Turning to whether sufficient flexibility has been shown, the line advanced is that the proposed store represents the minimum space which the end users could be reasonably accommodated within. However no information has been provided to better understand the space requirements and trading profile of a Spar Market. This is a format I am unfamiliar with and represents by the single largest element of the proposed development. Without this I am unable to fully gauge whether there could be room for greater flexibility on the part of the applicant. Furthermore I am still of the view that it would be reasonable to expect a lesser level of car parking provision to have been considered, and I would defer back to my earlier comments on this aspect.

#### *Application of the Test*

I would accept the discounting of undeveloped sites within the Green Belt and/or areas of risk of flooding (Appendix 2). In terms of the sites identified in Appendix 3 I would disagree with their discounting purely for being further than 100 or 188m from a bus stop. Nevertheless it is clear that the majority of those included would in all likelihood be unsuitable for retail development, for reasons not outlined in the assessment.

In terms of the alternative sites considered in detail, I am comfortable with the discounting of sites 1 and 2 in Southwell. Though it is unclear whether the District Centre was surveyed to establish whether there were any vacant units, the 2017 Retail Monitoring Report identified 3. Turning to Lowdham I am content that on the basis of the parameters used there would be no alternative sites, though as already discussed I do have some issues with this approach.

Clearly it is difficult to comment with any certainty over those sites identified within the administrative boundaries of neighbouring Authorities, particularly over whether other sites may exist and if the reasons for the discounting of those identified is valid or not. The onus is on the applicant to demonstrate satisfaction of the test, with assistance from the relevant LPA, and no demonstration has been provided detailing whether adjoining Authorities have been approached to identify a source of potential reasonable alternative sites. Nonetheless I would accept, on the basis of the information provided, the discounting of those sites identified in Gedling and Rushcliffe Borough's.

Whilst not necessarily disagreeing with the reasoning behind the discounting of the identified sites I do retain some concern over the methodological approach, and whether sufficient flexibility has been shown. It is not clear that the test has been applied in a robust and comprehensive manner and so it cannot be confidently concluded that there are no sequentially preferable alternative sites.

In line with paragraph 26 of the National Planning Policy Framework, where a proposal fails to satisfy the sequential test, it should be refused.

### Impact Test

In respect of the impact test I would defer to your expertise on the matter of the 'fall-back position'. Notwithstanding this my position has not changed from my earlier comments, indeed I would suggest that matters have moved even further in the direction of the request for a formal impact assessment being valid. To summarise, the applicant will be familiar with the tests outlined at para 216 of the NPPF (stage of preparation, extent of unresolved objection and degree of consistency with national policy) which determine the weight that can be given to relevant policies in an emerging plan. The hearings stage of the Examination has now been concluded and those areas where modifications will be requested from the Inspector have been identified. Details can be viewed in Post-Hearing Note 2. It should be noted that in respect of Core Policy 8 (Matter 15) the issue relates to precise details around the approach to future convenience retail provision at Land South of Newark, and agreement has now been reached between the Council and objector over the necessary content.

With respect to the first test a submitted Development Plan on which modifications are being drafted clearly represents an advanced stage of preparation. Unresolved objections have been the subject of discussion at the hearing sessions, and where appropriate the drafting of modifications is intended to address those which are necessary to make the plan sound. It is acknowledged that these modifications are still being drafted and yet to be consulted upon. Nevertheless in the cases where no modifications are proposed (including to content within a policy) then it can, in my view, be reasonably taken that no objections remain which require addressing to make the plan sound. Clearly the modifications will in some circumstances also be intended to ensure consistency with national policy.

Taking account of the above it is reasonable in my view to attach meaningful weight to policies, and content within policies, which are not proposed to be the subject of modification. Importantly with respect to this application this includes the local impact thresholds, which the proposed development exceeds. Notwithstanding this the Council is entitled to determine the planning application on what we judge to be material planning considerations. Lowdham's Local Centre is small in scale and anchored by its Co-op store, which generates footfall and linked trips/expenditure. Given its nature the proposal would clearly compete with the existing Co-op store, and so the potential impact on the vitality and viability of Lowdham's Local Centre is evidently material. On this basis it is reasonable to request that the applicant provide a proportionate assessment of the likely impact of the proposal. Without such input it is not possible to appropriately weigh the matter of impact in the balance, and so justifies refusal of the application on this basis alone. This position is consistent with that adopted on the proposed change of use of the Manvers public house in Edwinstowe.

*Comments received 23.10.2017:*

### Retail & Main Town Centre Uses

#### *Sequential Test*

My main concerns are focused around the retail and main town centre uses. The necessary first step is the application of the sequential approach - as required by national policy and reflected in Core Policy 8 (as amended) and Policy DM11. Application of the test should be proportionate and appropriate to the given proposal. Nevertheless I have severe reservations over the methodological approach followed, particularly bearing in mind the need for reasonable flexibility to be shown on the part of the applicant. As per the checklist at Paragraph 10 (Reference ID: 2b-010-20140306) of the Planning Practice Guidance (PPG) the scope for flexibility in the format and/or scale of the proposal should be considered. In this regard it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.

On my reading it doesn't appear that any flexibility has been shown at all, with the parameters applied by the applicant being the ability to accommodate the precise scale of floorspace and number of car parking spaces proposed. I'm unsure of any reasoning as to why flexibility can't be provided, and I struggle to see how this could be convincingly argued in any event. The proposed development constitutes the change of use of a specific existing building, whereas a new build or change of use of a different unit may be able to make more efficient use of the space available. I am unfamiliar with the 'Spar Market' format and the scale of store commonly required to meet their business model, and no information has been provided to allow this to be better understood. The average Spar store size is 142 sq m according to their UK website<sup>1</sup>, and whilst I do not doubt that a Spar Market store is a different proposition I am not currently convinced why a site or unit offering a lesser scale of floorspace could not be considered.

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<sup>1</sup><https://spar-international.com/country/united-kingdom/> (accessed 18<sup>th</sup> October 2017)

Similarly the level of parking (44 spaces) deemed to be necessary appears to be more led by the specific characteristics of the application site (i.e. the availability and scale of existing hard surfacing and parking provision) than any reasoned functional requirements of the proposal. The need for this to be located directly adjacent to the retail premises is also questioned. Many convenience stores operate successfully from town centre locations without parking provision of the scale and type referred to. It may be that a combination of a lesser scale of directly adjacent parking provision (or maybe even none at all) when taken alongside additional provision elsewhere in the centre and the availability of public transport linkages compensates for this perceived deficiency. By way of comparison the Spar store (incorporating a Subway concession), petrol filling station and car wash on Farndon Road, Newark has 33 parking spaces. The potential contribution that more central sites can make is critical to how the test should be applied, and the benefits to the vitality and viability of existing centres from development taking place there is clear.

Whilst I appreciate the need to establish geographic parameters within which to conduct the site search, my view is that this area should be objectively defined and clearly related to the functional requirements of the proposed development (for example a particular market the proposal is responding to etc.), and not unduly led by the availability of the application site. The purpose of the exercise is to establish whether there are sequentially preferable sites able to meet the requirements. Given their nature the Spar Market and café elements of the scheme could presumably be located in many in-centre, edge-of-centre or sequentially preferable out-of-centre locations and still meet operator requirements. Nonetheless I am mindful that there is no need to disaggregate the proposed uses for the purposes of the test, and the proposal does facilitate the relocation of the Gonalston Farm Shop. I am sympathetic to the argument that the shop will have an existing catchment and customer base within an established geographic area. However this has not been articulated in any way that allows this to be understood. The limiting of the area of search's extent to a ten minute off-peak drive from the application site, setting aside my concerns over the principle of this, could also be seen as fairly arbitrary. I'm unsure why that particular threshold has been applied, particularly when it excludes potentially suitable centres located marginally beyond this (e.g. Radcliffe-on-Trent, Calverton and Southwell – though I note that sites in Southwell and a site in Calverton have been assessed for completeness).

My final issue with the methodological approach is a fairly fundamental one. Para 3.07 of the applicant's assessment outlines that only in-centre and edge-of-centre locations have been considered. National policy is however very clear that if neither town centre locations nor edge of centre locations are available then preference should be given to accessible out-of-centre sites which are well connected to centres. This aspect of the test appears to have been entirely disregarded, and on this basis alone I'm not convinced that the methodological approach is robust. In some circumstances this lack of robustness could be overlooked in seeking to apply the test in a proportionate and reasonable way, however this would be dependent on there being access to sufficient information elsewhere to guide the consideration of sequential matters.

Most of the alternative sites identified by the applicant would be too small to be considered appropriate, even allowing for some degree of flexibility. Although I don't agree with the suggestion that they can all be readily dismissed except for 'land east of Chapel Lane, Bingham'. The Old Railway Yard, Bingham at 2,340 sq m is only 16% smaller than the application site (2,794 sq m) and no appraisal has been provided of its relative merits, there may be benefit from doing so. Aside from this I am comfortable with the dismissal of the remaining sites, but

there still remains the significant flaw that no out-of-centre sites appear to have been considered. This could include for instance the open space located off Old Tannery Drive, Lowdham. Whilst the land is covered by Spatial Policy 8 the policy does allow for loss to occur where sufficient provision exists, or replacement provision is made elsewhere. An innovative approach to the sequential test could examine the potential for land to be released to accommodate the retail and café use, with replacement open space provision being made within the Green Belt adjacent to the site. The catchment defined by the applicant includes areas beyond Newark & Sherwood's administrative area and so naturally I am unable to comment on the potential existence of unconsidered alternative sites in these locations, including sequentially preferable out-of-centre sites.

Taken as a whole I have severe concerns over the sequential exercise undertaken, and question whether it can be considered robust enough to confidently conclude that there are no sequentially preferable suitable and available sites. As it stands the proposal therefore fails to satisfy the sequential test, and as outlined at para 27 of the NPPF where this is the case it should be refused. You may however wish to go back to the applicant and allow for further input to be provided on this matter.

### *Impact Test*

Turning now to the impact test, the applicant concludes that the consideration of impact is not necessary due to the proposal falling below the 2,500 sq m threshold in national policy and Core Policy 8. However, as referred to above, amendments to Core Policy 8 seek the introduction of a local threshold of 350 sq m (gross) or greater outside of the Newark Urban Area, which the proposal exceeds. In my view the emerging policy is consistent with the tests outlined in national policy to the extent whereby meaningful weight can be afforded to it for the purposes of our decision-making. Notwithstanding this the NPPF doesn't say that a local planning authority (LPA) cannot take account of retail impact as a material planning consideration for schemes below the default threshold. Not only are retail impact assessments (RIA) frequently requested for smaller schemes, but we are also entitled to determine a planning application on what we judge to be material planning considerations. Lowdham's Local Centre is small in scale and anchored by its Co-op store, which generates footfall and linked trips/expenditure. Given its nature the proposal would clearly compete with the existing Co-op store, and so the potential impact on the vitality and viability of Lowdham's Local Centre is evidently material.

There would be some recycling of existing floorspace from the farmshop, and the applicant has offered to enter into a unilateral undertaking to relinquish the A1 consent from the existing farmshop premises. Nonetheless without adequate demonstration to the contrary it is not unreasonable to assume that the potential impact from a diversion of trade to additional out-of-centre floorspace could have serious consequences, potentially stretching to those of a significant adverse nature, for the trading performance and overall vitality and viability of the Local Centre. On this basis I would consider it reasonable to expect the application to be supported by a proportional retail impact assessment. Given the nature and scale of the proposal and the centre most likely to be affected I would suggest that a proportionate approach would be one which fully applies the checklist outlined at Paragraph 017 (Reference ID: 2b-017-20140306) of the PPG.



As per para 27 of the NPPF where a proposal is likely to have a significant adverse impact on one or more of the factors identified then it should be refused. The PPG advises that it is for the applicant to demonstrate compliance with the impact test, and as also outlined the failure to undertake an impact test could in itself constitute a reason for refusing permission. As far as I can establish the applicant did not approach the Authority prior to submitting the proposal where there would have been the opportunity to discuss the Authorities view on impact and the scope, key impacts for assessment and level of detail required could have been agreed (as per the advice in the PPG). Whilst the applicant has pointed to other benefits which would occur, promotion of economic growth and the retention of two local businesses, the PPG advises that it is when the impacts are unlikely to be significant adverse that the positive and negative effects should be considered alongside all other material considerations. As it stands we are in a position where we cannot come to a view over the likely extent of impact, and so if appropriate allow this balancing exercise to be undertaken. Again you may wish to allow the applicant the opportunity to come back to us on the matter of impact.

### Conclusion

I am comfortable with the proposed development from a Green Belt and flood risk perspective. However I have severe concerns regarding satisfaction of the sequential test, and whether the exercise can be considered sufficiently robust to allow us to conclude there are no sequentially preferable suitable and available sites. The application is not supported by an impact assessment, in line with the emerging requirements of Core Policy 8 and which I would consider to be necessary in any regard given the scale and format of development proposed relative to the Centre most likely to be affected (Lowdham). We are therefore in a position where we cannot currently come to a view over the proposals likely impact. On this basis I am, at the present time, unable to provide support for the positive determination of the proposal.

**NSDC Environmental Health (Reactive)** - Were the application to succeed you may wish to look at some control over trading hours and I would ask for full details of any external plant, such as chillers etc. to be submitted in due course as appropriate.

**NSDC Environmental Health (Contamination)** - This application includes the conversion of vehicle workshop to commercial use and there is potential for contamination to be present from this former use. 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.

**NSDC Access Officer** – As part of the developer’s consideration of access to and use of the proposal, with particular reference to access and facilities for all people including those with disabilities, it is recommended that the developer’s attention be drawn to BS8300: 2009 Design of Buildings and their approaches to meet the needs of disabled people – Code of Practice – as well as Approved Document M and K of the Building Regulations which contains further useful information in this regard.

Access to, into and around the proposals together with provision of suitable accessible facilities and features should be carefully considered to ensure these are available and equally convenient to access and use. Easy access and manoeuvre for all, including wheelchair users, should be considered to allow access for all and users to turn and manoeuvre without restriction, barriers or obstructions. Externally inclusive access to and around the site should be considered together with access to available facilities and features together with safe pedestrian access from the edge of

the site and from car parking where carefully laid out provision for disabled motorists should be available. BS8300:2009 provided information in respect of design and proportion of car parking spaces.

It is recommended that the developer make separate enquiry regarding Building Regulations matters. It is further recommended that the developer be mindful of the provisions of the Equality Act.

### **Neighbours/Interested Parties –**

A total of ~~14~~ **18** letters of representation have been received.

~~One~~ **Two** letters writes in support for reasons including:

- The proposal would be appropriate in the green belt;
- The proposal would allow two established businesses to continue and maintain local employment particularly given impending loss of Peugeot franchise;
- ***The Applicant now seems to address the main retail impact assessment issue; concerns are overstated especially when referring to the Co-Op; the Co-op is rarely used due to poor accessibility; access to the site is better than the farmshop site; Rushcliffe Council dealt with the new Aldi and Lidl units in Bingham differently and didn't seem to share the same views about the likely impact on existings stores;***

~~13~~ **16** letters raise concerns including:

#### *Retail impact:*

- Whilst I support any proposal for Gonalston farm shop to relocate and expand, I hold serious reservations about the impact of another supermarket in the locality;
- The addition of a Spar could be detrimental to the shops in the village which are more central to village life and would be sorely missed if they were unable to continue trading due to lack of revenue;
- The coffee shop would effect Johannas on Main Street;
- Concern about the branding and look of a Spar to the village;
- Impact to the existing business in the village which already has two corner shops, and a co-op as well as a recently opened coffee shop. Allowing the new development would damage these businesses and detrimentally affect their employees.
- Next there would be a burger bar and 24 hour opening.
- A 'Review of Implications for Retail Planning Policy' prepared by a planning consultant on behalf of an objector concludes that the relocation of Gonalston Farm Shop 'cannot be used to justify the development of an out-of-centre retail complex three times the size of Lowdham Village Local Centre, outside the village, in a Green Belt location. The SPAR market, in particular, is not an appropriate use in this location'.
- ***In response to the submission of an impact assessment from the Applicant, further comments recived from the planning consultant on behalf of the objector state the following:***

***'The proposed development seeks consent for a total of 641 sq m gross retail floorspace. Paragraphs 1.5 and 4.4 and the associated tables state that the total gross floor area proposed is 601 sq m, but that excludes the covered area for external sales shown in the Proposed Floor Plan (Drawing No. 2012/7) which we estimate to be about 40 sq m.***

*The RIA deducts the floor area of the existing shop (298 sq m) to suggest that the proposals should be considered on the basis of an uplift in floorspace of only 303 sq m gross (343 sq m if the outdoor covered sales area is included).*

*We do not agree with that approach. The application is not for an extension of the existing farm shop (which operates out of old, converted agricultural buildings) but for a new out-of-town retail complex in a new location, comprising specialist fresh meat and fish counters operated by the current owners of Gonalston Farm Shop together with a Spar Market outlet and an Insomnia Coffee Shop offering a range of pastries, cakes, sandwiches, breakfasts, salads and soups.*

*There are a number of contradictions and inconsistencies in the RIA. Paragraph 2.4 describes the Gonalston Farm Shop in the following terms:*

*“The customer base of the business is largely local, although some customers are likely to travel from further afield to visit the farm shop, particularly given the unique product range that it offers. From experience of farm shop customer bases, it is likely that the shop is not providing for every-day shopping requirements or even a weekly shop for many of its customers but is providing a more specialised range of goods that supplement normal shopping trips to more traditional shops.”*

*However, the proposed co-location with the Spar ‘Market’ outlet suggests a significant change in function (in paragraph 4.2) with implications for trading impacts on the centre of Lowdham:*

*“Together, the two businesses will be able to offer a wider-range of products to customers, allowing a larger shop to be carried out in a single visit. This is more convenient for the customers and more environmentally friendly as it reduces the need to travel for other shopping requirements, with each benefitting from each other in terms of footfall.”*

*Chapter 6 of the RIA, Retail Impact Assessment Methodology and Analysis, suggests that the proposed retail complex will serve a very wide catchment area. A Primary Catchment Area (PCA), based on a 10-minute drive time, and a Secondary Catchment Area (SCA), based on a 15-minute drive time are defined. In 2023, the PCA population is estimated at 58,766 and the SCA population 172,123.*

*The RIA states in paragraphs 6.1 and 6.2:*

*“The catchment area of the proposed development has been plotted using information obtained from the end users of the retail and café elements of the proposal, a knowledge of the application site’s geographical location, and general assumptions widely used in the retail sector.*

*‘This information demonstrates that, because of the combination of the specialist offer provided by Gonalston Farm Shop and Spar Market, the catchment area is more extensive than for a mainstream national multiple retailer for the same floor area.’*

*There is no explanation of the ‘information obtained from the end users’ or the ‘general assumptions widely used in the retail sector’ and no evidence is provided in support of these assertions.*

***Normally, a PCA is defined as an area that is expected to attract 80% of turnover. But in this case the RIA expects the PCA to account for only 50% of turnover with 30% from the SCA and 20% from even further afield. These assumptions are extremely optimistic and are not supported by any evidence. They are not realistic and they lead directly to the conclusion that there will be only very limited trade diversion from the nearby local centre of Lowdham.***

***The RIA uses Pitney Bowes Local Area Population and Expenditure Estimates and forecasts drawn from the Pitney Bowes Retail Expenditure Guide 2017/18. We recognise this source as an accepted industry standard. The problem with the RIA's catchment area analysis is the pattern of trade draw that it assumes: only 50% of turnover from a PCA which has a population of 59,000 in 2023 and total available expenditure of £126m on convenience goods, with a further 30% of turnover from the SCA with a population of 172,000 and total available expenditure of £351m on convenience goods.***

***The estimated turnover of the proposed retail outlets is also unrealistic, based on a sales density of £4,000 per sq m in 2015 and £4,032 per sq m in 2023, including the Spar Market outlet. A report of the first Spar Market store at Pwllheli describes the Spar Market concept as a new format for stores with a retail floor area of more than 3,000 sq ft targeting customers with higher basket spend than typical convenience shoppers. The store was already performing like a supermarket and reported nearly a 10% increase in sales in the opening week.***

***The assumed sales density for the proposed outlets is only just over half the published average sales density for SPAR stores of £7,650 per sq m. The sales density of the upmarket Spar Market concept with 'higher basket spend than typical convenience shoppers' is likely to be well over £8,000 per sq m and probably closer to £10,000 per sq m.***

***The comparison of available expenditure within an unrealistically large catchment area with an unrealistically low estimate of turnover for the proposed stores does not provide the basis for a reasonable assessment of the likely impacts of the proposed out-of-town retail complex on the local centre of Lowdham.***

***The RIA seeks to paint a picture of the proposed retail outlets drawing a very low turnover from a very large market area and therefore making an insignificant penetration of an enormous volume of available expenditure. That picture is misleading and irrelevant. It does not present any evidence about the expected pattern of trade diversion from shops in Lowdham and does not fulfil the requirements of a retail impact assessment as set out in Planning Practice Guidance, Paragraph 017 (Reference ID: 2b-017-20140306).***

***For guidance on the potential impacts of the proposed out-of-town retail complex on the local centre of Lowdham, it is more relevant to refer to the independent analysis and advice of Carter Jonas on the role of Lowdham and the capacity for additional convenience foods in paragraphs 11.62 and 11.63 of their Town Centre and Retail Study of 2016:***

***"There is forecast capacity for 218 sq m net of new convenience goods floorspace across all the District's Local Centres in 2026, and this is forecast to increase to 384 sq m net by 2033. This could also support smaller convenience store formats in some of the centres where the demand exists and where suitable sites/buildings are available to accommodate the forecast need.***

***‘There is limited forecast capacity for new out-of-centre convenience goods floorspace in the District as it has been assumed that any capacity generated by the District’s main out-of-centre foodstores (namely Waitrose and Aldi) should be directed to Newark Town Centre first in accordance with the NPPF and Local Plan policy.’***

***As we commented in our earlier submission, it is obvious that any potential for additional convenience goods floorspace will be in or adjoining settlements where significant growth in retail expenditure is expected as a result of housing development. That situation does not apply in Lowdham where Green Belt and drainage constraints have severely limited the scope for housing allocations.***

***No reliance should be placed on the RIA by Airedon for the reasons given above. The application should be refused on the basis of local plan policies. If the Council has any reservations about refusing the application in the absence of a compliant retail impact assessment it could, of course, commission independent advice. However, we believe that a proportional approach can be taken on the basis of information and advice in the Town Centre and Retail Study.***

***We confirm the conclusion of our previous representations on this application that a new, separate application for relocation of the Gonalston Farm Shop would not necessarily be contrary to local plan policies and could be acceptable in principle, but it would be difficult to amend the current application to separate the Farm Shop relocation from the other retail uses currently proposed.***

***The appropriate course of action is therefore for the Council to refuse permission for the current planning application on the basis that it is contrary to Core Policy 8 of the adopted Core Strategy and Core Policy 8 of the Amended Core Strategy or to advise the applicant to withdraw and re-submit an amended application for the relocation of the Farm Shop.’***

***Amenity:***

- Impact of longer working hours for a shop including early morning deliveries and extra noise and activity from customers to neighbours and the rest of the local community;
- Poor street lighting;
- Light pollution from late opening affecting residents and wildlife;
- Impact on scenic rural location.

***Flooding:***

- The field to the right of the garage if extended into is prone to flooding and could make matters worse.

***Highways:***

- The road is very busy with lots of accidents which would be made worse by the increases numbers of cars, larger vans/lorries and pedestrians turning into the site;
- The right turn onto the site is unsafe and close to the bend;
- Creation of unnecessary traffic through the village.
- The access to the site is not sufficient and too narrow;
- Insufficient parking provision;
- A road traffic assessment should be carried out due to the amount of vehicles that travel at high speeds on this stretch of road;
- **There should be no parking on the grass verge in front of the site boundary.**

Other:

- The proposal would leave a car sales unit with seemingly very little space to display sales stock;
- The consultation period is too short and should be extended due to the large no. of potential issues raised;
- No consultation with local people or an assessment of need;
- ***The field is wet all year around and won't grow veg;***
- ***Proposal will encourage young people to hang around later at night.***

Comments of the Business Manager

### **The Principle of Development**

#### Green Belt

The application site falls within the Green Belt and Core Policy 4B defers to the definition of appropriate development provided in national Green Belt policy. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristic of Green Belts are their openness and their permanence. The re-use of buildings is not considered inappropriate in Green Belt provided they preserve openness and do not conflict with the purposes of including land within it.

The proposal would constitute the partial redevelopment of previously developed land through the re-use of an existing building of permanent and substantial construction, with the extent of alteration appearing to be modest. No overall increase to the footprint of the building is proposed for redevelopment to occur, and whilst there would be a slight increase to the area of the site covered by hard surfacing, to service the retail unit and café, this is marginal and would have no materially greater impact on the openness of the Green Belt or the purposes of including land within it than the existing development. Whilst the level of activity associated with the proposed use could differ from the existing use (particularly in relation to hours of opening), it is not considered that any increase would have a materially greater impact on the openness of the Green Belt when taking into account the existing use of the site and the limited physical intervention required to accommodate the anticipated change.

Allotments are defined as an agricultural use and do not ordinarily require planning permission. On this basis, I am comfortable that this use would not result in any impact on the openness of the Green Belt. No sheds or other ancillary structures are proposed as part of this application and I am satisfied that the erection of such buildings could be controlled through the need for a separate application for planning permission. A note advising the Applicant of this requirement is advised.

#### Retail

##### *Policy*

It is established that the starting point in assessing a development rests with the Development Plan and that the NPPF should form an important material consideration in the decision making process.

Core Policy 8 of the Core Strategy sets out the retail hierarchy within the District and seeks to protect vitality and viability of existing centres and also provide for new centres within strategic sites across the district. The hierarchy includes Lowdham Local Centre which has been defined on the basis that it is primarily concerned with the sale of food and other convenience goods to the local community in which they are located. The policy further states that retail development in out of centre locations will be strictly controlled and that proposals would need to demonstrate their suitability through the sequential site approach and provide a robust assessment of the impact on nearby centres. Notwithstanding the above adopted policy, a review of both the Core Strategy and the Allocations and Development Managements Plan Documents is currently in progress and in the case of the Core Strategy review is well advanced. The Amended Core Strategy, which contains a revised Core Policy 8, was examined by the appointed Inspector in February 2018.

The revised Core Policy 8 follows the recommendations of the December 2016 Town Centres and Retail Study (TC&RS) and seeks to require retail development over 350 GIA outside of the Newark Urban Area to be “robustly assessed, through the undertaking of an impact assessment proportionate to the scale and type of retail floorspace proposed.”

I note that Core Policy 8, as revised, differs from the adopted Policy DM11 of the Allocation and Development Management DPD in terms of the threshold at which detailed retail justification will be required. DM11 states that “Retail development in all out-of-centre locations will be strictly controlled. Retail proposals creating more than 2500 sq m of floor space outside of town, district and local centre locations will require justification through the sequential test and robust assessment of the impact on nearby centres and the following:

- The impact on the range and quality of the comparison and convenience retail offer; and
- The impact of the proposal on allocated sites outside town centres being developed in accordance with the Development Plan.”

In this case, whilst I note the emerging Core Policy 8, I also note the adopted DM11. At a national level Paragraph 26 of the NPPF provides guidance on national retail policy and states that *when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).*

Irrespective of stated thresholds I note that the primary issue is assessing the impact of the proposals upon the vitality and viability of centres. In this case there is evidence available from the LPA’s evidence base work on retail.

For the purposes of paragraph 216 of the NPPF (stage of preparation, extent of unresolved objection and degree of consistency with national policy), it is considered that the emerging Core Policy 8 content satisfies the tests to the extent that 1) it is at an advanced stage, with the Examination taken place in February 2018 and only the modifications to be finalised and consulted upon and 2) there are no unresolved objections to the local thresholds set within the emerging policy. Accordingly, I consider that significant weight can be attached to the policy, and even more importantly the impacts on vitality and viability, on an overall planning balance.

Paragraph 23 of the NPPF provides guidance on the application of the sequential test and states that 'Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require application for main town centre uses to be located in town centre, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. Paragraph 8 of the PPG concurs, stating 'The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations area available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. It supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking. The NPPF at para 27 states 'Where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused.

### *Sequential Test*

The site is not located within the defined Local Centre of Lowdham being situated more than 500 metres to the west (as the crow flies), outside of the village envelope and located with the Green Belt. The site is therefore located out-of-centre. The Sequential Test submitted with the application agrees that the site is located out of centre. However, concern was raised by Officer's during the course of the application in relation to the robustness of the submitted Sequential Test and the possible harm (impact) the proposed store could have on the vitality and viability of Lowdham Local Centre. This concern was communicated to the applicant and a Supplementary Sequential Test and letter from the Agent (dated 29.01.2018) was submitted.

The full comments of the NSDC Policy Officer in relation to the submitted Sequential Test is set out in the Consultations section above. In summary, whilst they do not necessarily disagree with the reasoning behind the discounting of the identified alternative sites, that they do retain some concern over the methodological approach, and whether sufficient flexibility has been shown. It is not clear that the test has been applied in a robust and comprehensive manner and so it cannot be confidently concluded that there are no sequentially preferable alternative sites. In line with paragraph 26 of the National Planning Policy Framework, where a proposal fails to satisfy the sequential test, it should be refused.

### *Fall Back Position*

A 'fall back' position is something that either has the benefit of planning permission or would not require planning permission that could be carried out without any further consent and which can be considered against a current proposal and which has a likelihood of coming forward.

The applicant considers that in this case there is a 'fall back' in which the current proposal should be considered against. The Agent asserts that the relocation of the farm shop is the 'primary driver' of the proposal rather than the Spar Market element. The supporting information confirms that the existing retail consent at the current Gonalston Farm Shop (which has 298 sq m of A1 retail floorspace at their existing site) would be formally relinquished by legal agreement should planning permission be approved.



In floorspace terms the Spar would be by far the dominant element with Gonalston Farm Shop significantly downsizing to 108 sq m. The farm shop element would concentrate on its butchery, fishmongery and delicatessen component and it is proposed that the new Spar shop would takeover the sale if the A1 retail offer currently provided at the existing farm shop. However, I do not accept this as an acceptable fall-back position for the following reasons.

The planning history for the farmshop is as follows:

- 01/01716/FUL Proposed farm shop (linked to Mason Bros Livestock) – approved 11.12.2001 subject to conditions including Condition 9 which restricted use for the purposes of a farm shop, in accordance with the agents' letter of 20th September 2001. This letter states that the farm shop would sell a mixture of locally produced foods and meat from the Mason Brothers farm.
- 04/02889/FUL Extend farmshop (and storage) into remainder of empty farm building (NB approximate doubling in floorspace) approved 27.01.2005 subject to conditions including Condition 6 which restricted the use for the purposes of a farm shop, in accordance with the agent's letter of 30th November 2004 and the applicant's letter dated 28th December 2004. The Agents letter referred to stated that the farm shop would sell a mixture of locally produced foods and meat from the Mason Brothers farm confirms that one third of the turnover would be from beef and lamb coupled with pork from Bankwood Farm in Oxton. The rest of produce is sourced within a 50 mile radius with only the mustards from Herefordshire and dried herbs from Norfolk from further afield.

The current application states that Gonalston farmshop has a floorspace of 298m<sup>2</sup> albeit the floorspace info submitted with 04/02889/FUL implies that only 138m<sup>2</sup> would be retail floorspace (the remainder would be storage albeit the overall figures available do not seem to tally). The proposed retail floorspace in current application would be 367m<sup>2</sup> with a coffee shop at 81m<sup>2</sup> which seems significantly more than the planning history for the farmshop indicates. The reason for the granting of the original farm shop consent was to support the diversification of an existing rural business and it is not considered that the proposed store would be compatible with these aims or comply with the conditions which restrict the current farmshop business.

In addition, if the 'fall back' position represents a real prospect of implementation and is deliverable then it should constitute a comparison for which the current application can be considered against. The correct tests (as established by case law) for determining the fall back position are whether there is a lawful ability to undertake the fall back position (i.e. is there an implementable consent) and whether there is a likelihood or real prospect of such a consent occurring. Notwithstanding the conditions imposed on the existing farmshop consent, I consider it unlikely that this site would be capable of accommodating the application currently proposed without significant rebuilding and extension (which notwithstanding any retail impact issues may not be acceptable in principle in any event due to the sites Green Belt location).

As such, I do not consider the use of the existing Gonalston farmshop to represent a realistic fall back position. I therefore attach little weight to the Applicants offer for a Unilateral Undertaking securing the relinquishment of the existing (farm shop) A1 retail consent from the existing premises within six months of taking occupation at the new site.

### *Impact on the Vitality and Viability of Lowdham Local Centre*

In relation to the impact test, the applicant concludes that the consideration of impact is not necessary due to the proposal falling below the 2,500 sqm threshold in national policy and Core Policy 8. However, the amendments to Core Policy 8 seek the introduction of a local threshold of 350 sqm (gross) or greater outside of the Newark Urban Area, which the proposal exceeds (and it is considered that significant weight can be attached to this emerging policy for the reasons set out in the 'Retail Policy' section above).

In Officer's opinion the impact on the vitality and viability of nearby centres is a clear material planning consideration. The full comments of the NSDC Policy Officer in relation to the requirement for an Impact Test are set out in the Consultations section above. In summary, these comments state that Lowdham's Local Centre is small in scale and anchored by its Co-op store, which generates footfall and linked trips/expenditure. Given its nature the proposal would clearly compete with the existing Co-op store, and so the potential impact on the vitality and viability of Lowdham's Local Centre is evidently material. Without adequate demonstration to the contrary it is not unreasonable to assume that the potential impact from a diversion of trade to additional out-of-centre floorspace could have serious consequences, potentially stretching to those of a significant adverse nature, for the trading performance and overall vitality and viability of the Local Centre.

On this basis it is reasonable to expect the applicant to provide a proportionate assessment of the likely impact of the proposal. The Applicant has not submitted this assessment and has refused to provide one. Without such input it is not possible to appropriately weigh the matter of impact in the balance. As per para 27 of the NPPF where a proposal is likely to have a significant adverse impact on one or more of the factors identified then it should be refused. The PPG advises that it is for the applicant to demonstrate compliance with the impact test, and as also outlined the failure to undertake an impact test could in itself constitute a reason for refusing permission.

### *Other Positive Effects*

The PPG advises that it is when the impacts are unlikely to be significant adverse that the positive and negative effects should be considered alongside all other material considerations. As it stands we are in a position where we cannot come to a view over the likely extent of impact given the clear failure of the applicant to demonstrate this.

However, for completeness, the applicant has pointed to other benefits which would occur including promotion of economic growth and the retention of two local businesses albeit both at a smaller scale (Gonalston Farmshop and J Harrison as an independent car retailer, garage and petrol filling station.). The submitted Design and Access Statement states that Peugeot have formally given notice to J Harrison that its franchise will be withdrawn shortly which places the existing business and all of its workforce at significant risk. The Statement also states that the proposal would secure a rental income to enable J Harrison to remain on site and also implies that Gonalston Farm Shop Ltd may be at risk over the coming years. However, this information is anecdotal and I can therefore give this limited weight particularly when the impact upon the Local Centre of Lowdham is unknown. In summary, I do not find that there is an overwhelming benefit to proposal that would outweigh the lack of any demonstration or considerations of retail impact.

### **Impact upon Visual Amenity**

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

In relation to landscape impacts, the proposed site is within the Trent Washlands Policy Zone (TW PZ 27) 'Caythorpe and Gonalston River Meadowlands' character area as defined within the Council's Landscape Character Supplementary Planning Document (SPD). The landscape generally within the zone is unified and has few detracting features including the A612. The policy action for the zone is to 'Conserve' with policy actions to conserve the rural character of the landscape.

Overall, I am satisfied that the proposal would not result in a development which would be detrimental to the visual amenity of the rural landscape in accordance with Core Policy 9 and 13 of the Core Strategy and Policy DM5 of the DPD.

### **Impact on Highway Safety**

Spatial Policy 7 of the Core Strategy amongst other things requires proposals to minimize the need for travel through measures such as travel plans or the provision or enhancement of local services and facilities; provide safe, convenient and attractive accesses for all; be appropriate for the highway network in terms of volumes and nature of traffic generated and avoid highway improvements which harm the environment and character of the area. DM5 mirrors this.

There are no changes to the existing access proposed by the current application according to the application form, 36 additional car parking spaces would be provided (I assume that sales parking would be given over to customer parking to achieve this number). Despite the request for further clarification of parking and staff numbers, I note that the latest position of the Highways Authority is to raise no objection to the scheme in terms of highway safety. As such, the proposal is not considered likely to result in any adverse impact upon highway safety.

### **Impact on Ecology**

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. No ecology survey has been submitted with the application. However, as no demolition of buildings/limited removal of natural vegetation is proposed, it is considered likely that the site has low ecology potential. As such, the lack of information submitted in relation to ecology would not warrant refusal of the application in this instance.

### **Impact upon Residential Amenity**

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers. Indeed 'always seeking to secure a good standard of amenity for existing and future occupants of land and buildings' is one of the 12 core planning principles set out in the NPPF.

A residential property is located immediately to the east of the site with the next nearest neighbour located on the opposite side of Southwell Road, just over 50 metre away. The Environmental Health Officer raises no objection to the proposal subject to conditions relating to trading hours and the submission and approval of any external plant details such as chillers etc. As the proposal is already in use for commercial purposes, it is not considered that the proposal would give rise to any material increase in any adverse impact upon neighbouring properties by virtue of any noise or disturbance issues. Whilst, operating hours may be longer and later than the current use, it is not considered that the limited amount of noise to be generated from the use would be so significant to warrant refusal of the application, particularly when taking into account the background noise levels generated from traffic along Southwell Road.

Subject to conditions, I am therefore satisfied that proposal would comply with the objectives of Policy DM5.

### **Flood Risk**

Core Policy 9 (Sustainable Design) provides that development should 'through its design, pro-actively manage surface water, where feasible, the use of Sustainable Drainage Systems.' CP10 seeks to mitigate the impacts of climate change whilst Policy DM5 also seeks to ensure development is safe for the intended users without increasing flood risk elsewhere. This broadly reflects the advice in the NPPF.

The majority of the site lies within Flood Zone 2, with part located in Flood Zone 2. The proposed development is not a more vulnerable use than the use of the existing site. In line with para 104 of the NPPF proposals for change of use should not be required to undertake the sequential and exceptions tests, but should still meet the requirements for site specific flood risk assessments. A flood risk assessment has been submitted with the application which confirms that the proposal would incorporate measures for flood resilience including setting appropriate finished floor levels, electric circuitry etc. coming from above rather than the ground etc., raising utility inlet points and locating boilers at a high level. Subject to conditions, I am therefore satisfied that the proposal would comply with the requirements of Core Policy 9 and Policy DM5.

### **Planning Balance and Conclusion**

The proposal would be acceptable in terms of its location within the Green Belt, Flood Zones 2 and 3, impact on visual amenity, impact on neighbouring properties and highway safety.

The Council is of the view that retail impact forms a material consideration in relation to the determination of this applications and that revised Core Policy 8 should have due weight attached to it. It is not considered that the submitted Sequential Test has been applied in a robust and comprehensive manner and so it cannot be confidently concluded that there are no sequentially preferable alternative sites. In line with paragraph 26 of the National Planning Policy Framework, where a proposal fails to satisfy the sequential test, it should be refused. In addition, it has not been demonstrated through the submission of a retail impact test that the proposal would not result in a significant adverse impact upon the vitality and viability of the Local Centre of Lowdham.

Accordingly, in the overall planning balance I must conclude that the proposals are unacceptable and planning permission should be refused on retail grounds.

## **RECOMMENDATION**

**That full planning permission is refused for the following reason:**

### **Reasons for Refusal**

01

The application site is located out of centre outside of both the defined Local Centre and village envelope of Lowdham. Core Policy 8 (Retail Hierarchy) of the Core Strategy (Adopted 2011 and Emerging 2018) sets out the retail hierarchy within the District and seeks to protect vitality and viability of existing centres and demonstrate the suitability of retail development outside of a defined town centre through a sequential site approach and an assessment of impact on nearby centres.

The National Planning Policy Framework (NPPF) supports this approach and states that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. In the opinion of the Local Planning Authority (LPA) the Applicant has not applied the sequential site approach in a robust and comprehensive manner and the LPA fail to be convinced that there are no alternative suitable sites available. As such, the application fails to satisfy the sequential test.

The NPPF also states that where an application is likely to have significant adverse impact on town centre vitality and viability and on investment in a centre or centres in the catchment area of the proposal, it should be refused. A retail impact assessment of any type has not been submitted with the application, despite request. As such, the application fails to demonstrate that the proposal would not result in a significant adverse impact upon the vitality and viability of the Local Centre of Lowdham.

The proposal is therefore contrary to Core Policy 8 as well as being contrary to the National Planning Policy Framework (NPPF) and NPPG which are material planning considerations. There are no other material planning considerations that would outweigh harm by reason of sequential inappropriateness or potential harm to Lowdham Local Centre.

### **Notes to Applicant**

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

02

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

Background Papers

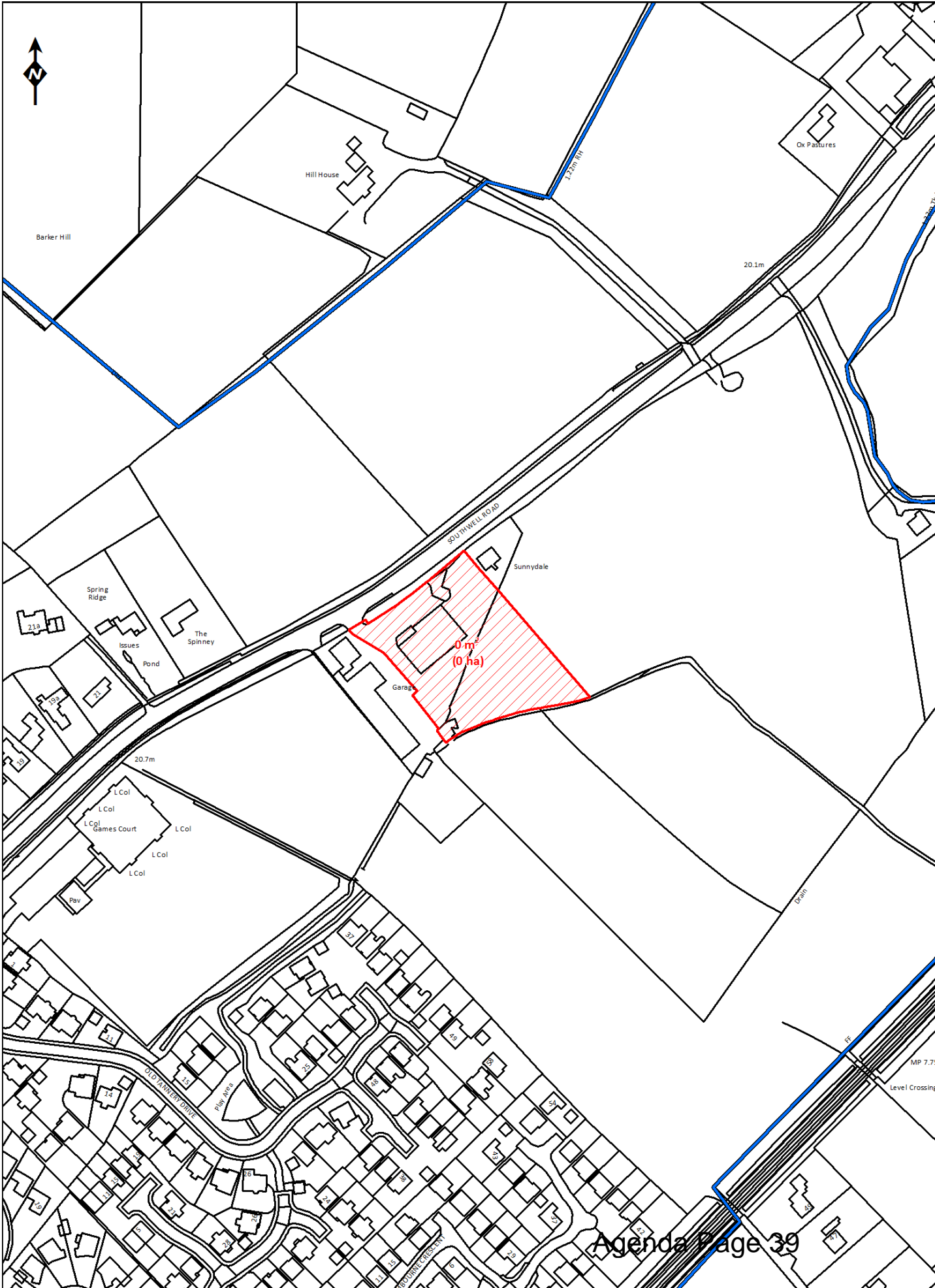
Application Case File.

For further information, please contact Helen Marriott on ext 5793.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager - Growth & Regeneration**



## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>17/02087/FUL</b>	
<b>Proposal:</b>	<b>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</b>	
<b>Location:</b>	<b>Land at Tolney Lane, Newark</b>	
<b>Applicant:</b>	<b>Mrs K Webster</b>	
<b>Registered:</b>	<b>29 January 2018</b>	<b>Target Date: 26 March 2018</b>

### The Site

The application site is situated west of the Newark Urban Area as defined on the Proposals Map of the Allocation and Development Management DPD, within the Rural Area as set out within the Core Strategy and within the countryside. The site sits on the northern side of Tolney Lane which runs in a westerly direction from the Great North Road and which leads to a dead end. The majority of the section of Tolney Lane that runs between the application site and the Great North Road is located within Flood Zone 3. Half way down Tolney Lane, the road forks into two and the northern arm runs towards the railway line. The application site lies adjacent to the railway line boundary and forms the north-western corner of a larger site known locally as Shannon Falls which is located between the existing gypsy and traveller sites known as Church View to the east and Hoes Farm to the west. The site is also located adjacent to two brick built residential properties known as Mill Cottage and Mill House, which are to the west of the application site.

The site measures 0.1 hectare in area and is roughly rectangular in shape. It measures approx 55 metres wide by approx 35 metres deep. The application form describes the site as vacant and the last use of the land as unknown. There are some remains of close boarded timber fencing along the site's south-west boundary, but is predominantly bounded by mounds of earth and large blocks of masonry. The existing boundary treatment to the northern boundary with the railway line is a 2m high steel palisade fence and some sporadic tree planting. The south eastern boundary appears to be defined by posts with no means of enclosure between. To the east and south-east of this application site is the remainder of the larger Shannon Fall site, which is currently vacant.

The site is located within Flood Zone 2 of the Environment Agency's Flood Map/Strategic Flood Risk Assessment, which means it is at medium risk of flooding. Historically the application site (together with the land to the east and south-east, known as Shannon Falls) has been the subject of unauthorized tipping and the raising of ground levels which occurred in 2001 and this remains the subject of an extant Enforcement Notice which requires the lowering of ground levels. Parts of Tolney Lane which provides the access to the site, falls within Flood Zone 3, which means it is at high risk of flooding.

Tolney Lane accommodates a large Gypsy and Traveller community providing approx 260 pitches.



## Relevant Planning History

Relating to this application site together with the wider Shannon Falls site to the east and south-east of this application site:

- E/1/1129 - Use of the land as a site for caravans, refused in 1959;
- E/1/2531- Construct a residential caravan site, refused in 1970;
- 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 10.5m AOD. The applicant appealed to the Planning Inspectorate but on 25 May 2006, the appeals were dismissed and the enforcement notices upheld on the land and still stand.

Whilst the site has ceased being used as a caravan site, the unauthorised tipping remains on the land, artificially raising ground levels.

Relating to this application site only:

- 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 for the following reason:

“The proposed development represents highly vulnerable development that would be located within Flood Zone 3 and therefore should not be permitted in accordance with the National Planning Policy Framework and the PPG. Whilst the Sequential and Exception Tests do not fall to be applied in this case, even if they were applicable, whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use, the proposal fails the Exception Test. The submitted Flood Risk Assessment does not comply with the requirements set out in the Site Specific Flood Risk Assessment Checklist (paragraph 68) of the Flood Risk and Coastal Change Section of the Planning Practice Guidance and therefore fails to adequately demonstrate that the development will be safe for its lifetime, without increasing flood risk elsewhere.

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 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.”

Relating to the adjacent land to the east and south-east (also part of the Shannon Falls site):

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 the grounds that the submitted Flood Risk Assessment was not able to demonstrate that the development would be safe for its lifetime without increasing flood risk elsewhere.

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 for the following reason:

The proposed development represents highly vulnerable development that would be located within Flood Zone 3 and therefore should not be permitted in accordance with the National Planning Policy Framework and the PPG. Whilst the Sequential and Exception Tests do not fall to be applied in this case, even if they were applicable, whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use, both scenarios of the proposal (i.e. lowering the land levels in accordance with the description of development or the carrying out development in line with the Flood Risk Assessment) fail the Exception Test. The submitted Flood Risk Assessment does not comply with the requirements set out in the Site Specific Flood Risk Assessment Checklist (paragraph 68) of the Flood Risk and Coastal Change Section of the Planning Practice Guidance and therefore fails to adequately demonstrate that the development will be safe for its lifetime, without increasing flood risk elsewhere. Even with the lowering of land levels to 10.5m AOD (which has not been adequately demonstrated through the submitted FRA), the proposed use would not be safe for its lifetime.

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 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.

The applicant appealed this decision and within their appeal submission, additional information was provided which provided greater clarity on the gypsy and traveller status of the applicants. 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 at the end of this report.

## The Proposal

Full planning permission is sought for the change of use of the land to a private gypsy and traveller caravan site, consisting of one mobile home, two touring caravans and one amenity building and associated works. The mobile home measures approx. 11.5m by 6m and the proposed amenity building measures 6.1m by 5.3m, 2.4m to the eaves and 3.8m to the ridge. The amenity building accommodates a kitchen/dining area and separate toilet and would be constructed of blockwork, rendered externally and cement fibre slate roof. The site is proposed to dispose of its sewerage by a septic tank.

The mobile home and amenity building is situated adjacent to the northern boundary of the site and sited on existing ground levels. The two touring caravans are located adjacent to the western boundary on ground levels to be reduced by 1m in depth. Vehicular access is located in the southern corner of the site and a 1:12 gradient ramp created that leads from Tolney Lane to the lower ground level within the site. There are batter slopes with 1:2 and 1:3 gradients to deal with the difference in ground levels within the site. The application form states 4 parking spaces would be provided on the site. The surfacing within the site would comprise a permeable hard surfacing central area of the plot with grassed areas either side. Hedging is proposed to be planted along all external boundaries of the site.

Accompanying the application is a Flood Risk Assessment which states that ground levels across the site fall in a general southerly direction from approx. 12.5m to 11.8m Above Ordnance Datum (AOD), which suggests that between 1.3m and 2m of fill has been placed on the site without consent. However, there is no pronounced 'step' in ground levels beyond the western and northern boundaries of the site. This suggests that either the filling extended beyond the site boundaries, or it was not as extensive as suggested by the Enforcement Notice. In particular, Tolney Lane is at a similar level to the site and therefore complying with the Enforcement Notice would result in a significant bank along the edge of Tolney Lane.

The FRA goes on to state that the applicant has therefore completed a limited site investigation to determine the depth of fill material placed over the site. Four mechanically excavated trial pits were dug across the site and the depth to the underlying 'natural' clay measured. It is clear that the depth to the clay varies between 0.75m and 1.0m, rather than the 1.8m implied by the Enforcement Notice. Officers have responded to this suggestion, in consultation with the Environment Agency, and recognised that the figure stated within the Enforcement Notice was probably calculated using aerial photogrammetric (LiDAR) data which covered vast areas, may not have been particularly accurate in seeking to obtain a precise reading on small site specific situations. The excavations on the site therefore appear to provide a more accurate reading of the situation and based on the information presented, this would appear to be a sensible and pragmatic way forward in this regard. The applicants have therefore been advised by officers that whilst the Enforcement Notice remains extant on the land, if the site was lowered to its 'natural' clay level, which may not be strictly in accordance with the Notice, the local planning authority would be unlikely to pursue any further action on the site in this regard.

The Assessment identifies the Old Trent Dyke located to the north of the site beyond the railway line, flowing in an easterly direction and the River Trent some 150m to the south of the site means that the site may be at risk from fluvial flooding. The FRA states that the site lies within Flood Zone 2 with an annual exceedance probability (AEP) of flooding between 1% and 0.1%. In the 0.1% AEP event, flood water propagates across the entire site and reaches a maximum level of approx. 12.36m AOD, a depth of water varying from 0.14m to 0.56m. The estimated flood levels at the application site for the 1% + 30% for climate change and 1% + 50% for climate change would therefore be 12.47m AOD and 12.76m AOD respectively.

The PPG classifies caravans, mobile homes and park homes intended for permanent residential use as 'highly vulnerable.' PPG Table 3 states that within Flood Zone 2, highly vulnerable development is required to pass the Exception Test.

The FRA quotes para 101 of the NPPF which advises that the aim of the Sequential Test is to 'steer new development to areas with the lowest probability of flooding.' Furthermore it states 'development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.' The FRA goes on to state that evidence will be presented to demonstrate that there are no reasonably available sites in areas with a lower risk of flooding and this report has been prepared on the basis that the Sequential Test has been passed. No further evidence has been received in this regard.

In terms of the Exception Test the FRA states that evidence will be presented to demonstrate that development has wider sustainability benefits to the community that outweigh the flood risk and therefore the first part of the Exception Test is passed. No further evidence has been received in this regard.

In relation to the second part of the Exception Test, the report states that on the northern part of the site the ground level is at approx. 12.5mAOD. The finished floor level of the static mobile homes would be 0.75m above ground level and a level of 13.25mAOD which hence provides a freeboard of some 0.78m above the 1% AEP flood level inclusive of an allowance for the upper end estimate climate change and would therefore provide a safe place of refuge for residents if caught unawares by a 1% AEP flood event. The report also recommends that the residents of the proposed development subscribe to the 'Floodline' flood warning service of the Environment Agency that aims to provide a minimum 2 hour warning of an impending flood. In relation to access and egress, the FRA refers to the NSDC Tolney Lane Flooding Action Plan which identifies a reception facility at the Lorry Car Park, adjacent to the Newark Cattle Market is provided for evacuees. The FRA therefore claims that there is therefore adequate warning available for residents of Tolney Lane to be safely evacuated to a safe refuge despite the risk of flooding to the only egress route. The Assessment states that planning permission has been previously granted by NSDC for at least 132 pitches that would be cut off by the flooding of Tolney Lane in a similar manner to the application site. It refers to application 10/01464/FULM when planning permission was granted by Members of the Planning Committee having clearly concluded that flood risk could be satisfactorily overcome by the flood evacuation plan, despite that site using the same access/egress route as this application site.

In terms of flood compensation storage and the potential to increase flood risk elsewhere, the FRA states that lowering the entire application site in accordance with the Enforcement Notice (or down to the 'natural' clay level would serve no purpose in reducing a potential obstruction to flood flows arising from the placement of the fill as higher ground would remain on all sides. And locating the mobile home in a depression would significantly increase flood risk. It therefore proposes to maintain existing ground levels only in the immediate vicinity of the static mobile home and amenity building and lower the rest of the site by 1m as far as it is practical. This would require the removal of some 500 cubic metres, approx. 50% of the volume that would be required to comply fully with the Enforcement Notice. The FRA concludes that the "retention of part of the fill that is subject to the Enforcement Notice would have no significant impact on the flood risk elsewhere." It also states that by virtue of the seep lattice construction supporting the elevated floor of the static mobile home, floodwaters would not be impeded or excluded from the footprint of the static mobile home and as such would have no impact on the flood risk elsewhere. Similarly the FRA confirms that the amenity building will be designed to flood and constructed with resilient

material so there will be no loss of flood plain storage. The small footprint of the amenity building would provide no significant obstruction to flood flows and would have no significant impact on the flood risk elsewhere.

In terms of surface water run-off, it would shed directly into the ground from the proposed development, thereby mimicking the existing drainage patterns and areas of hardstanding will be formed using a permeable stone, therefore the development will not increase surface water run-off over and above the existing scenario.

The FRA concludes by providing copies of two appeal decisions including, Green Park appeal decision, and the former Abattoir site on Tolney Lane when both were granted permission for a 5 year period and subject to Flood Evacuation Plan as well as other conditions.

In response to a request regarding more information on the status of the applicant, the agent has stated:

“Mr and Mrs Webster are ethnic Romany Gypsies, a matter which engages the Public Sector Equality Duty. In addition they have pursued a nomadic way of life all their adult lives, doing landscaping, driveways and trading in caravans. Mr and Mrs Webster have ceased travelling for work temporarily so that their children can have continuous education: the 2 youngest of their 4 children (aged 9 and 10) are still enrolled at and attending the local Mount School (where all their children were educated). Planning Policy for Traveller Sites 2015 states that people can stop travelling temporarily, *inter alia*, for the educational needs of their children. Thus it is clear as well as being Romany Gypsies, Mr and Mrs Webster are Travellers in terms of Annex 1 PPTS. This matter attracts significant weight.”

In addition the agent has stated the following in regard to the need for gypsy and traveller sites:

“I attended as the only objector to the emerging Newark Local Plan so far as it affects Traveller site policy. In particular I argued before the Inspector that the Travellers’ needs assessment was deficient and needed to be re-undertaken as it under-recorded need. Last week the appointed Inspector issued his final Note (attached) and agreed with me in that regard finding:

*I have given careful consideration to the pre-hearing representations on provision in the CS Review for G&Ts (Matter 14), the discussion that took place at the hearing, and the post-event exchanges. Having done so, I have formed the view that the GTAA is very likely to have underestimated need which means that the number of pitches set out in Draft Core Policy 4, which is based on the GTAA, is insufficient.*

Clearly therefore there is: unmet need; no 5 year supply of Traveller sites and no suitable, alternative sites available for the Applicants and their family. In the context of the best interests of the Applicants’ children, these factors attract substantial weight and indicate that this proposal should attract officer support and be approved by the Committee.”

#### Departure/Public Advertisement Procedure

Occupiers of 20 properties have been individually notified by letter.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 : Settlement Hierarchy

Spatial Policy 3 : Rural Areas

Spatial Policy 7 : Sustainable Transport

Core Policy 4 : Gypsies & Travellers and Travelling Showpeople – New Pitch Provision

Core Policy 5 : Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople

Core Policy 9 : Sustainable Design

Core Policy 10 : Climate Change

Core Policy 13 : Landscape Character

#### **Allocations & Development Management DPD (adopted July 2013)**

Policy DM5 – Design

Policy DM8 – Development in the Open Countryside

Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Publication Amended Core Strategy 2017
- Planning policy for Traveller sites – August 2015

When determining planning applications for traveller sites, this policy states that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community.

Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies within the NPPF and this document (Planning policy for traveller sites).

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.

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.

- 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...”

### Consultations

**Newark Town Council** – Object on the grounds that it is in Flood Zone Risk 3, one of the highest classifications of flooding.

**NCC Highways Authority** – It is difficult to raise objection to this application for one mobile home and two touring caravans due to the significant number of pitches/premises currently served by Tolney Lane. It does, however, again draw attention to the incremental increase of pitches over time and the potential impact on Tolney Lane as a result.

**Environment Agency** – We object to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. We recommend that the application should be refused planning permission on this basis.

### **Reasons**

The Technical Guidance to the National Planning Policy Framework classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application site lies within Flood Zone 2 and therefore would need to satisfy both the sequential and exception tests. The FRA makes reference to the possibility that both tests can be satisfied in section 12.3 of the FRA however does not state how these can be met, however the LPA will determine whether the tests can be satisfied.

The FRA has calculated the 30% and 50% climate change allowance figures and applied these to the proposed site. The proposal is to retain a section of land which was originally raised without authorisation in order to ensure that the development would remain well in excess of both the 1 in 100 year 30% and 50% climate change allowances. The FRA shows that during a 30% climate change event the dwelling would remain 0.75m above the predicted flood level while during a 50% climate change event it would remain 0.49m above the predicted flood level. While this would appear to provide adequate flood mitigation, the Shannon Falls site is subject to two enforcement notices which were previously served, firstly, to cease use of the land as a caravan site and, secondly, to remove the unauthorised tipping from the land so that no part of the site is above the level of 10.5 metres AOD. Appeals against these notices were dismissed on 25 May 2006, and the notices upheld on the land remain extant. While use of the land as a caravan site was ceased the land levels have not been reduced. The extant notices apply to the whole of the Shannon Falls site not just this portion and represent a large portion of the floodplain which has been lost. While it has been mentioned that the site lies within FZ2 it could be argued that this is due in main to this unauthorised land raising and were the levels be reinstated to 10.5mAOD, as required by the extant notice then the FZ would likely change as a result.

In the event of a flood all areas surrounding the site will be inundated with water. The flood depths on the access routes adjacent to the site are 1.4m during 1 in 100 year plus 20% estimate for climate change and 1.71m during a 1 in 1000 year event.

The modelled flood level during a 1 in 1000 year (0.1%) return would cause access and egress routes to flood to depths of 1.71m and is given a hazard rating of "danger for all" in FD2320. This includes the emergency services. The modelled flood level during the 1 in 100 year plus 20% climate change return period would cause access and egress routes to flood to depths of 1.4m and is given a hazard rating of "danger for most" in FD2320. This includes children, the elderly and the infirm and the general public.

Therefore this indicates and has been acknowledged within section 8.3 of the FRA that access and egress routes will be cut off. Therefore, an evacuation plan is required which will remove occupants of the site before an overtopping event.

An evacuation plan is outlined in Appendix 03 of the Flood Risk Assessment. This consists of the previously NSDC approved evacuation plan and includes information on action to be taken when the Environment Agency issues flood warnings. We recommend that Newark and Sherwood District Council contact their Emergency Planner to review the Emergency Plan and ensure the development does not further increase the burden on the emergency services and is still considered robust.

**Trent Valley Internal Drainage Board** – Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of the site drainage systems must be agreed with the Lead Local Flood Authority and the Local Planning Authority.

**NSDC, Environmental Health Service** – Support the application.

**NSDC, Emergency Planner** – Object to the application.

I am not qualified to provide comments to either support or object to this application and my comments are to assist the planning team in their considerations.



The proposed development is sited in Flood Zones 2 and the access road is within Flood zone 3. The Tolney road area has been subject to previous significant flooding requiring evacuation. The access road can be flooded to a level designated as 'Danger to All' meaning that emergency service vehicles would also face danger during any attempt to cross the flood waters. The proposed site for the static and touring vans whilst in Flood zone 2 may still have risk and caravans are classed as 'highly vulnerable' structures.

In the event that occupants did not successfully evacuate then it is possible they would be safe within the caravans however any vulnerability or change in circumstances requiring them to leave would place significant challenges before emergency responders or cause occupants to place themselves in danger.

Documents submitted including the Flood Risk Assessment have noted the fact that the lorry park currently designated as the evacuation point for caravans removed from Tolney lane is also an area subject to a flood risk. Whilst an alternative site is desirable no such site has yet been identified. Any additional number of caravans may place an unacceptable strain on resources.

In support of my comments I would draw your attention to point 1.2 of the National Planning Policy Framework ;

***New developments must have access and egress routes that allow residents to safely exit their property during flood conditions.***

I have not had sight of a specific emergency/evacuation plan for the proposed site. As per the National Planning Policy Framework (NPPF) I would draw attention to Section 3 highlighting emergency/evacuation plans; Developers are advised to have flood emergency plans in place for developments in flood risk areas to ensure that evacuation and flood response procedures for the development are documented and agreed. These plans should include:

- Aims and objectives of the plan
- Maps showing development and flood risk areas, including depth and velocity of flooding
- Evacuation or containment procedures, including evacuation routes
- Flood warnings (EA Flood Warning Service) and identification of local flood warden.
- Safe refuge information
- Identification of vulnerable residents
- Utility services
- Procedures (including details of any stores containing flood defences e.g. sandbags)
- Emergency contact information
- Media information e.g. local radio stations and warning processes for residents

**NSDC, Access and Equalities Officer** – General comments on the need for inclusive access to and use of the proposals, with particular reference for disabled people and Approved Document M of the Building Regulations.

**One representation** has been received from an interested party which supports the application and every application should be used to combine with community development measures that foster integration such as road safety and recycling.

## Comments of the Business Manager

The main planning considerations in the assessment of this proposal are the need for gypsy and traveller sites, the planning history of the site, flooding, the impact on the appearance of the countryside and character of the area, highway issues, access to and impact on local services, residential amenity, personal circumstances of the applicant and their status.

### The Need for Gypsy and Traveller Pitches

The NPPF and the Government's 'Planning policy for traveller sites' requires that Local Planning Authorities maintain a rolling five year supply of specific deliverable Gypsy & Traveller sites together with broad locations for growth within 6-10 years and where possible 11-15 years. Government policy states that a lack of a five year supply should be a significant material consideration in any subsequent planning decision when considering applications for the grant of planning permission.

Core Policy 4 (CP4) set a district wide target of 84 pitches to be provided up to 2012. 93 pitches were provided over this period and since that time work has been progressing on a new assessment of need and approach to meeting this. The Council initially intended to produce a separate Gypsy and Traveller DPD but now propose to include this within the review of the Development Plan. The District Council is currently engaged in the review of its Core Strategy and Allocations & Development Management DPD. The review was initially progressed jointly, but has now had to be uncoupled on account of a proposed gypsy and traveller allocation in Newark proving to be undeliverable. The Core Strategy will be progressed first and was submitted to the Secretary of State in its amended form on the 29th September 2017, and the hearings were held on the 1<sup>st</sup> and 2<sup>nd</sup> February 2018.

Core Policy 4 and 5 are proposed for amendment through this process and has sought to set out the new pitch requirements, the approach to meeting these requirements and the criteria for considering site allocations and proposals to meet unexpected demand. The two policies are however the subject of unresolved objections which limit the weight they can be currently afforded, in line with the tests outlined through paragraph 216 of the NPPF. In addition to this, the local planning authority presented evidence to the Hearing Inspector and based on the application of the amended methodology (taking account of the definitional change) identified the following pitch requirements for the 2013-2018, 2018-2022 and 2022-2028 five year tranches of the GTAA-

<b>Time period</b>	<b>Precise Pitch Requirement</b>	<b>Rounded Pitch requirement</b>
2013 – 2018	13.8 pitches	14 pitches
2018 – 2023	14.3 pitches	15 pitches
2023 – 2028	10.9 pitches	11 pitches
<b>Total Required</b>		40 pitches

However, as already referred to by the agent, the Inspector has following the close of the Amended Core Strategy hearings issued a 'post-hearing note' on 8 May 2018 stating that he has "formed the view that the GTAA is very likely to have underestimated need which means that the number of pitches set out in Draft Core Policy 4, which is based on the GTAA, is insufficient."

In this respect the LPA is currently drafting a Main Modification in line with the Inspectors note, committing to the production of a new GTAA over the short-term (i.e. within the next two years), and to include revised pitch requirements and site allocation/allocations to meet any residual need through the review of the Allocations & Development Management DPD. This will be presented to the Inspector along with the other main modifications necessary to make the plan sound, which will then be subject to a six-week consultation. Whilst, as a result of the above, the precise level of need cannot be currently defined it is clear is that there is unmet need and in determining this application now, this must afford appropriate weight in favour of the application. Consequently the Council also cannot currently demonstrate a five year supply of sites. This lack of a 5 year supply, absence of other available sites and the suitability of this site by reference to the criteria of Core Policy 5, are all material considerations that need to be given significant weight in the determination of this application. In this respect the LPA is currently drafting a Main Modification in line with the Inspectors note, committing to the production of a new GTAA over the short-term (i.e. within the next two years), and to include revised pitch requirements and site allocation/allocations to meet any residual need through the review of the Allocations & Development Management DPD. This will be presented to the Inspector along with the other main modifications necessary to make the plan sound, which will then be subject to a six-week consultation. Whilst, as a result of the above, the precise level of need cannot be currently defined it is clear is that there is unmet need and in determining this application now, this must afford appropriate weight in favour of the application. Consequently the Council also cannot currently demonstrate a five year supply of sites. This lack of a 5 year supply, absence of other available sites and the suitability of this site by reference to the criteria of Core Policy 5, are all material considerations that need to be given significant weight in the determination of this application.

### Planning History

This Council has already considered the principle of a residential caravan use on this site in 2002. The application was refused on the following grounds:

*“The site lies within the defined washlands of the River Trent a high risk zone according to paragraph 30(3) of Planning Policy Guidance Note 25 and is subject to known periodic flooding. In the opinion of the Local Planning Authority, any development of the site that includes the raising of ground levels, or the placing of fixed structures would aggravate the existing problem of flood defence/land drainage in this locality. As a consequence, the loss of this washland storage area would lead to additional properties in the locality having a greater probability and risk of flooding, which would not be in the interest of proper planning. This proposal is therefore considered to be contrary to policy PU1 of the Newark and Sherwood Local Plan and the advice contained in Planning Policy Guidance Note 25 'Development and Flood Risk' July 2002, specifically paragraph 70.”*

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 10.5m AOD. The applicant appealed to the Planning Inspectorate and the appeals were dismissed. The Inspector concluded:

*“I fully understand that the occupants of the site would make sure they were well aware of any imminent flooding and, because of their experience of travelling, they could vacate the site quickly, if necessary. However, this does not address the concerns about the continuing availability of functional flood plain, and the consequences of development for flood control over a wider area.”*

The proper consideration of such a use in this location has already been considered and found to be unacceptable on flooding grounds both by this Council and the Planning Inspectorate in the past.

The planning history section at the beginning of this report also refers to two applications considered in 2012 and 2017 for a Gypsy and Traveller residential caravan site on the adjoining site to the south-east of this site. The first application sought permission on the higher land levels due to the unauthorised increase of land levels which was refused on flooding grounds. The latter application sought permission for the same use but also included the removal of some of the fill from the land and raising the floor level of the caravans above the flood level on stone gabions and chaining down the static caravans to prevent them floating away and a Flood Evacuation Plan as mitigation. This application went to appeal and the Inspector's decision letter is attached at the end of this report. The Inspector determined that notwithstanding identified need, the lack of a five year land supply and recent temporary planning permissions granted along Tolney Lane, the Inspector dismissed the appeal on the grounds of flood risk.

The submitted FRA states that the application site is within Flood Zone 2 (at medium risk of flooding) and this is correct on the basis of the current land levels. However, this is the case because of the artificial raising of ground levels that occurred in 2001 without any planning approval, as set out in the planning history section above. The material remains on the land today, and therefore has represented unauthorised development since the appeal decision (ie for the last 10 years). If the material was removed, land levels would reduce and the flood risk on the site would increase which potentially would change the Flood Zone from 2 to 3.

The removal of some of the unauthorised fill on this site is welcomed, however, this cannot be given positive weight in the determination of the application, nor could removal of all the unauthorised fill as this is simply a requirement to take the site back to base level and cannot and should not be seen as a betterment of the scheme in flooding terms that can be weighed in its favour. The retention of any of this material on this site, results in the loss of flood storage capacity within the flooding catchment area of the River Trent and therefore in a flood event, rather than allowing the site to flood, it disperses flood water away and results in increased flood impacts to other land elsewhere. Whilst this is a matter of fact, because of the width and size of the flood plain along this section of the River Trent, it is likely that this impact would not be substantial in itself, however, it would prove very difficult to model in order to quantify this increased impact or try to identify the position of the exacerbated flood impact elsewhere.

The lack of expediency for default action to remove the unauthorised fill should also not represent a material planning consideration in the determination of this application, as the test of proportionality to pursue enforcement action is an entirely different and separate consideration.

### Flooding

The final criterion of Core Policy 5 states that 'in the case of any development proposal which raises the issue of flood risk, regard will be had to advice contained within PPS 25: Development and Flood Risk and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site specific Flood Risk Assessment'. The NPPF states that local planning authorities should minimise risk by directing such development away from high risk areas to those with the lowest probability of flooding. Policy DM5 also states that the Council will aim to steer new development away from areas at highest risk of flooding.

The submitted FRA states that the application site is within Flood Zone 2 (at medium risk of flooding) and this is correct on the basis of the current land levels. However, this is the case because of an artificial raising of ground levels that occurred in 2001 without any planning approval, as set out in the planning history section above and removal of fill on the site could increase flood risk on the site.

Table 2 (in paragraph 66) of the Planning Practice Guidance (PPG) states that caravans, mobile homes and park homes intended for permanent residential use are classified as “highly vulnerable” uses. Table 3 (in paragraph 67) of the PPG states that within Flood Zone 2, highly vulnerable classification development may be permitted but it would be subject to the Exception Test being passed.

The NPPF states that local planning authorities should minimise risk by directing inappropriate development away from high risk areas to those with the lowest probability of flooding. Whilst the Sequential Test may be considered passed, on the basis that there are no reasonably available alternative sites for this use at lower risk, the proposal fails the Exception Test. There are two parts of the Exception Test set out in the NPPF:

- It must be demonstrated that the development provides for wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- A site specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

Firstly, no information has been submitted with the application which demonstrates that the development would provide wider sustainability benefits to the community.

Secondly, the NPPF states that it must be “*demonstrated that the development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning...*” Full details of the EA comments are outlined within the consultation section of this report, but they object on the grounds that the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. They recommend that the application should be refused planning permission on this basis.

In addition they state that the application site lies within Flood Zone 2 and therefore would need to satisfy both the sequential and exception tests. The FRA makes reference to the possibility that both tests can be satisfied in section 12.3 of the FRA however does not state how these can be met.

The access/egress route is within Flood Zone 3 and can be classed as a “Danger to All” which puts even the emergency services at risk. Therefore this indicates and has been acknowledged within section 8.3 of the FRA that in a flood event, access and egress routes will be cut off. Therefore, an evacuation plan is required which will remove occupants of the site before an overtopping event.

An evacuation plan is outlined in Appendix 03 of the Flood Risk Assessment. This consists of the previously NSDC approved evacuation plan and includes information on action to be taken when the Environment Agency issues flood warnings.

The Emergency Planner at NSDC objects to the application and their comments are set out in full in the consultation section above. The submitted Evacuation Plan is not supposed to cater for any additional caravans which may place an unacceptable strain on resources.

They draw attention to point 1.2 of the National Planning Policy Framework which states '*New developments must have access and egress routes that allow residents to safely exit their property during flood conditions.*'

As already set out, it is considered that the Sequential Test is passed on the basis of the lack of reasonably available alternative sites for this use at lower risk of flooding (if it were being considered as being within Flood Zone 2). There are also concerns that the development should be considered as if it is in Flood Zone 3 (with the removal of the fill) and should therefore be rejected as being inappropriate development. Even if it is considered that the site is within Flood Zone 2, the Exception Test fails because if it is within Flood Zone 3, the proposals include some retention of the fill on the site, however no floodplain compensation is proposed, thereby increasing flood risk to others. The Evacuation Plan states that residents would register on the EA "Floodline" warning system which provides a 2 hour warning of a flood event, to enable residents to evacuate the site and head for the Cattle Market as set out within the Tolney Lane plan.

Members may be aware of the evacuation procedures that have been put in place for existing occupiers of Tolney Lane where residents are allowed to assemble on the lorry park during a flood event. However, this evacuation plan is not ideal and was introduced to try to provide a solution to occupants that already existed on Tolney Lane after the year 2000 flood and it should not be seen as an appropriate mitigation strategy when considering new pitches along the Lane.

Emergency Planning Guidance produced by the Nottingham and Nottinghamshire Local Resilience Forum referred to in the other material considerations section above, represents standing advice, material to the consideration of this application and it raises significant concerns in relation to any new development that would increase the burden on emergency services as it is likely that even with an evacuation plan in place, emergency services would still have to go along Tolney Lane to ensure total evacuation had occurred and granting planning permission for additional pitches will exacerbate the need for this checking procedure and therefore increase the danger of the situation for all.

Whilst Members have accepted evacuation procedures are sufficient to allow proposals to go ahead on other Tolney Lane sites in the past, it remains the view of officers that the principle of locating this highly vulnerable use in an area at high risk from flooding is not appropriate and should not be permitted and practical experiences of the difficulties in managing evacuation and risk were realized in the 2012 flood event. The unauthorised material that currently remains on the site continues to result in a loss of flood storage and therefore continues to exacerbate flooding risk elsewhere.

The very recent appeal decision on the adjoining site will be a material planning consideration in the determination of this application.

The view of officers, as well as the Environment Agency, is that as the site is only within Flood Zone 2 due to unauthorised material being deposited on the land, and therefore for the basis of the consideration of this application, the site should be considered as being within Flood Zone 3 and the development therefore represents inappropriate development in this high risk flood location. The proposal is considered to be contrary to Development Plan policies as well as the NPPF and the PPG and this weighs heavily against the proposal in the planning balance.

### Impact on the Countryside and Character of the Area

The first of the criteria under Core Policy 5 states that ‘the site would not lead to the loss, or adverse impact on, important heritage assets, nature conservation or biodiversity sites’.

Criterion 5 of Core Policy 5 states that the site should be ‘capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity’.

The aim of conserving the natural environment, protecting valued landscapes, minimising impacts on biodiversity and pollution is also reflected in the NPPF. Whilst development exists along the majority of the Lane, only the eastern third sits within the defined Newark Urban Area. The application site is located between the sites known locally as Church View to the east and Hoes Farm to the west. Church View benefits from an authorised use for 35 residential caravans and Hoes Farm has planning permission for 25 pitches. Whilst the site is located within the countryside, it is sandwiched between these two sites which are authorised for caravan use. The proposed development is for the creation of 1 pitch (1 mobile home, 2 touring caravans and a utility block) that would be enclosed by additional hedge planting. Taking all these matters into consideration, the proposal is unlikely to represent a significant visual intrusion that would have such a harmful impact on the appearance of the countryside in this location, to warrant refusal of planning permission in this case. It is also acknowledged that the site has no special landscape designation and is unlikely to lead to any significant adverse impact on nature conservation or biodiversity. Although the Newark Conservation Area boundary runs along the south-eastern side of Tolney Lane, it is approx. 100m from the boundary and as such, it is not considered that the proposal would be harmful to the setting of the Conservation Area.

The proposal is considered to broadly accord with Local Plan and National Framework Policies in this regard.

### Highway Issues

Criterion 3 under Core Policy 5 requires the site has safe and convenient access to the highway network.

Spatial Policy 7 states that development proposals provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and cycleways, so as to maximise opportunities for their use. Proposals should provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements. Proposals should ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems.

The Highway Authority has raised no objection to this application and it is considered that the proposal would not result in any significant highway implications and the proposal accords with the Local Plan and National Framework Policies in this respect.

### Access to and Impact on Local Services

The second of the criteria under Core Policy 5 is that ‘the site is reasonably situated with access to essential services of mains water, electricity supply, drainage and sanitation and to a range of basic and everyday community services and facilities – including education, health, shopping and transport facilities’.

Whilst the site lies within the countryside, it is acknowledged that it is in relative close proximity to the edge of existing development. Occupiers would have good access to existing Tolney Lane development and to existing services and facilities provided by the Newark Urban Area. The site is ideally located between two established Gypsy and Traveller sites and therefore access to long established community and social facilities associated with the historic use of Tolney Lane would be readily available for occupiers.

Taking the above factors into consideration, the application site is reasonably located in terms of access to the range of amenities and services and as such would be relatively sustainable.

### Residential Amenity

Criterion 4 of Core Policy 5 states ‘the site would offer a suitable level of residential amenity to any proposed occupiers and have no adverse impact on the amenity of nearby residents’.

Policy DM5 requires the layout of development within sites and separation distances from neighbouring development to be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

It is considered that with the proposed hedge boundary planting that the site would offer a suitable level of protection to current residential amenities of existing occupiers nearby as well as a suitable level of amenity to any proposed occupiers of the site.

The proposals therefore meet the requirements of Criterion 4 of Core Policy 5 and Policy DM5.

### Personal Circumstances

The Government’s ‘Planning Policy for Traveller sites’ (August 2015) requires a revised assessment of Gypsy and Traveller status. Annex 1 of the document sets out the definition of gypsy and traveller for the purposes of the policy as follows:

‘Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.’

The guidance states that in determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life



- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

In order for appropriate weight to be given to the unmet need for Gypsy and Traveller pitches in the consideration of these proposals, the onus is on the applicant to prove that the applicant along with any other occupier of the site, have Gypsy and Traveller status in accordance with the definition set out in the Planning Policy for Travellers Sites.

Following a request, the agent has provided additional information in this regard, which is set out in this report. On this basis it is considered that the applicant's gypsy and traveller status is proven.

### Conclusions and Balancing Exercise

The NPPF and the PPG clearly and explicitly state that this highly vulnerable use should not be permitted within Flood Zone 3 (which is likely to be the site's status without the existing unauthorised fill) and under these circumstances the Sequential and Exception Test would not be applicable.

If Members take a more pragmatic view on the unauthorised fill, decide that it is unlikely that the material would be removed and consequently accept its impact in marginally increasing flood risk elsewhere through loss of flood storage, and assess the application on the basis that the site is within Flood Zone 2, the Sequential and Exception Tests would apply. Whilst it is accepted that the Sequential Test is passed, on the basis of the inadequate FRA, it fails the Exception Test in any event.

Since the up-holding of the Enforcement Notices in 2005, it is clear that whilst flood risk has remained of paramount importance as a material consideration, unmet need and the lack of reasonable deliverable alternative sites and a 5 year supply weighs heavily in favour of the proposal.

At present there is an unmet need for Gypsy and Traveller pitches within the District. National policy and guidance dictates that such an unmet need, lack of a 5 year supply and deliverable alternative sites carries significant weight in favour of the proposal. However, supporting information has been provided on the gypsy and traveller status of the applicant and as such Members may consider that temporary permission would be deemed acceptable in this particular case.

Whilst the remaining material planning considerations (impact on the countryside and character of the area, residential amenity, highway considerations and access to services) assessed in this report appear to represent positive weight to this proposal, in the professional view of officers, the harm caused by retaining some of the existing land levels on the site and locating this development within an area at high risk of flooding does not and cannot be outweighed in the overall planning balance. The provision of 1 further pitch to meet unmet need is not considered to be a positively determinative factor in this case. It is therefore recommended that the application be refused on flooding grounds.

### RECOMMENDATION ONE

**That planning permission is refused for the following reason:**

01

The proposed development represents highly vulnerable development that if located within Flood Zone 3 should not be permitted in accordance with the National Planning Policy Framework and the PPG. If located within Flood Zone 2, whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use within an area at lower risk, the proposal fails the Exception Test. The submitted Flood Risk Assessment does not comply with the requirements set out in the Site Specific Flood Risk Assessment Checklist (paragraph 68) of the Flood Risk and Coastal Change Section of the Planning Practice Guidance and therefore fails to adequately demonstrate that the development will be safe for its lifetime, without increasing flood risk elsewhere.

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 Core Strategy and Policy DM5 of the Allocations and Development Management DPD and the National Planning Policy Framework and the Planning Practice Guidance, which are material planning considerations.

#### Background Papers

Application Case File

For further information, please contact **Julia Lockwood** on ext **5902**.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

Matt Lamb  
Business Manager for Growth and Regeneration



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## Appeal Decision

Hearing held on 28 February 2018

Site visit made on 28 February 2018

**by Sarah Colebourne MA, MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 26<sup>th</sup> April 2018**

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**Appeal Ref: APP/B3030/W/17/3180652**

**Land at Shannon Falls, Tolney Lane, Newark on Trent, Nottinghamshire, NG24 1DA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Creddy Price against the decision of Newark and Sherwood District Council.
  - The application Ref 16/01884/FUL, dated 26 November 2016, was refused by notice dated 25 January 2017.
  - The development proposed is described as change of use of scrubland for the siting of 8 static mobile homes for gypsy travellers and reduce ground levels to 10.5m AOD.
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. It is clear from the plans and was confirmed at the hearing that the proposed development includes the siting of 8 static mobile homes with an amenity block on each pitch, a hardstanding and alterations to one of the two existing accesses. I have considered the appeal on this basis.
3. The previous unauthorised use as a caravan site has ceased but it remains subject to extant enforcement notices for the lowering of ground levels and the removal of unauthorised tipping.
4. Since the application was refused, the Council has considered the additional information submitted with the appeal regarding the gypsy status of the intended occupiers and their personal circumstances. It resolved that if the appeal information had been before it previously, it would have been minded to approve the application subject to conditions for a temporary period of three years, personal occupancy and flood evacuation and warden requirements.
5. The appellant confirmed at the hearing that whilst a permanent permission was preferred, if this was found to be unacceptable then a temporary permission would be acceptable.
6. The proposed development is for eight pitches, of which seven would be occupied by the appellant and named members of his wider family. From the evidence provided in the appellant's statement and at the hearing, I am satisfied that they all have a nomadic way of life, travelling in connection with their work as well as for social purposes and have no reason disagree with the

Council's view that the intended occupiers meet the definition of gypsy and travellers in national policy 'Planning Policy for Traveller Sites' (PPTS). I have therefore considered the appeal on that basis.

7. Since the hearing, I have referred back to the parties for comments regarding the matter of the Environment Agency's (EA) and the Council's suggested floodplain compensation condition because the EA's representatives had left the hearing prior to detailed discussion of that matter. I have taken into account the post hearing comments received from the EA and the response to that from the Council. No response has been received from the appellant although I have had regard to the comments made on his behalf during the hearing.

### **Main Issues**

8. The main issues in this case are:-

- the effect of the proposed development in terms of flood risk;
- if any harm arises, whether it is outweighed by any other material considerations, including any identified need for sites for gypsies and travellers in the area, the alternatives for the appellant and any personal circumstances.

### **Reasons**

#### *Flood risk*

9. Tolney Lane lies close and runs parallel to the River Trent on the edge of Newark. It has a number of authorised gypsy and traveller sites accommodating a large gypsy and traveller community of over 260 pitches, all within flood zones 2 and 3. Since 2012, no permanent permissions have been approved although there have been temporary permissions. The appeal site is located within the centre of the wider area of sites. The appeal site lies mostly within flood zone 3a (high probability) and on the edge of the functional flood plain, with the northern part being in flood zone 2 (medium probability).
10. The development plan includes Core Policies 5 and 10 in the Newark and Sherwood Core Strategy (CS) (2011) and policy DM5 in its Allocations and Development Management Development Plan Document (DPD) (2013) which seek to avoid flood risk. The Technical Guidance to the Planning Practice Guidance on flood risk which underpins the National Planning Policy Framework ("the Framework") classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each flood zone. Despite the appellant's view that the proposed tethering of the static caravans would make them less vulnerable, in policy terms the development is clearly contrary to the above local policies and national policy in that it is a highly vulnerable use located mainly in flood zone 3a.
11. The overall aim of national policy is to steer new development to areas with the lowest probability of flooding through application of the Sequential Test and where necessary the Exception Test. Development in areas at risk of flooding should only be considered where, informed by a site specific flood risk assessment (FRA) following the Sequential Test (and if required the Exception Test), it can be demonstrated that within the site the most vulnerable development is located in areas at lowest flood risk, that the development is

appropriately resilient and resistant, including safe access and escape routes where required and that any residual risk can be safely managed. Although the Inspector for appeals<sup>1</sup> at another site in the Tolney Lane area at Green Park in 2014 found that those tests did not strictly apply and the Council agrees, the guidance says that they should be applied to any proposal involving a change of use to a caravan, camping or chalet site. Nevertheless, in its statement the Council accepts that the proposal would pass the Sequential Test as at present there are no reasonably available alternative sites and I have no reason to disagree with that. It also accepts that the accessibility to services within Newark would meet the test of wider sustainability benefits in the first part of the Exception Test. The second part of the Exception Test requires that the development would be safe for its lifetime, taking account of the vulnerability of the occupants without increasing flood risk elsewhere and where possible reducing flood risk.

12. The Environment Agency considers that lowering the site levels will increase flood risk to the site but at the hearing accepted that the proposed mitigation for the raising of the caravans on stone gabions to raise floor levels and tethering measures would be appropriate for the safety of the occupants on the site.
13. However, I was told that the access to the site along Tolney Lane floods very frequently, preventing access for the general public and in one part falling within the 'danger to all' (including the emergency services) category in national guidance. The safety of residents would therefore be dependent on an appropriate evacuation plan. I was told that the Environment Agency does not comment on evacuation plans and that the Council had received no response from its Emergency Planning Officer due to a vacancy in that post when consulted. I heard from the Council that, although there is no assumption that it would provide for further development, the Tolney Lane Action Plan which is in place for existing sites in the area had achieved its aim during the flood events of 2000 and 2012. The appellant's FRA recommends a site specific flood warning and evacuation plan but it was agreed at the hearing that the Council's suggested condition would make better provision, requiring residents to sign up to the EA's Flood Warning Service, provide details of locations to which they could evacuate and nominate at least three Flood Wardens. Under this residents would have prior warning of flood events and would be able to evacuate the site in good time before flooding occurred although the Council and emergency services would need to ensure that the site had been evacuated. Whilst in the short term it would reduce the risk of any significant burden to the Council and the emergency services, in the longer term that burden would be obviously be increased.
14. The Green Park decisions referred to earlier form part of the Council's justification for a temporary permission. However, the Green Park scheme did not involve static caravans or utility blocks and no condition for floodplain compensation was imposed as it was considered that a condition for the lowering of ground levels would be sufficient. A temporary permission granted in 2015 for a nearby site at The Abattoir was also for touring caravans. In this respect, the proposal differs significantly and I agree with the EA that the raising of the static caravans onto stone gabions and the proposed amenity

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<sup>1</sup> APP/B3030/C/12/2186072, APP/B3030/C/12/2186073, APP/B3030/C/12/2186074, APP/B3030/A/12/2186071

blocks on each pitch would cause the loss of floodplain storage for flood water. Even though the unlawfully raised existing ground levels would be reduced as part of the proposal and the extent of development might result in a relatively small loss of storage capacity given the vast size of the floodplain, the cumulative impact of this proposal together with the other existing sites in the area would have a harmful impact upon flooding across the area and would be significant in terms of flood risk to third parties. Whilst the gabions and buildings could be removed at the end of a temporary period, the annual probability of flooding remains the same in the short term. The EA's and the Council's suggested condition for a flood plain compensation scheme would therefore be necessary (in addition to the lowering of ground levels) even for a temporary permission to mitigate the harm arising from the loss of floodplain storage. However, as the submitted site layout shows that the whole of the site would be occupied by plots and the hardstanding and I was told at the hearing (during discussion of other alternative accommodation options) that the appellant does not own any other land in the vicinity, I agree with the EA that it is unlikely that compensation works could be achieved in the context of this scheme. The Council has indicated that if any land outside of the appeal site in the same flood cell were used for offsite compensation works, this would have to be secured through a Section 106 legal agreement but none has been provided. I have no compelling evidence from the appellant that would lead me to a different conclusion from the EA.

15. I conclude then that the proposal would result in significant harm in terms of flood risk to third parties and that not all the measures necessary to mitigate that harm and meet the Exception Test even for a temporary permission could be achieved. In the longer term, given the strong policy objection and the additional burden that would be placed on the Council and the emergency services, a permanent permission would be also unacceptable in terms of flood risk to the occupiers of the site and to third parties.
16. The Framework requires that both the Sequential and Exception Tests must be satisfied for the development to be allowed. That is not the case for this proposal and it would, therefore be contrary to the local policies referred to above and to national policy.

#### *Need and provision*

17. PPTS identifies a national need for traveller sites and seeks to ensure that local planning authorities develop strategies to meet the need for sites in appropriate locations, to address under provision and maintain an appropriate level of supply (including a five year supply) of sites.
18. The Council's Gypsy and Traveller Accommodation Assessment (GTAA) 2016, provides the evidence base for Emerging Core Policy 4 in the Amended Core Strategy. This has been subject to objections during the examination of the emerging Amended Core Strategy and will in any case be tested as part of the ongoing examination. Despite the appellant's concerns regarding the methodology and findings of the GTAA, the Council accepts that it has an unmet need for 28 pitches over the plan period. It also concedes that it does not have a five year supply and that there is an unmet need for at least 14 pitches in the district for the period 2017-2022. The appellant considers the scale of that need to be much greater (around 100 pitches) based on his concerns regarding, in particular, the Council's approach to the turnover of

sites. The Council maintains that its assessment is appropriate and its approach is acceptable. At the hearing, the Council considered that any additional need resulting from that would be more than offset by its likely over-estimation of occupiers who meet the revised definition of gypsy and travellers in PPTS although the appellant disputed this as it does not take account of future household growth from the families of those who no longer meet the definition.

19. I conclude then that whatever the likely need figures are, the evidence before me suggests at least a moderate need for pitches in the district over the plan period, including an urgent need for pitches to provide a five year supply.
20. Emerging Core Policy 4 seeks to focus new pitch provision in and around the Newark Urban Area through a variety of means, including the allocation of sites through the development plan, the granting of permission for individual sites in accordance with emerging Core Policy 5, the purchase by the Council of new sites and the provision of flood resilience measures to enable the safe expansion of existing sites, although it currently remains subject to unresolved objections during the ongoing examination. The review of the Council's Allocations and Management DPD has been separated from the review of the CS and although the timescale has slipped I heard that it is expected to be submitted and examined within the year. I was also told that the Council has resolved that it will take steps towards making provision that could be deliverable ahead of the DPD. However, as it is unclear to me what and where that provision would be and how long it would take for it to become available and deliverable, I cannot be certain if and when sufficient sites would be brought forward and made available to address the likely scale of need. This indicates a current failure of policy. These matters each carry significant weight in favour of the proposal.

#### *Alternative sites*

21. None of the intended occupiers own a pitch and most rely on moving around in touring caravans and doubling up on relatives' sites with inadequate facilities and no security of tenure. They have many connections in the area and have been trying to establish a base in Newark for many years but I was told that for financial reasons they have not been able to find any alternative to Shannon Falls. I was told that this is the only land they own. I heard that there are no Council-owned sites in the area and that private sites have long waiting lists. For cultural reasons, bricks and mortar accommodation would be unacceptable to them. There are, therefore, no available alternative sites for the family in the area and this adds further weight in support of the proposal.

#### *Personal circumstances*

22. The ages of the intended occupiers range from the mid 50's to the early 70's. I was told that two of the older members have serious on-going health conditions for which they require regular hospital appointments and treatment, with a third awaiting surgery. They wish to live together to provide each other with mutual help and support. A settled base would enable them to do that and would enable access to appropriate health services. However, I have not been told that a base in this particular location is essential for their health needs and this matter therefore carries only limited weight.



### *The planning balance*

23. I have concluded that the development would be unacceptable in terms of flood risk, contrary to national and local policy and this carries significant weight against the scheme. However, a number of other considerations weigh in favour of the scheme. There is an unmet need for additional gypsy and traveller sites in the district, a current lack of sites for the appellant and his family and a failure of policy to meet that need. These matters provide significant weight in support of the proposal and the health and care needs of the family also add some further, albeit limited, weight. However, even if I had found that the likely scale of need is that identified by the appellant, the other considerations do not outweigh the serious and lasting harm that would be caused by the development in terms of the inadequate provision for the loss of floodplain, the additional burden on the Council and the emergency services in the longer term, and the conflict with policies in terms of flood risk.
24. As the Council is currently unable to demonstrate a five year supply of pitches this carries significant weight in favour of a temporary permission. Although a temporary permission is not a substitute for a permanent site, it would give the family an opportunity to pursue a site through the DPD site allocations process or through the Council's other options for the provision of sites. Whilst in the short term, measures can be put in place for the raising of floor levels, tethering and an evacuation plan that would be likely to mitigate flood risk to the occupiers of the site, a floodplain compensation scheme is unlikely to be achievable resulting in significant cumulative harm to others elsewhere. I find that a temporary permission would not therefore be appropriate in this case.
25. I have had regard throughout my decision to Article 8 of the European Convention on Human Rights which affords the right to respect for private and family life, including the traditions and culture associated with a gypsy way of life. From what I have seen and heard, the dismissal of the appeal would not interfere with the Article 8 rights of the family as they are not living on the site and there is insufficient compelling evidence to indicate that they would be made homeless or be unable to practice their traditional way of life. I have also had regard to the Public Sector Equality Duty (PSED) in the Equality Act 2010 which seeks, amongst other things, to eliminate discrimination, harassment and to advance equality of opportunity and good relations between persons who share a relevant protected characteristic and those who do not. Romany Gypsies have a protected characteristic for the purposes of the PSED. Although the appellant and his family would be deprived of the opportunity to live on this site if the appeal is dismissed, this is set against the serious risk to life and property that the proposal would have in terms of flood risk. It does not therefore follow that the appeal should succeed.

### **Conclusion**

26. For the reasons given, the proposal would cause significant harm in terms of flood risk, contrary to the development plan as a whole and there are no material considerations that would indicate otherwise. Therefore, and having taken into account all other matters raised, the appeal should be dismissed.

*Sarah Colebourne*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

Philip Brown	Planning Consultant
Elly Price	Appellant's brother
Ros Price	Appellant's sister in law

### FOR THE LOCAL PLANNING AUTHORITY:

Julia Lockwood	Planner
Matthew Tubb	Planner
David Woolley	Environment Agency

## **DOCUMENTS**

1. Email from David Woolley, Environment Agency dated 3 April 2018.
2. Email from Julia Lockwood, Newark & Sherwood District Council, dated 25 April 2018.

## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>17/00771/FUL</b>	
<b>Proposal:</b>	<b>Erection of 1 No detached dwelling with attached garage</b>	
<b>Location:</b>	<b>Land To The Rear Of 37 &amp; 39 Halloughton Road, Southwell, NG25 0LP</b>	
<b>Applicant:</b>	<b>Mr Dan Orwin</b>	
<b>Registered:</b>	<b>25.04.2017</b>	<b>Target Date: 20.06.2017</b>
		<b>Extension of Time Agreed until 08.06.2018</b>

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Cllr. Laughton has referred it to Members due to the reverse in Highways advice.

Members may recall that the application was on the agenda of 5 December 2017 Planning Committee meeting with an Officer recommendation of refusal. The application was withdrawn from the agenda prior to the meeting at the request of the applicant in an attempt to address the expressed highway concerns. Additional text added since the published December agenda has been included through bold text.

Since the December agenda went to print there have been extensive discussions with numerous parties including the applicant, NCC as the Highways Authority and neighbouring parties. The report below has been updated to reflect these discussions and thus forms the most up-to-date position and recommendation of Officers.

Further delay to the decision ensued at request of the applicant on the proviso that amended plans would be submitted for consideration. No such plans have been received and the applicant confirmed on 27 April 2018 that the application should be determined as submitted.

### The Site

The application site is a broadly rectangular plot accessed by Halloughton Road to the west. The site is land locked by neighbouring residential curtilages with the Potwell Dyke sharing the northern boundary of the site. The site is within the designated conservation area. There is a public footpath which runs along the access to the site from Halloughton Road before following the southern boundary of the site. The site is within Flood Zone 1 according to the Environment Agency maps and despite its proximity to the Potwell Dyke is shown to be at very low risk of surface water flooding.

As existing the site is a vacant plot of land between residential curtilages. The submitted Design and Access Statement (D&AS) suggests that the land previously formed the rear gardens to 37 and 39 Halloughton Road (within the applicant's ownership). Properties to the south along Halloughton Road are typically dormer bungalows whilst the immediately adjacent plots at 37 and 39 Halloughton Road are solely single storey. The dwelling to the east; 39a Halloughton Road is a dormer bungalow with its principle elevation orientated towards the site.

## Relevant Planning History

Whilst there have been planning applications in relation to the recent residential development which surrounds the site, there is no planning history of direct relevance to the site itself.

**The site characteristics have changed during the life of the application through the removal of a hedge and subsequent erection of a timber fence elevated on posts with chicken wire underneath along the boundary with the public footpath. This is subject to a separate enforcement investigation.**

## The Proposal

The application seeks full planning permission for a detached dormer bungalow with an attached garage. The dwelling would be orientated with its principle elevation southwards with the attached single storey garage set at a perpendicular arrangement orientated towards the shared access from Halloughton Road.

The maximum pitch height of the dwelling would be approximately 6.2m whilst the eaves would be set at approximately 2.6m.

The scheme has been amended during the life of the application owing to concerns raised by officers to the original proposal. The revised plans were received on the 14<sup>th</sup> June 2017 and were subject to a round of re-consultation and it is on this basis that the appraisal below is framed. The main changes in comparison to the original scheme are the omission of floor space at both ground and first floor to the rear elevation (resulting in the loss of a bedroom) – the L shape dwelling would have maximum dimension of 19.15m depth (including the attached garage) and 12m width. The revisions also include the removal of solar PV panels; and the reduction in height of a glazed entrance element on the principle elevation.

The site layout plan has also been amended on numerous occasions during the life of the application with the most recent iteration being Revision G dated 13<sup>th</sup> September 2017. This is owing to concerns in relation to the public footpath which shares the highways access (as discussed through the appraisal section below). The latest site location plan demonstrates a mountable pedestrian refuge along the southern side of the access.

The application has been accompanied by a Heritage Impact Statement; Method Statement for Tree Protection; Design and Access Statement and a Flood Risk Assessment.

**The applicant has attempted to address the concerns of NCC Highways since the December 2017 Published agenda with correspondence including references to and extracts from the following:**

- **The Road Traffic Act 1988**
  - **Section 34 Para. 2A**
- **Rights of Way Advice Note 12 (published 1 December 2004)**
- **Natural Environment and Rural Communities Act 2006**
  - **Part 6 para. 67 (5) (pages 27 and 28)**
- **Part 6 of the Natural Environment and Rural Communities Act 2006 and Restricted Byways – A guide for local authorities enforcement agencies, rights of way users and practitioners – Version 5 – May 2008**

- Paras 55 and 56 (page 15)
- **The Building Regulations 2010 Fire Safety Approved Document B Volume 1 – Dwelling Houses**
- **Manual for Streets 2**
  - **3.2\_ ‘Design Guidance and Professional Judgement’ (reference to Local Transport Note 1/08)**
- **Appeal Decision APP/X3025/W/17/3180777 dated 11 January 2018 (in relation to a housing development for outline permission for 6 dwellings in Mansfield District)**

#### Departure/Public Advertisement Procedure

Occupiers of thirteen 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. There have been additional rounds of consultation during the life of the application both in respect to the aforementioned amended plans but also subsequently in respect of the additional comments received from the Highways Authority (as listed in full below) and the revised block plan which now demonstrates the entirety of the routed designated public footpath.

#### Planning Policy Framework

##### The Development Plan

##### **Southwell Neighbourhood Plan (made October 2016)**

Policy SD1 - Delivering Sustainable Development

##### **Policy E2 – Flood Resilient Design**

Policy E3 - Green Infrastructure and Biodiversity

Policy E4 - Public Rights of Way and Wildlife Corridors

Policy E5 – Green Link

Policy DH1 – Sense of Place

Policy DH3 – Historic Environment

##### **Policy TA1 – Cycle and Pedestrian Routes**

##### **Policy TA2 – Public Transport Connectivity**

Policy TA3 – Highways Impact

##### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 2: Spatial Distribution of Growth

Spatial Policy 7: Sustainable Transport

Core Policy 3: Housing Mix, Type and Density

Core Policy 9: Sustainable Design

Core Policy 14: Historic Environment

##### **Allocations & Development Management DPD (adopted July 2013)**

Policy So/HN/1 – Southwell Housing Need

Policy So/PV – Southwell Protected Views

Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy

Policy DM5 – Design

Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

### **Consultations**

#### **Southwell Town Council – *Original comments received 9 June 2017:***

Unanimously to object to the application for the following reasons:

This proposal in an infill, backland development.

The committee supports the highways strong objection

*Additional comments received 6 July 2017:*

Southwell Town Council considered application 17/00771/FUL - Land To The Rear Of 37 & 39 Halloughton Road Southwell and agreed unanimously to support this proposal

*Further comments received 22 September 2017:*

Southwell Town Council discussed the amendment to planning application 17/00771/FUL on 20 September 2017.

Southwell Town Council support the amendment. Min no 17.1 FC

***Further comments received 18 January 2018:***

**Southwell Town Council reconsidered application 17/00771/FUL (Land to the Rear of 37 & 39 Halloughton) following new information, after their previous decision and objected to this application by a majority decision for the following reasons:**

**The committee noted the objection from the NCC regarding the width of access, not being 5.25 metres wide.**

**- Due to the width of the access there are concerns regarding the safety of pedestrians using this access this application is backland development and with this area very susceptible to flooding there will be an increase risk from the additional run off unless it is dealt correctly**

**NCC Highways Authority – *Original comments received 10 May 2017:***

This proposal is for the construction of a single dwelling served by an existing vehicular access which currently serves 3 dwellings.

The site layout plan indicates that the existing driveway into the site has a width of 3.5m. In accordance with the current Highway Design Guide (6C's) the minimum access width for this number of dwellings is 4.25m for a minimum distance of 5m behind the highway boundary (in all cases add 1m if bounded by a wall, fence, hedge, line of trees etc. on both sides). Therefore, as the access is bounded on each side, the required width is in fact 5.25m. Whilst it is understood that

the access is currently in use by the residents of 3 dwellings, the driveway width is substandard and an increased use should not be encouraged. This proposal increases the likelihood of vehicular conflict as a vehicle waiting to enter the site would have to wait in the carriageway of Halloughton Road whilst another exits.

It should also be noted that a minimum width of 3.7m is required for suitable access by fire service vehicles, as recommended in DfT Manual for Streets, and that they should not have to reverse more than 20m.

As such, it is recommended that this application be refused for the following reason:

The access road leading to the site is substandard in that it is of inadequate width to allow two vehicles to pass and the intensification of use of such a road would result in an increase in the likelihood of unacceptable danger to users of the highway.

*Additional comments received 12 June 2017:*

The applicant/agent has provided additional information relating to possible improvements to the access. However, it is considered that the access would still be substandard and further intensification should be discouraged.

*Additional comments received 11 July 2017:*

The layout has been amended to include a pedestrian refuge approx. 20m along the private driveway. There is no footway along the driveway. This does not address the concern previously raised and as such my previous comments relating to the substandard access remain.

*Additional comments received 23 August 2017:*

The access currently serves 4 dwellings, not 3 as stated in my previous comments. There is a wide verge at the access point which assists with visibility. Following a further, more thorough, site visit, whilst the access width is less than normally required for this number of dwellings, considering the low number of additional vehicular movements associated with one further dwelling at this location, it may be considered unreasonable to recommend that this application be refused.

Therefore, in this instance, there are no highway objections to the construction of 1 dwelling subject to the following being imposed:

1. No part of the development hereby permitted shall be brought into use until the access to the site has been widened to 3.5m, and surfaced in a bound material in accordance with the approved plan. Reason: In the interests of highway safety.
2. No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than parking/turning of vehicles. Reason: In the interests of highway safety.

*Further comments received 27 September 2017:*

### Further information

The Highway Authority is aware that it has made comments on this proposal on a number of occasions which have highlighted concerns with the overall inadequate width of the access when compared to suggested national and local standards. However the most recent observation following further investigation on site stated that 'in view of the low number of additional vehicular movements associated with one further dwelling at this location, it may be considered unreasonable to recommend that this application be refused'. The comment was made based on the information supplied by the applicant in their planning application which was presumed to be accurate.

It is noted that the application is once again being consulted on and information on a Right Of Way – Southwell Footpath Number 27 – has now been included as part of this Right of Way is within the red line boundary of the application. The Footpath is officially recorded on the County's Definitive Map of Rights of Way and further information recently obtained indicates that a public footpath was expressly reserved along the southern boundary of the access way over land within the ownership of No. 39, Halloughton Road. It is noted that there is no reference to this within the applicant's revised documentation.

Having now had an opportunity to obtain documents regarding the public footpath which were not held by the Highway Authority, the Authority is now able to provide a fuller response on any implications for the public pedestrian highway as part of the recent re-consultation which has given the Authority the opportunity to consider once again the highway aspects of the application. In addition the applicant has submitted further highway related information (18 August 2017 Ref AEM/F17084/180817) prepared by their transport consultant. This information outlines the views of the consultant on the adequacy of the width of the access and how fire fighting vehicles would be able to access the property via the existing access road.

In relation to the existing Right of Way – Southwell Footpath Number 27 - the Highway Authority has to consider all highway users when making comments and recommendations to the Local Planning Authority. The inclusion of this Footpath in the application red line is a significant material change in the nature of the application and will have an effect on all highway users. The Highway Authority acknowledges that since the development was originally laid out and the footpath set out along the access way, there has been considerable intensification of vehicular use following further development, to which it is now proposed to add. The Highway Authority, upon further consideration is of the view that the need to ensure safe access by pedestrians (who have a legal right to use the route unhindered) means that the existing width of the access (and indeed any width below 5.25m (as highlighted in its original comments objecting to the application)) is unsuitable to safely allow for any intensification of use by vehicular traffic generated by the additional development.

It has already been noted that there exists documentation which has been supplied to the Authority which does show a five foot wide strip of the access way as dedicated for the sole use of pedestrians. Whilst it is understood that there has existed an undesirable situation for many years where the width of the footpath may not always have been avoided by existing private vehicular users of the access way, especially with the increase in the physical width of vehicles since the 1960's, it is the view of the Authority in making its comments to the Local Planning Authority that this cumulative increase in risk cannot be excluded from its consideration of this matter. Therefore the view of the Highway Authority is that within the existing physical constraints that contain the



access way the applicant would be unable to provide any improvement that would allow for additional vehicular traffic beyond that which already exists without further detriment to pedestrian highway users.

The Highway Authority would also like to make comment on the information supplied by the applicant's transport consultant in their documentation dated 18 August 2017 Ref AEM/F17084/180817. The document outlines the consultant's view on the suitability of the access in terms of width and intensification of use.

From the Highway Authority's view, the access road does not meet current standards to allow for two vehicles to pass should they meet and, as has been highlighted earlier, the current physical boundary constraints on either side of it prevent any further widening. Whilst the consultant highlights an extract from the national Manual for Streets document stating that the "design of new streets or the improvement of existing ones should take into account the functions of the street, and the type, density and character of the development" and that this should be used in determining the appropriate width, it is also highlighted that the access road fails to meet the local design standards adopted by the Authority and contained within the 6Cs Highway Technical Design Guide. The consultant rightly states that 'Figure DG20 (Unadopted shared drive serving up to 25 dwellings) of the 6Cs Design Guide, states how developments of up to 5 dwellings would require a minimum driveway width of 4.25 metres for a minimum distance of 5 metres behind the highway boundary. As summarised in the comments raised by NCC dated 7 July 2017, Figure DG20 also states that if the driveway is bounded by a wall or fence on both sides, then 1 metre should be added.' The consultant then highlights that:-

*'The topographical survey demonstrates that the effective width of the private driveway to the back of the highway boundary is 3.75 metres. At a point 5 metres behind the highway boundary, the width is 3.67 metres. Between the edge of the carriageway along Halloughton Road, and the commencement of the private driveway, there is a 4.2 metres wide footway/hardstanding. Given that the majority of cars in the UK are between 4.5 metres and 5 metres in length, this demonstrates that there is space to accommodate a vehicle pulling off Halloughton Road, and waiting to enter the private driveway should the need arise. This prevents traffic entering the driveway from obstructing through-traffic along Halloughton Road. Indeed during on site observations undertaken on 10 August 2017, it was noted that vehicles pulling off Halloughton Road can effectively be stored in this section of highway land prior to entering the private driveway.'*

What this means is that should a vehicle pulling off Halloughton Road to proceed up the driveway and is prevented from doing so either by an egressing vehicle or pedestrians legitimately using the Right of Way it is suggested that they can pull off the existing carriageway and wait on the 4.2m wide footway/hard-surfaced vehicle access for the next door private driveway, which is there to allow vehicles to cross the footway, not for 'waiting' of any kind, by which it would cause an obstruction. Additionally, the footway is an area segregated for the use of pedestrians who by law have the priority of its use. Even if a vehicle were to wait in the location to which the consultant makes reference whilst it awaits a clear passage along the access road, it appears accepted by the consultant that part of it would still overhang the carriageway and also that it would eventually need to carry out some reversing manoeuvre onto the carriageway in order to be able to physically position itself to be able to actually enter the access road. The photograph below shows the footway/hardstanding area that the consultant is referring to.



It is clear that there is particularly restricted visibility for vehicles wishing to turn into the accessway from the south, and the Highway Authority considers this could lead to collisions arising from 'false starts' when a vehicle leaving via the accessway is encountered.

The consultant highlights that in relation to the intensification of use, the existing four developments generate in the region of 24 to 32 daily two-way movements and an additional property would 'only generate between 6 to 8 additional daily two-way movements.' In addition it is highlighted that there have been no recorded road traffic accidents between 2011 and 2015 in the vicinity of the site proving that the access works safely. It is also stated that many of the existing properties on Halloughton Road have driveways that only allow their users to reverse vehicles onto the carriageway which means drivers on Halloughton Road itself are used to watching out for emerging vehicles.

Whilst the addition of one further property off the access road may seem minimal it should be noted that using the applicant's consultant's own figures the use of the road will increase by 25% which is a significant intensification in use over present levels; levels with which the Authority already has some concerns given the increase in vehicle sizes since the original development, the greater number of private vehicles owned, and intensification of traffic flows generally. In respect of accidents and driver awareness the Highway Authority cannot argue with the facts ascertained by the consultant but considers that an increase in the use of an access will lead to an increased future risk. Whilst careful design and incorporation of features can offer mitigation that decreases this risk, it is the view of the Highway Authority that the applicant is unable to offer this due to the physical and legal constraints on the applicant's land. Furthermore, from what the consultant has outlined as the envisaged way that the access road will operate it is evident that there will be a potential increase in the manoeuvres of vehicles having to wait to turn into the access that will have a detrimental effect on other road users (both in terms of safety and the expeditious movement of traffic).

The Highway Authority also note that the applicant's consultant has also provided evidence in the form of a swept path analysis that fire fighting vehicles will be able to gain access to the development. The issue of such access is of course one that is covered by Building Regulations and to some degree is therefore a matter that rests with the relevant Building Control Body to ensure adherence to but in light of the information that the Authority has highlighted it may be considered that although access may theoretically be achievable the physical constraints of the site may mean that practical access could be hindered. It is therefore suggested that the views of the Chief Fire Officer be sought by the Local Planning Authority to provide an expert opinion on this matter.

In view of all the above the Highway Authority is of the view that the applicants proposals in highway terms are unacceptable and would therefore object to the proposals.

*Email addressed directly to the agent dated 26 October 2017:*

Thank you for further documentation related to your clients planning application which I and colleagues have examined to ascertain if there is any new information contained within them that the Highway Authority would need to consider further to that it has already seen.

I would draw your attention to the legalities surrounding the Right of Way Southwell Footpath Number 27. You will no doubt be aware that the Title Deeds to what was known as Plot Number 21 and 21A make reference to the use of specific parts of the access way which are on the deed documents themselves colour coded. Within the documents there is relevant detail of a defined part of that access way being reserved for the use of pedestrians using the Right of Way. From my understanding of the documentation that has been included in your email this matter is not addressed and indeed reference is made to providing a shared surface. In very basic terms the Authority is unaware of the rights of the footpath being extinguished through any legal process (unless you have relevant details and can share these) and the use of the Right of Way by vehicular traffic is an offence. Given this the Authority is of the view that any of the proposals made in relation to the improvement of the access are unachievable.

You will also be aware that the Highway Authority has highlighted that the suggested use of the existing footway/verge as a 'stopping point' for an in-turning vehicle to wait whilst a vehicle exits the access way is unacceptable yet this this a matter that is not dealt with by either of the supplied documents.

Given the physical nature and restraints of the existing access arrangements the Highway Authority is of the view that the proposals made so far in relation to this matter do not address the concerns that have been expressed. Whilst I note inclusion in the letter from Bancroft's of a quote from Paragraph 178 of the NPPF highlighting that 'local Planning Authorities should look for solutions rather than problems', apart from the fact that the Highway Authority is not the Local Planning Authority I would highlight that given the legal status of the Right of Way and the physical constraints of the existing access arrangements, both prevent any acceptable improvement to be made to support further development and unfortunately this is not a matter that either the Local Planning Authority or the Highway Authority can provide acceptable solutions for.

Unless there are further workable proposals that fully address and deal with all the above matters, at this point, I cannot see what progress can be gained from a meeting.

Having considered fully the supplied documentation the Highway Authority remains of its view that the proposals made are unacceptable in highway terms and will advise the Local Planning Authority accordingly.

***Additional comments from NCC Legal Team received 20 December 2017:***

Following a discussion yesterday with Clive Wood, Team Manager (Highway Development Control), I am asked to clarify this Authority's position in relation to S.34, Road Traffic Act 1988, in case it is helpful at this stage:-

I have reviewed the correspondence sent by Mr. Wood to the Local Planning Authority from which Mr. Orwin quotes in referring to S.34, and, while I acknowledge that correspondence seems to have been transmitted between some of the parties 'by return', it nevertheless appears clear to from the context of Mr. Wood's correspondence that he was referring to the *public's* vehicular use of Southwell Footpath No.31, and was pointing out that such public use (being otherwise without lawful authority) constituted a criminal. As for the statement within the letter dated 27 October, 2017 from Mr. Orwin's solicitor, Mr. Duncan MacLaren, referring to an expectation that this Authority would therefore 'prosecute the residents', this appears to refer to a fundamental misunderstanding of the relevance of lawful authority as per the discrete classes of a) public and b) private rights over land.

As I understand it from my instructions, my client department's primary concern revolves around the substantial intensification of private vehicular use (whether lawful or not) since 1960 (such use being further compounded, of course, by the increase in the average number of vehicles per household). Mr. Orwin now proposes to further intensify such use. This proposal has been considered by my client department who have concluded that such further intensification would take the vehicular use of the public footpath from the present situation (described to me as (putting it colloquially) 'far from ideal') into one of presenting 'unacceptable danger' to public users of the footpath. This is, of course, a view which both the County Council (both as Highway Authority and as Traffic Authority) is entitled to form, and to take appropriate action accordingly.

As such, at no point is this Authority suggesting that all vehicular use along Southwell Footpath No.27 is a criminal offence; rather, only that which is without lawful authority (as per the explicit wording within S.34). While we have not been instructed at this stage to consider whether the current private vehicular uses have a lawful basis, we would envisage that we may be asked to so advise should this matter become protracted. Similarly, this Authority, in appraising both current and proposed private and public traffic flows is cognisant that, where the subject land is subject to a public right of way, a landowner is not free to grant permission to others to use such land without limitation, and in this respect, private user of sufficient intensity can (amongst other things) constitute a public nuisance.

Accordingly, while it is not this Authority's intention to be unhelpful, this Authority finds itself required to consider the balance of various competing demands when determining whether any action is or may be required in order to ensure a reasonable level of safety for the public highway user. It is in the solemn performance of this exercise that it has raised its concerns with the Local Planning Authority.

I hope this resolves any outstanding queries the Local Planning Authority may have regarding the basis of the Authority's position in relation to S.34, Road Traffic Act 1988, but if any points should remain outstanding, this e-mail will hopefully be helpful in guiding discussion at the meeting proposed for Tuesday, 16 January, 2018.

*Additional comments received 15/02/2018:*

#### Further information

Since the Highway Authority's last correspondence on this matter it is noted that the applicant has submitted substantial additional information to the Local Planning Authority. Having examined this information the Highway Authority is of the continued view that the proposals made by the applicant are, from a highway view not acceptable.

The Highway Authority's consideration has highlighted that the existing access road to the proposed development does not meet current standards to allow for two vehicles to pass should they meet and the current physical boundary constraints on either side of it prevent any further widening. The full details of the Authority's view on the technicalities of this matter is contained in previously submitted correspondence related to this application and it is not proposed to duplicate that in this submission. All that the Authority would add to this is that the applicant has expressed the view that because the present access was deemed suitable in the past for additional development that this acceptance should continue for further / future development. The Highway Authority is not able to accede to this view and would highlight that the current access was designed in 1959/60 and was intended to provide private vehicular access (alongside public pedestrian access) to only two properties (at a time when not only were domestic vehicles generally physically smaller than today but also at a time when car ownership was unlikely to exceed more than one car per household). Moving on nearly 60 years the same physical access now already provides access to four properties, not just for vehicles that are physically larger in size but are also more numerous in nature given the increasing proportion of car ownership per householder and the increased level of daily usage of those vehicles. The view of the Highway Authority is that any further development beyond that already permitted is an over intensification of use that will constitute a public nuisance presenting additional issues related to the safety of highway users (in respect particularly of pedestrians as vulnerable highway users).

The Highway Authority is all too aware that vehicle characteristics and usage patterns have changed with time and infrastructure that was designed decades ago can struggle to cope with today's needs. However where there is a foreseeable increase in risk to the safety of highway users the Highway Authority has to take appropriate action either by amending the infrastructure to current standards to be able to deal with the changes or by imposing restrictions to reduce the use of the asset to a level where potential risks are appropriately minimised. In this case the layout of the infrastructure cannot be amended to meet with current standards or indeed an acceptable compromise and the Highway Authority remains of the view that the safety of all road users affected by the proposed additional development will be unreasonably and unacceptably diminished if any further increases in vehicular use of this narrow 1960s access are permitted.

Additionally, the Highway Authority notes that no further mitigation proposals have been proposed in response to the Highway Authority having formally highlighted the unsatisfactory nature of the applicant's highway consultant's proposals for vehicles waiting to turn into the

access way to wait on the verge/footway (an area which is segregated for the use of pedestrians). In relation to this, the Highway Authority notes that this is likely because no further acceptable mitigation is possible because of the existing topographical constraints to the present access. Similarly, any proposals for a shared surface do not address the fundamental issue that the access does not meet current standards and is incapable of being amended to do so.

The Local Planning Authority will be aware from the various additional submissions that the applicant has questioned the legal restrictions arising in relation to the public pedestrian Right of Way known as Southwell Footpath Number 27. The Highway Authority would highlight that it has sought specialist advice from its Legal Team and can confirm that, in the view of the Highway Authority, the additional information that the applicant has submitted in relation to the use of the Right of Way by vehicular traffic has no relevance to the legal standing that Southwell Footpath Number 27 has, the protection that this minor highway is afforded, and the responsibilities of the applicant (and others) towards it by virtue of being a public footpath. The Highway Authority is therefore still of the view it expressed in previous formal correspondence that there exists a protected strip of land along the right hand side of the existing access when looked at from Halloughton Road, which is exclusively for pedestrian use as a public footpath and which cannot legitimately be included in any proposals for further private vehicular access.

**NSDC Conservation** – Many thanks for consulting Conservation on the above proposal.

#### Legal and Policy Considerations

Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount consideration, 'the first consideration for a decision maker'.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF).

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

#### Significance of Heritage Asset(s)

Southwell Conservation Area was first designated in 1970 and has been revised since with the most recent appraisal carried out in 2005. The application site is recognised as part of 'Westgate' in the CAA.

While the land to the rear of 37 39 Halloughton Road is situated within the Southwell Conservation Area (CA), Halloughton Road itself is located outside of the Conservation Area and the residential properties on this street are predominantly modern C20 dwellings.

However, the land to the rear of Halloughton Road is set back a considerable distance from the road, inside of the Conservation Area, along a winding untarmacked lane, which is flanked on either side by further modern C20 dwellings which are not considered appropriate for the character of a Conservation Area. The application site is also encircled by a series of low rise, bungalow and one and a half storey dwellings which are considered to detract from the setting of the conservation area.

Immediately to the north of the application site is a red brick and pantile dwelling with modern u-PVC windows and a continual band of solar panels on the south facing roof. Beyond this property there are a series of characterful former industrial historic buildings which are situated on a lower level, identified as an old tannery and tanyard bungalow. However they are not listed and are not identified on the Historic Environment Record, although they retain the potential to be recognised as buildings of local interest.

The only listed asset which may be considered in relation to the application site is the Holy Trinity Church, a Grade II Listed Building (Heritage England Ref: 1214569) located on Westgate and positioned North East in relation to the application site. The main body of the Church is screened from the application site by the dwelling known as The Old Tannery.

### Assessment of Proposal

In its present format, in general terms, Conservation does not object to the proposal. The Conservation Area Character Appraisal comments: *'on the Westhorpe side of Holy Trinity, the pattern changes with a more dispersed layout and fewer buildings of any significant merit. Here there is a mix of C20 century development with no architectural unity or any regard for its historic context. Here more than anywhere else in the conservation area is the potential to improve the physical appearance of the environment.'*

Conservation recognises the opportunity to seek improvement to the local environment. The vacant site is appropriate for the location of a new dwelling, which at present looks incongruous in its surroundings. However Conservation wishes to advise that in its present form the building is considered to be somewhat overbearing in relation to surrounding properties and the proposed PV solar panels are inappropriate, situated at random intervals which would be discordant with the character of a conservation area. However, conservation considers that this does not amount to less than substantial harm as identified by Paragraph 134 of the NPPF.

A suitably designed new dwelling in this location would be considered to be an enhancement from the present vacant site. The application site is a vacant green field which has not been well maintained and is subject to a low level of detritus that detracts from the character of the conservation area.

The proposal features a distinctive glazed gable to the front of the property and dormer windows which broadly align with the surrounding properties. New planting and refurbished planting will also serve to reduce the impact of the new dwelling on the Conservation Area. The negative impact of the proposal to inappropriately place PV solar panels at random intervals and the somewhat overbearing scale of the new dwelling is considered to be mitigated by the opportunity to enhance the architectural cohesion of the area.

Finally the proposal does not impact on the setting of The Holy Trinity Church, with only the spire visible from application site and the scale of the property proposed is not considered to cause harm.

In this context, it is felt that the proposal will cause no harm to the setting of the Conservation Area. The proposal therefore accords with the objective of preservation set out under section 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council's LDF DPDs and section 12 of the NPPF.

*Comments Received on the Revised Proposal 21 June 2017:*

Conservation did not object to the original submission, although advised the Case Officer that the proposed PV solar panels were not suitable for the character of the conservation area. Conservation notes that the revised application does not seek permission for a larger building or increased footprint, and has removed the PV panels. This results in an enhanced level of architectural uniformity. As such, the proposal continues to be acceptable in accordance with NSDC's saved policies and Chapter 12 of the NPPF, and the additional comments above are unchanged as they are not affected by the submitted changes.

*Comments Received 21 September 2017:*

Conservation has considered the revised application and there are no identified changes that have altered the previous assessment from the comments provided 21 June 2017. As such, the proposal continues to be acceptable in accordance with NSDC's saved policies and Chapter 12 of the NPPF, and the additional comments below are unchanged as they are not affected by the submitted changes.

The Conservation Area Character Appraisal comments: *'on the Westhorpe side of Holy Trinity, the pattern changes with a more dispersed layout and fewer buildings of any significant merit. Here there is a mix of C20 century development with no architectural unity or any regard for its historic context. Here more than anywhere else in the conservation area is the potential to improve the physical appearance of the environment.'*

A suitably designed new dwelling in this location would be considered to be an enhancement from the present vacant site. The application site is a vacant green field which has not been well maintained and is subject to a low level of detritus that detracts from the character of the conservation area.

The proposal features a distinctive glazed gable to the front of the property and dormer windows which broadly align with the surrounding properties. New planting and refurbished planting will also serve to reduce the impact of the new dwelling on the Conservation Area.

Finally the proposal does not impact on the setting of The Holy Trinity Church, with only the spire visible from application site and the scale of the property proposed is not considered to cause harm.

In this context, it is felt that the proposal will cause no harm to the setting of the Conservation Area. The proposal therefore accords with the objective of preservation set out under section 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council's LDF DPDs and section 12 of the NPPF.



**NCC Lead Local Flood Authority** – No objections.

1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (e.g. culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.
5. Due to the proximity of the development to The Potwell Dyke it is recommended that the development uses flood resilient construction techniques where possible.

**Environment Agency** – No comment.

**Trent Valley Internal Drainage Board** – The site is outside of the Trent Valley Internal Drainage Board district but within the Board's catchment.

There are no Board maintained watercourses in close proximity to the site.

The Board are aware of substantial flooding in Southwell in recent years which should be considered by your Authority and the Lead Local Flood Authority when determining the application.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

**NCC Rights of Way** – No comments received.

**Ramblers Association** - There seems no reason why access to the nearest right of way (Southwell Footpath 27) should be adversely affected by this development and we have no objection.

**NSDC Access and Equalities Officer** – Observations in relation to Building Regulations and additional comments stating the following:

Further to previous observations, it is recommended that any footpath restrictor or calming arrangement take into account the access needs and space requirements of all potential users to easily negotiate and manoeuvre.

**Southwell Civic Society** - No objections.

**Fire Protection Officer** - I have looked through the documents provided in the link and I cannot find the relevant comments from the building control officer in relation to the project with regard to compliance with Approved Document B or an alternate document. This is usually submitted with the plans at building consultation stage once the project has passed initial planning. The fire

service are statutory consultees at the building consultation stage, until the project is at this stage and the relevant comments are available we will be unable to appraise or make comment on the project.

**Representations have been received from 14 local residents/interested parties, four of which demonstrating support for the application, the others raising concerns which are summarised below. It is worthy of note that the applicant has made numerous submissions during the life of the application in an attempt to address the concerns in relation to the public footpath. A number of the summarised comments below are therefore in response to the additional information submitted. Requests have been made from one neighbouring party to ensure comments received are placed as public facing on the application file.**

#### *Impact on Highways*

- Access to the property is a narrow private drive
- Vehicles will not be able to pass each other on the access
- At least one passing place should be provided
- Residents will not be able to manouvre vehicles in the site
- The spaces in front of 37 and 39 further reduce the width of the drive
- There isn't enough car parking spaces especially if there is a home office
- There are numerous large vehicles on the site so there will be repercussions to extra traffic
- The drive is not sufficient for additional usage
- The drive would be less than 3.5m at any point and further widening would encroach on neighbouring properties
- NCC Highways have been persuaded to withdraw their objection – the access width and level of risk have not changed and there is no logical basis upon which NCC can change its position
- NCC should be protecting the public and not placing them at greater risk by supporting unsafe practices contrary to their own guidance
- Both the HA and the LPA should work together to mitigate and reduce the risk and not actively seek to increase it
- If it were a new access then the HA would advise against it
- NSDC and NCC have a responsibility to the rate payer and road user
- There is a commercial business using the access
- The access isn't wide enough for fire safety standards – in the context of the West Kensington event I find it unbelievable that any public body would support any new residential development which failed to meet basic standards
- Relaxation of Building Regulations is not within the jurisdiction or control of NCC or NSDC – responsibility rests with the relevant fire authority
- If NSDC grants the application then they have voluntarily increased road safety risks and ignored fire safety standards
- Traffic levels are higher than the developer believes
- A fire service assessment should be taken
- The problems with the access appear to have been shelved but not solved

#### *Impact on Public Right of Way*

- The driveway is shared with pedestrians who use the public footpath
- The use of the public footpath has increased since the Becketts field development

- The hoop rails on the footpath fall outside of the owners boundary
- The public footpath is being checked and maintained by Notts CC
- The length of the roadway/walkway from Halloughton Road should be a dedicated clear route for pedestrians
- If approved, NSDC and NCC should be responsible for any loss or damage caused to neighbouring properties and any accidents to pedestrians using the public footpath
- There is an increase in families using the public footpath from the Beckett development
- The drive between houses 35 and 41 is clearly marked as a public footpath on deeds
- The planning application as submitted does not show the entire public footpath and is therefore materially incorrect
- A recent public footpath sign at the junction between the drive and Halloughton Road has been removed
- A footpath is a footpath and not a highway
- The footfall along the footpath has significantly increased
- Children and dogs tend to wander along the footpath and would not stick to the designated walking area – vehicles could become stranded and block the road
- Road users still turn right from Westgate
- Land Registry records show the historic route of the footpath reserve rights for the benefit of the public
- The footpath was diverted in 1960 and no private vehicular access has ever existing over this land
- The width of the proposed access lawfully available for vehicular use is less than 2.0m with the balance of 1.5m reserved for the public access
- NCC has a statutory obligation to assert and protect public rights of way
- It is a road traffic offence to drive a vehicle over a public footpath – existing occupiers are therefore breaching the Road Traffic Act
- The use of private drives incorporating public footpaths in the past would not be allowed now and therefore should not be used as a precedent for this application – the current application has to be considered against current policies and standards

#### *Impact on Character*

- Trees and shrubs have been removed along the access road parallel to the right of way
- The development would be squeezing in another property in a conservation context
- The conservation area protects views of the Holy Trinity Church and contributes positively to the locality – the new dwelling would detract from this
- The dwelling size is substantial and would result in overmassing and over intensive development for the site
- The dwelling is of little architectural merit and poor design
- It is important to preserve the greenery around the site for the setting of the Minster and Holy Trinity
- There has been a recent removal of vegetation
- The application represents a classic example of backland development – garden grabbing is a breach of planning policy
- The proposed property lacks any symmetry and is out of keeping with adjoining properties
- The property lies within a conservation area and its poor design detracts from the area

### *Impact on Amenity*

- The new house will affect privacy in neighbouring gardens
- Car headlights will be intrusive to neighbours
- The property would overlook neighbouring properties
- The site plans are misleading in block plans for neighbouring properties are out of date and have since been extended – subsequent measurements are therefore incorrect
- The dwelling is surrounded on all boundaries by existing dwellings which overlook the site, the occupiers would have little privacy
- The extensive use of glass on the southern elevation will cause light pollution
- The revised plans still affect neighbouring privacy
- The plot is at a lower level therefore the upper windows will provide a viewing platform
- Car lights will be a nuisance
- The amended plans do not address matters of overmassing, lack of privacy and other objections raised
- The normal privacy test assumes a level site with a 1.8m high fence
- The measurements shown on the plan are incorrect – the distance from the southern boundary to the plot to the rear of the proposed new house is 11m
- The distance of 34m has been added to the plans in order to address obvious privacy issues but is incorrect
- The windows of the proposed development will overlook neighbouring gardens

### *Other Matters*

- Recent development in the area means there is no additional justification for this development
- The new property could be used for business purposes
- The block drive wall, the garage and the mesh fence at no. 35 are built inside the property boundary
- Hard surfacing of the drive would lead to an increase in flood risk
- The additional consultation timing is a consequence of seasoned developers seeking to subvert the planning process
- There is some thought that the two existing bungalows could be next for development so this entrance and exit could be subject to an even greater use
- The revised consultation period is insufficient and the matter is being dealt with too quickly
- The Planning Committee should consider the matter and not just officers
- There is no commercial activity being run from no.39A as alleged – these should be retracted
- The process is favouring of dealing with the application the applicant at the expense of working with the community
- A delay was requested to speak to MP about concerns but denied
- The planning officer has allowed for materially misleading plans to be considered and therefore all prior consultations have been based upon incorrect information
- NSDC have denied access to the correct information
- The application is very poor and contains many discrepancies and material errors / omissions
- The Planning Officer has been evasive and unapproachable
- The policy of NSDC to refuse access to hard copy files other than by formal FOI request is contrary to the principles of open government in that the normal response time for public consultation is 21 days which is also the normal response time for a FOI request

- The applicant has had a fair chance to make his case for the development and a decision should now be made

The following summarised comments have been received from a single neighbouring property since the publication of the December 2017 Planning Committee agenda, for the avoidance of doubt this includes the details which were previously included in the late item report presented to Members in December 2017 and incorporate summarised points raised in a letter which was sent directly to Local Councilors on 29 November 2017 as well an email sent directly to Cllr Laughton on 19 December 2017:

#### *Process*

- The Town Council leader is good friends with the applicant
- The applicant was requested to be called in after officers stated it would be approved when highways reversed their position
- The decision of STC was taken on outdated information – it cannot be assured that STC would continue to support the application following receipt of the latest highways report
- No case officer site notes have been forthcoming through a FOI request
- The case officer has shown favour to the applicant and is unwilling to reconsider
- There are a number of inaccuracies and material factual errors in the published report

#### *Amenity*

- The application is a classic case of garden grabbing
- The neighbouring dwelling has been renovated so that the principle elevation now faces the CA and the application site – the overlooking assessment referring to rear elevations is therefore incorrect
- The neighbouring property sits higher as there will therefore be a clear view between
- The land slopes down to the Potwell Dyke
- There is a fall of 1.45m along the first part of the access road which is a significant slope which continues down to 39a
- The site slopes west to east and the finished floor level will be higher than that of 39a
- The finished floor level of the neighbouring property to the south will be 1.0m higher than the proposed property
- The case officer has passed opinion on the issue of privacy and overlooking but was unaware that the neighbouring property to the south sits up to 1.0m higher than proposed property giving a clearer and unobscured view
- Site level differentials have not been properly taken into account
- Given the slope at the northern boundary of the site to the Potwell Dyke, this area will not be viable rear amenity land
- The amenity measurements stated do not reflect the buffer of the Potwell Dyke and therefore the rear garden eastern depth would be around 5m only
- There is no front or side amenity space so the only garden is to the rear of the house which is quite likely to be less than 100m<sup>2</sup> and faces north
- In summer the garden would be permanently shaded
- To deal with the changes in land levels, the ridge heights on the original bungalows vary as do the finished site levels
- No. 61 and 63 will be lower than the proposed dwelling
- The useable plot area of the site is not of a similar size to neighbouring dwellings as suggested

### ***Footprint of the proposed dwelling***

- Good practice requires that measurements scaled from plans are checked on site as they can be inaccurate and potentially misleading
- The case officers methodology is prone to error
- If Members resolve to grant there should be conditions to ensure the footprint is fixed
- The footprint of the dwelling is more akin to a 3 or 4 bed property and is not a starter home or affordable
- The roof of the proposed dwelling will be visible from the highway and does not respect existing rooflines and will be incongruous and out of keeping

### ***Highway / Footpath Issues***

- The original 1960 estate planning conditions record the width of the footpath as not less than 4 feet and neighbouring 1960 deeds record the same footpath as being 5 feet
- The footpath is not a shared surface and the use of the ROW for vehicular traffic is an offence
- It is assumed that the bin men will not use the access road – there is no provision for a bin area at the mouth of the access
- Private rights cannot be acquired over public land which is an existing highway if the usage upon which the claim is based was unlawful at the time
- Part 6 of the Natural Environment of Rural Communities Act 2006 appears to eliminate any claims for vehicular use based upon usage unless formally recognized as at that date
- The new property would be a material intensification of private use of a public asset for private gain to the detriment of the public
- A video has been sent showing a van reversing back down the access past the application site – it is stated that this occurs on a number of occasions and raises questions over the risk to residents, particularly children

### ***Fire Safety***

- We do not feel that the case officer has adequately dealt with the issue of fire safety which “post Grenfell” should be paramount
- Any divergence from national standards should be approved by the Chief Fire Officer
- The fire regulations require a minimum width of 3.7m and a turning bay for a fire service vehicle at the property if it is more than 20m from the public highway
- The Fire Service department have confirmed that the fire safety test should have included issue of a formal report in order to be passed
- There has been a suggestion that in the event of emergency access would need to be gained over neighbouring land – presumptions cannot be made to support an application based upon the use of third party land
- The response of Mark Bullock dated 12 January shows that the applicants ascertains that the Fire Service raise no concerns is partially misleading and no such consultation has taken place
- The applicant has made no provision within the site for a turning head as required by Part B and Manual for Streets
- There are major physical constraints so that the application cannot meet minimum physical standards

### ***Other Matters***

- The northern boundary of the site with the Potwell Dyke is a wildlife green corridor and should be retained as a buffer for Potwell Dyke

- The new Yew hedge would be in the buffer zone to the Potwell Dyke
- The applicant should show a revised location for the yew hedge in line with the existing fence and hedge boundary already in existence
- The site forms part of the rear garden and is not a field as described in the officers report
- The time spent on one planning application for one dwelling means the tax payer is paying the bill
- The site should not be described as a 'vacant plot of land' – this could set a precedent for other properties in the conservation area to allow gardens to become scruffy in order to qualify as building plots
- The view of the Holy Trinity church will be reduced and this has not been addressed
- The applicant has destroyed the hedge during nesting season leaving the site exposed and contradicting the Design and Access Statement

### Appraisal

#### *Principle of Development*

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 10 October 2017 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

The adopted Neighbourhood Plan for Southwell outlines an overall support for residential development within the town, through meeting the strategic requirements for growth whilst maximizing the benefits for the community (Objective 6). Spatial Policy 1 of the Core Strategy outlines the settlement hierarchy for the District identifying Southwell as a Service Centre. It is intended that Service Centres will act as a focus for service provision for a large local population and a rural hinterland. As such residential development within the site is acceptable in principle provided the proposal accords with the remainder of the development plan.

It is relevant to acknowledge that at the present time, the LPA is well advanced in the process of a plan review **following the Independent Examination which took place on February 1<sup>st</sup> and 2<sup>nd</sup> 2018**. For the avoidance of doubt the Council does currently have a 5 year housing land supply against the only OAN available and produced independently by consultants and colleague Authorities. I do not consider it necessary to rehearse the full position in respect of this matter given the support for additional housing in Southwell in principle. Whilst the NPPF identifies that there is a presumption in favour of sustainable development, this does not automatically equate to the development being granted as other material considerations need to be taken into account.

Policy So/HN/1 seeks to ensure that the majority of new housing on windfall sites within Southwell will be one or two bedroom units in line with the identified housing need. The current application has been revised such that it now proposed a two bedroom dwelling in line with the policy.

#### *Impact on Character and the Conservation Area*

The site is accessed from a shared driveway and is a land locked plot surrounded by neighbouring residential curtilages. As a consequence it is considered appropriate to describe the proposal as backland development. Policy DM5 states that proposals creating backland development will only be approved where they would be in keeping with the general character and density of existing development in the area. I am mindful that the backland character of the area has already been established by the other dwellings which use the access; 35a; 37; 39 and 39a Halloughton Road. On this basis it would be difficult to present a case that the proposed dwelling would materially alter this established character. Spatially there is no risk that this proposal would set a precedent for further development given that the precedent has essentially already been set and the proposed dwelling would in plan form occupy the last available 'plot'. I am mindful that the plot size is broadly in line with those established to the south of the site along Halloughton Road. **It has been suggested that this is inaccurate when the site specific circumstances and 'usable area' are taken into account. For clarity, officers remain of the view that in plan form, the plot size is commensurate to others in the vicinity. The point is made in terms of the impact that development would have on the urban grain of the area.**

The original design of the dwelling included the use of three roof dormer windows as well as a two storey projection on the rear elevation. A large two storey height glazed gable was also proposed on the principle elevation. Whilst the roof dormers (which have been retained on the amended scheme) reflect the design of the immediately adjacent dwelling to the east; 39a Halloughton Road, concern was raised in respect to the original proposal that the additional projections and large glazing elements introduced a greater prominence than the existing dwelling at 39a. As such it was considered that the substantial scale of the originally proposed dwelling was out of context with the existing surrounding development, notably the existing semi-detached bungalows to the west. The imposition of the scale of the dwelling was further exasperated by the differing elements of the roof scape in particular the rear projection which had a pitch height which matched the main dwelling. Concern was also raised by conservation colleagues as listed in full in the consultation section above.

The applicant has taken the opportunity to address the concerns raised during the life of the application through the submission of amended plans. The changes to the proposal have been identified through the description to the proposal above but to clarify they include a reduction in the overall footprint of the proposed dwelling and the removal of the two storey rear projection. As a consequence the proposed dwelling represents a much more simplistic form which is considered to better reflect the scale of the surrounding area; notably the modern dwelling immediately to the east of the site. It is fully acknowledged that the proposed dwelling would still represent a greater imposition on character than that established by the semi-detached bungalows to the west but this in itself is not considered to be so detrimental as to warrant refusal in its own right. **Comments received during the consultation have suggested that the roof of the proposed dwelling would be visible from the highway which would be incongruous and out of keeping. It is not considered that visibility in itself automatically amounts to character harm. The setback position of the dwelling (owing to its backland nature) would have the consequence of**



**reducing the prominence of the proposed dwelling to a degree which officers do not consider to amount to a visual harm which would warrant resistance of the proposal.**

Taking the above into account given the sites location within the Conservation Area an assessment is also made with regards to impact of the proposal on the Conservation Area. Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. Section 12 of the NPPF recognises the importance of considering the impact of new development on the significance of designated heritage assets. Paragraph 7 of this document also makes it clear that protecting and enhancing the historic environment is sustainable development. Any proposed development must also comply with the principles of Policy DM9 and Core Policy 14. Criteria within these policies require proposals to take into account the distinctive character and appearance of the Conservation Area. Furthermore, the Southwell Neighbourhood Plan (SNP) seeks for sustainable development that has regard for the town's unique character, historic environment and landscape setting.

The improvements to the scheme have also been noted by colleagues in conservation. It is considered that a suitably designed new dwelling in this location would be considered to be an enhancement from the currently vacant site which detracts from the character of the conservation area and would have the potential to physically improve the appearance of the area. Furthermore it is not considered that the development would result in harm to the setting of the Grade II Listed Holy Trinity Church to the north east of the site.

I am therefore satisfied that siting, scale and design of the proposal would not be considered to result in any harm to setting of the Conservation Area nor the setting of the Grade II Listed Church.

The revised scheme is considered to be compliant with the requirement of Policy CP14 of the Core Strategy and Policy DM9 of the DPD in terms of preserving the historic environment and Policy DM5 of the DPD in terms of reflecting local distinctiveness as well as policy DH3 of the SNP.

#### *Impact on Trees*

Comments have been received during the consultation period that there have been recent works on the site which have removed conifer trees. The site is within the designated conservation area and thus any works to trees would require the consent of the LPA. Whilst any tree removal without consent is clearly not something the LPA would advocate, it must be stated that it is likely that if a notification for removal of conifers had have been forthcoming, it would have been approved given the context of the site and the low amenity value that conifers typically offer.

**As is referenced above there is an ongoing enforcement matter at the site whereby a previous hedgerow along the boundary with the public footpath has been removed and replaced with an unauthorized fence. This is subject to separate enforcement investigations to which Members will be updated on through the late items schedule.**

The application has been accompanied by a Method Statement for Tree Protection which is welcomed. This document outlines the methods of protection for trees to be retained around the boundaries of the site. The D&AS confirms that the development will necessitate the removal of small ornamental trees in the centre of the site but having viewed these on site I do not consider that this would be of detriment to the character of the wider designated conservation area.

### *Impact on Amenity*

An assessment of amenity, as confirmed by Policy DM5, relates both to an assessment in relation to existing neighbouring residents but also to the proposed occupiers. To deal firstly with the latter, the proposed dwelling has been presented with a rear garden of a maximum length of approximately 20m. However, due to the constraints of the site adjacent to the Potwell Dyke this length is by no means consistent. Nevertheless I am satisfied that the proposed occupiers would have adequate amenity space which, with the assistance of carefully planned boundary treatments would retain a degree of privacy.

**The available amenity provision for the proposed occupiers has been raised as specific cause of concern through the consultation process as summarised above. The constraints of the site are fully appreciated and indeed identified through the description of the site in reference to the proximity to the Potwell Dyke. Equally the submitted Topographical Survey has been reviewed by Officers and it is agreed that the land levels slope steeply towards the Dyke. On this basis it is fully accepted that the entire area of the application site (i.e. right up to the Dyke) would not be available for use as an 'active garden.' Nevertheless the constraints of the site (including its orientation) would be readily known to any proposed occupiers. Whilst perhaps desirable, it would simply not be possible for all new residential development to secure south facing gardens which enjoy sunlight throughout the majority of the day. Whilst the points raised by neighbouring parties in terms orientation and topographical changes within the site are noted, these are not considered to amount to a robust reason on which to refuse the application in terms of proposed amenity provision for occupiers.**

I am mindful that the proposed occupiers would be surrounded by dwellings, the majority of which would have their rear elevations orientated towards the site. The dwelling has been orientated such that the rear elevation would be the furthest distance from neighbouring built form (annotated as being 42m on the revised submitted block plan). Given the largely single storey nature of surrounding built form the occupiers will be able to achieve an adequate standard of private amenity provision.

Moving then to assess the impact on the existing neighbours, it is considered that the most sensitive to the proposed development would be those to the east and west noting that these represent the narrowest separation distances. I appreciate that the semi-detached bungalows to the west are within the ownership of the applicant but this does not diminish the need for a thorough assessment of likely amenity impacts given that their ownership may change in the future. The block plan annotates separation distances of approximately 12m and 13m to the east and west respectively. It is my view that these distances are on the borderline of acceptability. However, I am mindful that the impact of the development in amenity terms has been improved in relation to the amended plans in that the removal of the rear projection would reduce the overall bulk of the dwelling. Moreover, the revised plans have incorporated a slight revision to the roof design such that the roof has been slightly hipped at the top. Despite the close spatial relationship, overall I am satisfied that the revised proposal would not amount to an overbearing impact to the existing surrounding properties.

I note that concern was raised during the life of the application in respect of inaccurate plans which did not plot neighbouring extensions. This has been addressed throughout the life of the application through the amended block plan. This block plan shows an approximate distance of 28m between the rear elevation of 59 Halloughton Road and the single storey garage of the

proposed dwelling and approximately 34m between the principle elevation and the neighbouring rear elevation. Comment has been received through the consultation process that these distances are incorrect but having scaled from the plans I consider the distances referenced to be accurate. I appreciate that the outlook of the neighbouring dwellings will change fundamentally from the existing situation but I do not consider that, in the context of the distances achieved, there will be such a great impact in terms of overlooking that would warrant a resistance of the proposal in its own right. This judgement is reached on the basis of viewing the site from both externally and internally from the neighbouring dwelling to the south of site **and thus gaining a full appreciation of the changes in land levels both within the site and in the immediate site surroundings**. I am also mindful that the reduction in the height of the glazed entrance will improve the perception of overlooking from the neighbours perspective.

The revised proposal represents betterment in amenity terms such that officers no longer consider there are grounds to resist the proposal on the basis of detrimental amenity impacts.

#### *Impact on Highways and Public Rights of Way*

As is implied by both the consultee section and summarised neighbour comments above, matters of highway safety and the impacts of the proposal on the designated public Right of Way which affects the site have been heavily debated throughout the life of the application. This has included numerous exchanges of correspondence between the applicant (and agent acting on behalf of); NCC as the Highways Authority; and neighbouring parties.

The proposal outlines that the new dwelling would be accessed from an existing access from Halloughton Road. This access already serves 4 dwellings. However, what has transpired to be more notable is that this access road also constitutes a public Right of Way. The legalities of this issue have been highly contested between the aforementioned parties with the following articulated in the highways comments received 27 September 2017:

*In relation to the existing Right of Way – Southwell Footpath Number 27 - the Highway Authority has to consider all highway users when making comments and recommendations to the Local Planning Authority. The inclusion of this Footpath in the application red line is a significant material change in the nature of the application and will have an effect on all highway users. The Highway Authority acknowledges that since the development was originally laid out and the footpath set out along the access way, there has been considerable intensification of vehicular use following further development, to which it is now proposed to add. The Highway Authority, upon further consideration is of the view that the need to ensure safe access by pedestrians (who have a legal right to use the route unhindered) means that the existing width of the access (and indeed any width below 5.25m (as highlighted in its original comments objecting to the application)) is unsuitable to safely allow for any intensification of use by vehicular traffic generated by the additional development.*

*It has already been noted that there exists documentation which has been supplied to the Authority which does show a five foot wide strip of the access way as dedicated for the sole use of pedestrians. Whilst it is understood that there has existed an undesirable situation for many years where the width of the footpath may not always have been avoided by existing private vehicular users of the access way, especially with the increase in the physical width of vehicles since the 1960's, it is the view of the Authority in making its comments to the Local Planning Authority that this cumulative increase in risk cannot be excluded from its consideration of this matter. Therefore*

*the view of the Highway Authority is that within the existing physical constraints that contain the access way the applicant would be unable to provide any improvement that would allow for additional vehicular traffic beyond that which already exists without further detriment to pedestrian highway users.*

Despite provision of numerous legal deeds and documentation, the Highways Authority has confirmed that they are unaware that the rights of the footpath have been extinguished through any legal process and thus the use of the Right of Way by vehicular traffic is an offence. It is fully acknowledged and appreciated that the access already serves four dwellings for vehicular access. Review of planning records confirms that the latest approval for new residential dwellings was in the 1990s. It is not for the current application to comment on the material circumstances which allowed the previous applications noting that each application must be considered on its own merits. In this respect officers concur with NCC as the Highways Authority that to allow an intensification of the access would be highly inappropriate and contrary to Spatial Policy 7 and the relevant aspects of Policy DM5 which require for the provision of a safe and inclusive access.

The applicant has provided examples of elsewhere in Southwell where vehicular accesses are shared by pedestrian Rights of Way including cases where the access is used for up to 5 dwellings (application referenced specifically 95/51554/FUL in relation to 26-28 Halloughton Road). Officers do not consider that this sets a precedence which would allow the current application to proceed. Essentially the conflict between the proposed intensification of the existing access and the users of the public Right of Way is a material consideration which must be afforded substantial weight at the current time of determination. Anecdotal evidence provided through the consultation process confirms that recent development in the vicinity has already increased the pedestrian usage of the Right of Way to which this application affects. I consider this matter to be materially related to the current application whereas an application from the 1990s would have limited relevance to the site specifics in this case. The inclusion of a pedestrian refuge on the latest site location plan (**and indeed already implemented on site at the most recent site visit**) is noted but this is not considered to mitigate the identified harm to pedestrian safety which would arise from allowing an increased vehicular use of the access.

In addition to the above conflict in respect to the designated Right of Way, the proposed access also presents a constraint in respect to its width. The existing width of the access would provide no opportunity for two cars to pass for some 50m from the entrance at Halloughton Road. The original comments of NCC Highways raised this as a concern to which the applicant has sought to address including through the submission of further supporting evidence namely a letter dated 18<sup>th</sup> August 2017 prepared by their transport consultant and more recently through photographic evidence demonstrating a fire engine utilising the access. The comments of the Highways Authority dated 27<sup>th</sup> September 2017 deal explicitly with the former document:

*From the Highway Authority's view, the access road does not meet current standards to allow for two vehicles to pass should they meet and, as has been highlighted earlier, the current physical boundary constraints on either side of it prevent any further widening.*

Despite thorough consideration of the consultants presented case which includes details of anticipated traffic movements arising from the development (estimated at between 6 to 8 additional daily two-way movements), and highlights a lack of recorded road traffic incidents in the vicinity of the site, the Highways Authority remain dissatisfied with the level of justification provided:

*Whilst the addition of one further property off the access road may seem minimal it should be noted that using the applicant's consultant's own figures the use of the road will increase by 25% which is a significant intensification in use over present levels; levels with which the Authority already has some concerns given the increase in vehicle sizes since the original development, the greater number of private vehicles owned, and intensification of traffic flows generally. In respect of accidents and driver awareness the Highway Authority cannot argue with the facts ascertained by the consultant but considers that an increase in the use of an access will lead to an increased future risk. Whilst careful design and incorporation of features can offer mitigation that decreases this risk, it is the view of the Highway Authority that the applicant is unable to offer this due to the physical and legal constraints on the applicant's land. Furthermore, from what the consultant has outlined as the envisaged way that the access road will operate it is evident that there will be a potential increase in the manoeuvres of vehicles having to wait to turn into the access that will have a detrimental effect on other road users (both in terms of safety and the expeditious movement of traffic).*

It should be noted by Members that the views of NCC Highways have not remained consistent throughout the life of the application (noting that an original objection was removed by comments received 23 August 2017). However, officers concur entirely with the latest position presented which has taken account of all material considerations and information brought to light during the course of the application. The applicant has made numerous endeavors and attempts to address the concerns raised and has gone on to imply that if the application were to be refused, an appeal would be lodged. In this respect, confirmation has been received from NCC Highways that they would be willing to support the LPA at any forthcoming appeal.

**Since the time of the December Planning Committee, the applicant has continually attempted to address the concerns of NCC Highways as referenced above. Officers have taken the opportunity to meet with NCC Highways and their legal representatives to gain clarity on the issues raised which has resulted in the submission of the latest consultation response received on 15 February 2018.**

**The key point to gain from the comments is that NCC Highways retain their position that the proposals are unacceptable from a highways perspective despite the case presented by the applicant since the December Committee meeting. Indeed in some respects elements of correspondence provided by the applicant are not deemed relevant to the current application in any case. For example, reference to the Natural Environment and Rural Communities Act 2006 refers to the extinguishment of public rights of access which did not exist at this site. This is addressed through the latest comments of the Highway Authority:**

*'The Highway Authority would highlight that it has sought specialist advice from its Legal Team and can confirm that, in the view of the Highway Authority, the additional information that the applicant has submitted in relation to the use of the Right of Way by vehicular traffic has no relevance to the legal standing that Southwell Footpath Number 27 has, the protection that this minor highway is afforded, and the responsibilities of the applicant (and others) towards it by virtue of being a public footpath. The Highway Authority is therefore still of the view it expressed in previous formal correspondence that there exists a protected strip of land along the right hand side of the existing access when looked at from Halloughton Road, which is exclusively for pedestrian use as a public footpath and which cannot legitimately be included in any proposals for further private vehicular access.'*

The conveyancing details for the original 2 no. semidetached bungalows which already utilise the access demonstrate a reserved width for pedestrian access of 5 foot but also allow vehicular access for private vehicles in association with the properties. The point raised by the latest comments of NCC Highways is notable in this respect:

*'The Highway Authority is not able to accede to this view and would highlight that the current access was designed in 1959/60 and was intended to provide private vehicular access (alongside public pedestrian access) to only two properties (at a time when not only were domestic vehicles generally physically smaller than today but also at a time when car ownership was unlikely to exceed more than one car per household). Moving on nearly 60 years the same physical access now already provides access to four properties, not just for vehicles that are physically larger in size but are also more numerous in nature given the increasing proportion of car ownership per householder and the increased level of daily usage of those vehicles.'*

Despite previous approvals since the access was originally designed (including at appeal), there becomes a point when additional residential development tips the balance to a level of usage and intensification which warrants a resistance on highway safety grounds. In this respect I would concur with the stance of NCC Highways that:

*'where there is a foreseeable increase in risk to the safety of highway users the Highway Authority has to take appropriate action either by amending the infrastructure to current standards to be able to deal with the changes or by imposing restrictions to reduce the use of the asset to a level where potential risks are appropriately minimised.'*

Given the constraints of the site access which would not allow for appropriate widening, the only option in respect of this application is the latter case of restricting an intensified usage which would occur through the proposed development. Ultimately there becomes a tipping point whereby additional development would not be acceptable in highway safety terms and officers consider that this application represents such a point to a degree which warrants refusal on highway safety grounds.

The applicant has presented an appeal case in the District of Mansfield where an appeal was allowed for 6 dwellings in Forest Town. Having reviewed this case neither NSDC Officers or NCC Highways Officers find this scheme to be comparable to the current proposal to a degree which it could be afforded weight in the determination. The access points to the site are considered to be entirely different.

Officers attach significant weight to the objection of the Highways Authority and concur that the intensification of the vehicular access would create conflict in respect of both pedestrian safety to users of the designated Right of Way but also vehicular traffic movements along the access. This would conflict with Spatial Policy 7 and Policy DM5 as well as the intentions of the NPPF.

#### *Impact on Flood Risk*

Policy E2 of the SNP states that development proposals requiring a flood risk assessment must be designed to avoid increasing the risk of flooding both on and off site. The proposed development is located in Flood Zone 1 in accordance with Environment Agency mapping, in addition the site is not considered to be at high risk of surface water flooding and as such no flood risk assessment is required in support of the proposal. No objections have been raised by either the Environment Agency or NCC Lead Local Flood Authority and I have identified no reason why surface water management would create an issue to either the proposed occupiers or neighbouring residents.

The submitted site location plan demonstrates a Yew hedge would be planted to the northern boundary of site adjacent to the Potwell Dyke. I appreciate that Policy E2 of the SNP refers to the design of buffer strips of 8m between the bank of watercourses adjacent to sites. Whilst not technically applicable to the current application given that a FRA is not formally required matters of flooding remain a material planning consideration (and indeed a significant cause for concern in Southwell) and thus officers have again reviewed the application in the context of the proposed hedge. Trent Valley as the internal drainage board (TVIDB) have been consulted on the proposals. As the comments above reference, it has been confirmed that the Potwell Dyke does not fall within their maintenance. Officers have made enquiries with the TVIDB to ascertain the remit of maintenance. It is confirmed that the Potwell Dyke is in riparian ownership and therefore maintenance is subject to private arrangements. In line with the aspirations of SNP in respect to matters of flooding, officers concur that it may be desirable to reduce the level of vegetation along the bank. However, given that the application is recommended for refusal it is not considered appropriate to hold the determination for further negotiations on this basis. If Members were minded to approve the application contrary to officer recommendation, then they could attach a condition in respect of landscaping which could seek revised details notwithstanding those demonstrated on the submitted block plan.

#### *Other Matters*

Concern has been raised that the originally submitted block plan did not demonstrate the entirety of the public footpath which extends along the access road to the public highway. Officers are satisfied that the constraints of the site are clearly identified and the relevant parties have been consulted. However, for the avoidance of doubt and to conform strictly with the content of the Council's validation requirements, a revised site block plan was requested during the life of the application. This has been submitted clearly demonstrating the full extent of the public footpath and an additional round of consultation instructed on this basis.

It is stated that the access is not only being used for residential use but also for commercial operations. Reference is made to an application to regularise this. It is noted that there was an application recently approved for the retrospective creation of a home office at a neighbouring dwelling (through an additional dormer window and staircase) (reference 17/01226/FUL) but I do not consider this to amount to a commercial enterprise being operated from the property.

Reference has been made throughout highway discussions to the inadequacy of the access to allow for emergency services access. The applicant has provided a swept path analysis to demonstrate that fire fighting vehicles will be able to gain access to the development and has gone further to request a safety test from the Fire Brigade which has accumulated in photographic evidence showing that a fire engine could gain access and turn within the site. Whilst the confirmation of this is welcomed, the matter would in any case be covered by Building Regulations. **It is noted that this remains a matter of dispute through the consultation process with the suggestion that a formal report would be available if the Fire Service Department were satisfied with the arrangements. Despite request, this has not been forthcoming by the applicant.**

Comments have been received from the Fire Protection Officer on the basis of the current status of the application (a site without planning permission). It has been confirmed that the appropriate time for their involvement would be at the building consultation stage with regard to compliance with Approved Document B or an alternative document. I have taken the

**opportunity to review the detail contained within Approved Document B specifically the chapter in relation to 'B5 Access and facilities for the Fire and Rescue Service – The Requirement'. The applicant has submitted a 'Fire Appliance Swept Path Analysis' plan (above the usual validation requirements) as well as photographs appearing to show a fire engine accessing the site. Without appropriate expertise, officers are not in a position to confirm whether or not these details would meet the requirements of Approved Document B. However, given that this would be a matter for post planning approval (and notwithstanding the officer recommendation of refusal) it is not considered appropriate nor proportionate for an application for one dwelling to delay the determination of the proposal on this basis.**

**I appreciate that neighbouring properties may feel aggrieved by the length of time that officers have been assessing the application and the number of consultations undertaken in respect to revised details. As Members will be aware, there is a requirement for the LPA to work positively and proactively with applicants. Whilst the recommendation remains one of refusal, some of the original concerns of officers have been addressed throughout the life of the application.**

**In respect to the provision of bin collection, photographic evidence has been submitted by a neighbouring property showing bins are left on Halloughton Road for collection. Officers do not consider that one additional dwelling would have a significant impact in this respect but concur that if anything this would weigh negatively in the overall impacts on the access potentially leading to further disruption to the highways network. The Waste Team have been consulted on the current application but no comments have been received at the time of agenda print.**

#### *Overall Balance and Conclusion*

The proposal relates to a two bedroom dwelling within the settlement of Southwell which would meet an identified need whilst making a contribution to the Districts housing supply. However, notwithstanding the acceptance of the proposal in principle, the site constraints create difficulties in the delivery of residential development. The applicant has worked with officers throughout the life of the application and amended the scheme to address original concerns in respect to character and amenity impacts.

As is referenced above, there have been lengthy discussions during the life of the application in respect to the implications of the proposed vehicular access noting both the width constraints but also the presence of a designated Right of Way. I fully appreciate that the applicant may feel aggrieved by the latest stance of the Highways Authority given that they had previously suggested that the proposal could be considered acceptable in highways safety terms. However, I also fully endorse the approach of the Highways Authority in respect of ensuring that all material considerations are taken into account at the time of determination. Despite attempted assurances from the applicant, including examples of existing cases where vehicular accesses are shared with public Rights of Way, the matter remains that the current proposal would create a conflict in usage. The legal designation of the Right of Way must hold significant material weight in the determination of the application and to allow for an increased usage of vehicular traffic (estimated at an increase of around 25%) would be wholly inappropriate in respect to an increased risk on pedestrian safety. The designation as a Right of Way must afford the potential users with an appropriate opportunity for safe and efficient usage and despite the inclusion along the access of a pedestrian refuge point; the current application fails to demonstrate this. Moreover, the constraints of the access width present their own difficulties in that there is insufficient space for two vehicles to pass one another. This could lead to vehicles causing an obstruction within the



public highway thereby further impeding highways safety in the immediate site surroundings. The combined effects of the proposed access demonstrate significant conflict with Spatial Policy 7 and the relevant aspects of Policy DM5.

The benefits of the scheme in terms of the housing delivery of a two bed unit and indeed potential slight improvements to the existing access which would serve existing residents are noted. Furthermore the design and layout of the scheme is considered satisfactory with regards to heritage matters, visual amenity and residential amenity and the proposal is not considered to raise any adverse impacts in respect of flood risk matters. Nevertheless these matters are not considered to outweigh the aforementioned harm created by the proposal in respect of highways safety and adverse implications to the usage of the public Right of Way which crosses the site. The recommendation of officers is therefore one of refusal as outlined below.

## **RECOMMENDATION**

**That full planning permission is refused for the following reason:**

### Reasons

01

The proposal relates to the erection of a single detached dwelling with a proposed vehicular access utilising an existing access from Halloughton Road. The access currently serves four dwellings but is also designated as a public Right of Way– Southwell Footpath Number 27. The Footpath is officially recorded on the County’s Definitive Map of Rights of Way and further information recently obtained indicates that a public footpath was expressly reserved along the southern boundary of the access way over land within the ownership of No. 39, Halloughton Road. There is a need to ensure safe access by pedestrians (who have a legal right to use the route unhindered). In line with comments of Nottinghamshire County Council as the Highways Authority, officers consider that the current proposal would intensify the existing vehicular use of the access to a degree which would amount to an unacceptable level of harm to pedestrian safety of the users of the Right of Way.

In addition to the above identified harm, the access road does not meet current standards to allow for two vehicles to pass. The current physical boundary constraints prevent the potential to mitigate this impact through adequate widening to the required width of 5.25m. This presents the potential for vehicular obstruction to the public highway as vehicles are waiting to access and egress the site.

Despite best endeavors from the applicant to overcome the aforementioned harm, the Highways Authority and consequently officers of the Local Planning Authority are of the view that the proposal is unacceptable in highway terms causing demonstrable harm to both pedestrians and the efficient movement of the highways network. This is contrary to Spatial Policy 7 and the relevant aspects of Policy DM5 as well as the intentions of the NPPF which form a material consideration to the decision. No other material considerations have been identified which would sufficiently outweigh this harm.

### Notes to Applicant

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has

been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

#### Background Papers

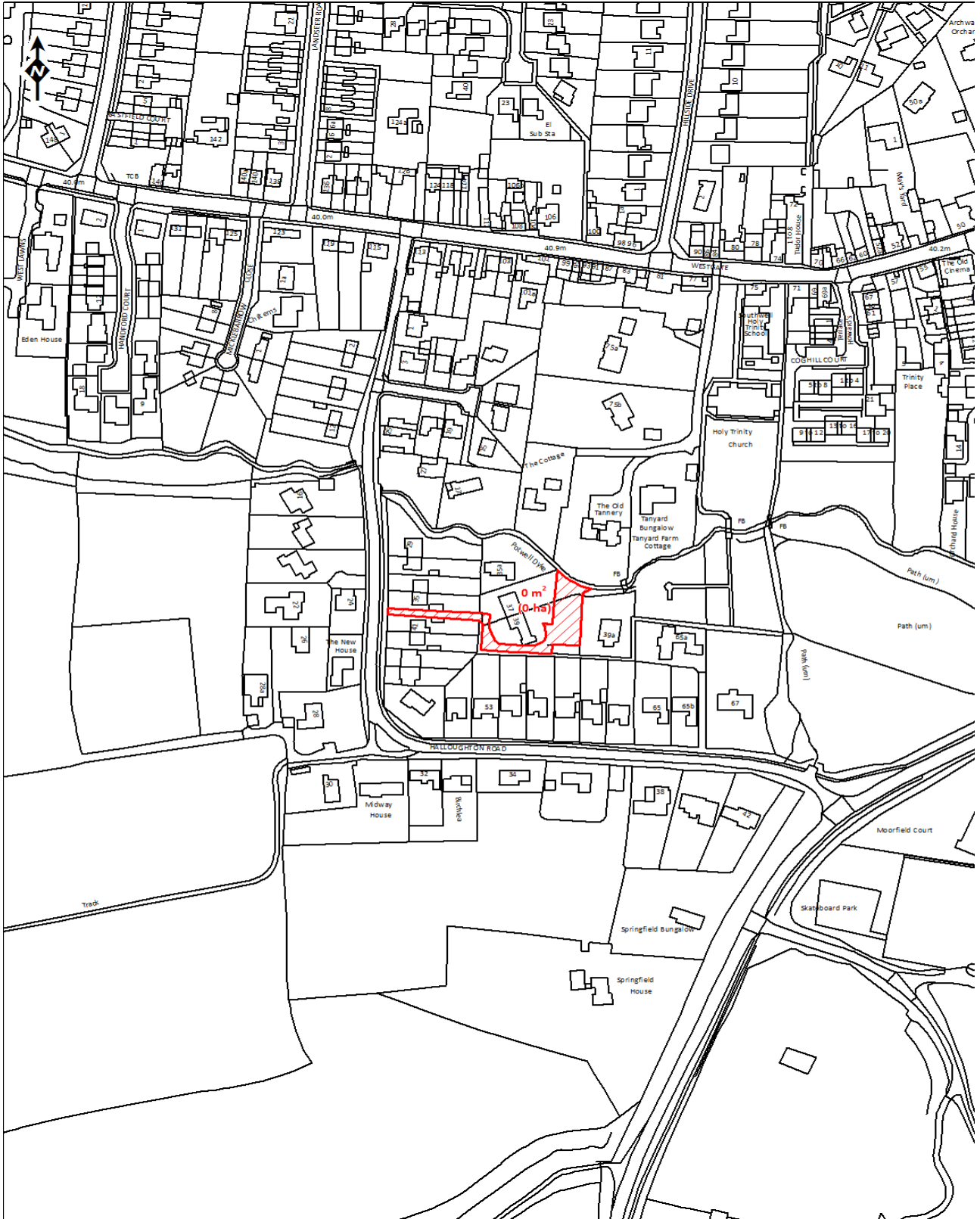
Application Case File.

For further information please contact Laura Gardner on ext. 5907

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Business Manager - Growth & Regeneration**

Committee Plan - 17/00771/FUL



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## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>17/02051/RMAM</b>		
<b>Proposal:</b>	<b>Submission of Reserved Matters pursuant to Conditions 1 and 2 of outline planning permission 13/00458/OUTM for the erection of 100 dwellings (Renewal of extant planning permission 09/01136/OUTM - for the erection of up to 100 Residential Units, Structural Landscaping, Open Space Provision and Access Roads)</b>		
<b>Location:</b>	<b>Land West Of Waterfield Way, Clipstone</b>		
<b>Applicant:</b>	<b>Lorna Rider - Avant Homes</b>		
<b>Registered:</b>	<b>17 November 2017</b>	<b>Target Date: 16 February 2018</b>	<b>Extension of Time: 6 June 2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation because the recommendation differs from the Parish Council's views.**

### The Site

The 5.4 Ha application site forms an area allocated as a 'Housing Site with Planning Permission (Ho PP)' in the Allocations and Development Plan Document (DPD). It comprises a rectangular shaped field to the south west of the roundabout that currently forms the western termination to Cavendish Way.

An unused section of Cavendish Way bounds the north edge of the site. Existing houses are located adjacent the east and south boundaries of the site with the existing estate roads of Hilcote Drive and Waterfield Way also terminating at the edge of the application site.

It slopes gradually upwards in a south to north direction. Mature trees and hedges bound the west boundary of the site. Mixed boundary treatments to adjacent dwellings form the east and south boundary.

### Relevant Planning History

18/00509/FULM Erection of 72 dwellings, structural landscaping, open space provision and access roads (on Phase 2 land within the south section of the application site) – pending determination.

13/00458/OUTM Renewal of extant planning permission 09/01136/OUTM - for the erection of up to 100 Residential Units, Structural Landscaping, Open Space Provision and Access Roads (Extant Permission) Please see Documents saved under 09/01136/OUTM (replacement planning permission) – permission 11.12.2014

09/01136/OUTM Erection of up to 100 residential units, structural landscaping, open space provision and access roads – permission 09.08.2010

04/00733/OUTM Housing development together with associated infrastructure – refused 11.06.2004

02/02292/OUTM Variation of condition 1 from permission OUT/980066 relating to the time limit for submission of reserved matters application – permission 07.03.2003

98/50350/OUT Residential development (340 dwellings) industrial development and access – permission 29.12.1999

93/50350/OUT Residential development (340 dwellings), industrial development and access – permission 19.01.1995

### The Proposal

The application seeks reserved matters consent for the erection of 100 dwellings and associated open space, landscaping and infrastructure. The reserved matters for consideration include details of the appearance, access, landscaping, layout and scale.

The proposed development of 100 dwellings would occupy the north part of the site and represent approximately 3 Ha of the overall 5.4 Ha site area (Phase 1). Phase 2 would occupy the south part of the site with a separate full application for 72 dwellings currently pending determination.

The application has been amended during the lifetime of the application. The first amendment occurred in March 2018 when Avant Homes became the Applicant and a full set of plans were submitted and consulted upon. The second amendment occurred in May 2018 in response to concerns raised by the Officer (in relation to layout and amenity impacts). Each amendment has been fully consulted upon and this report relates to the most recent set of amended plans received.

Proposed house types include a mix of styles and design including detached, semi-detached and terraced. A mix of 2-bed, 3-bed and 4-bed dwellings are proposed. All of the proposed dwellings would be 2-storey apart from eight 3-bed units which would be 2.5 storey and eight 3-bed units which would be 3-storey.

A road would be provided through the site connecting to the existing estate roads of Hilcote Drive and Waterfield Way. Two access points onto the unused road which connects to the roundabout at the end of Cavendish Way would also be provided (NB this section of road is currently unadopted and falls outside the red line boundary of the application site).

The application is accompanied with the following:

- Design and Access Statement
- House Type Pack
- Street Scenes
- Detailed Layout
- Flood Risk Assessment and Sustainable Drainage Statement
- Phase 1 and Phase 2 Geotechnical and Geo-Environmental Site Investigation
- Ecology Appraisal
- Arboricultural Survey Report

### Departure/Public Advertisement Procedure

Occupiers of 46 properties have been individually notified by letter. A site notice was displayed near to the site and an advert was been placed in the local press.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of 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 12 – Biodiversity and Green Infrastructure
- Core Policy 13 – Landscape Character
- MFAP 1 Mansfield Fringe Area

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

- Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM2 – Development on Allocated Sites
- Policy DM3 - Developer Contributions
- Policy DM5 – Design
- Policy DM7 – Biodiversity and Green Infrastructure
- Policy DM10 Pollution and Hazardous Materials
- Policy DM12 – Presumption in Favour of Sustainable Development

#### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Newark and Sherwood Developer Contributions and Planning Obligations SPD (December 2013)
- Newark and Sherwood Amended Core Strategy DPD 2017

### **Consultations**

#### **Clipstone Parish Council –**

*Comments received 10.04.2018:*

Clipstone Parish Council has previously objected to this proposal. Whilst the amended proposals address some of the objections it is noted that these have not been sufficiently addressed to warrant support for the application. The Council has reiterated the following objections:

- The roads in the new development appear to be too narrow and of unsuitable layout (90° bends) to allow for safe access of emergency services and utilities
- No bus stops are planned. The nearest bus stop on First Avenue is a ten minute walk away and requires crossing the busy Cavendish Road.
- The whole of Cavendish Estate still only has one access route. Emergency services may not be able to reach the estate.
- Still no amenities such as shops, schools etc. have been added to the plans

- The open space with play park needs better access. The access should face the direction of the main anticipated traffic flow of potential users. There should be four exits in total to keep children safe and allow safe exit routes in case of bullying incidents or similar. A pavement all around the open space should allow for safe access to the park.

*Comments received 22.12.2017:*

Clipstone Parish Council resolved to object to the proposed planning application. The design does not allow for access routes wide enough for a bus route to service the new houses. Currently the nearest bus stop is at least a ten minute walk away and requires crossing Cavendish Way. Dropped curbs on all strategic crossings are required to allow for barrier free access. No provision has been made for schools, shops or any other amenities to serve the additional houses. Some driveways as laid out in the plans encroach on the historic spinney. The spinney should remain intact in all parts to preserve wildlife and the historic nature of the spinney. Two historic oak trees are very close to the proposed new buildings. The oak trees should be protected and the houses moved where they would not endanger the trees in years to come. The trees would also be in danger of damage during the building process.

#### **Natural England –**

*Comments received 18.05.2018:*

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

*Comments received 13.04.2018:*

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

We note that this consultation considers information submitted by the applicant concerning the revised planning layout of this site and information on house types. We refer to our previous letter of 08 January 2018 regarding the reserved matters on this site and can confirm that we have no additional comments further to this response.

*Comments received 10.01.2018:*

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. The application (13/00458/OUTM) has granted planning permission for 100 new homes on the edge of Clipstone which is within approximately 1.2 km of Sherwood Forest Golf Course and Clipstone Heath SSSIs. Both SSSIs are identified as sensitive to the impacts of increased residential development (as identified by Natural England's SSSI Impact Risk Zones (IRZs). We have reviewed the information provided in respect of conditions 1 and 2 of the planning permission. We are generally satisfied that the landscape plan provides sufficient information to meet the terms of condition 2. We note that the proposed trees listed in the planting scheme are of native species and these should be of local provenance where possible. We also note that the landscape plan shows a proposed access to the

south-west of the site for which no details of vegetation or habitat management have been included. We are aware of several other new developments planned in the surrounding area. We recommend this area of open space could provide a valuable contribution to the GI on this site and the surrounding area and should ideally link up coherently with that on the neighbouring sites to improve the functionality of areas of green space and ecological value. This would be in line with your authority's GI strategy, which requires sufficient provision of areas of green space, which residents can access for recreation purposes, in order to alleviate pressure on the surrounding sensitive ecological habitats, such as the SSSIs mentioned above.

*Consideration of the likely impacts from this development on breeding nightjar and woodlark within the Sherwood Forest area*

We note the proposed development is located in the Sherwood Forest area, in proximity to habitats identified as important for breeding nightjar and woodlark and therefore we refer you to Natural England's Advice Note (March 2014) on this matter which provides more information and outlines Natural England's recommended 'risk based approach'.

**Nottinghamshire Wildlife Trust** – We are no longer able to provide the level of free ecological planning advice as we have previously.

**NCC Highways Authority** –

*Comments received 18.05.2018:*

Further to comments dated 17 April 2018, additional information has come forward that clarifies the position regarding access and a new layout drawing has been submitted (1768.PH.01J).

The new drawing shows two potential road connections to the existing yet-to-be adopted road that leads to the roundabout at Cavendish Way/Ward Road. This existing road is not included in the outline application/permission, but is seen to be an advantage should it be made available. Notwithstanding the above, road links to Hilcote Drive and Waterfield Way are proposed, and these are acceptable in principle. All of these should offer a 5.5m carriageway which means a **slight widening should be made to the road outside plots 136-151, since this may become a main route into the development in time.**

In line with the outline permission, the development **should be restricted to 100 dwellings in total (not just phase 1)** unless additional legal and adoptable connection is made to the roundabout at Cavendish Way/Ward Road.

It is preferred to see 2 car spaces for each of the two-bedroom dwellings to avoid onstreet parking and neighbour disputes, and further amendment may be sought. It is likely that garage doors will be 'up and over', in which case the minimum acceptable driveway length is 6.1m. If driveways are less than this, cars are likely to overhang the footway.

Subject to the above, no objections are raised subject to the following conditions:

*No dwelling forming part of the development hereby permitted shall be occupied until its associated driveway is surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway boundary. The surfaced driveways shall then be maintained in such hard 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.).*

*Any garage doors shall be set back from the highway boundary a minimum distance of 5.5 metres for sliding or roller shutter doors, or 6.1 metres for up and over doors. Details of the garage doors shall be first submitted to and agreed in writing with the LPA.*

*Reason: To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway.*

*No part of the development hereby permitted shall be occupied until the access roads have been designed and thereafter completed to a standard that provides a minimum carriageway width of 5.5m.*

*Reason: In the interests of highway safety and capacity.*

*No dwelling forming part of the development hereby permitted shall be occupied until its associated driveway is constructed with provision to prevent the unregulated discharge of surface water from the driveway to the public highway in accordance with details first submitted to and approved in writing by the LPA.*

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

*Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.*

*Comments received 17.04.2018:*

Additional information has come forward that clarifies the position regarding access. Previous comments made by this Authority suggested that access connection should be made via the existing yet-to-be-adopted road that leads to the roundabout at Cavendish Way/Ward Road. Whilst this would be an advantage, this road was not included in the outline application/permission and so cannot be considered further. However, this affects the view on how many dwellings can be served from Hilcote Drive and Waterfield Way.

In line with the outline permission, the development **should be restricted to 100 dwellings in total (not just phase 1)**. According to the 6C's Highway Guide, no more than 400 dwellings should be served from the existing road system with 5.5m carriageways. This extra 100 would take this figure to about 420 which, under the current circumstances, would be compromisingly accepted.

Whilst this application is for 100 dwellings the planning layout drawing 1768.PH1.01.B shows 113 plots on phase 1, and a separate full application (18/00509/FULM) seeks a further 72 plots on phase 2, making a total of 185 dwellings. **Any amount above 100 is unacceptable given the current road access arrangements.** *Note: this could be increased if access were to be made available via the existing yet-to-be-adopted road that leads to the roundabout at Cavendish Way/Ward Road.*

For the sake of completeness, I reiterate the following comments made previously.

Clarification is sought of the adoption/maintenance intentions of the access to plots 26-47. As it currently appears, this access is not appropriate for adoption, but may still require drainage and lighting details to be agreed.

It is likely that garage doors will be 'up and over', in which case the minimum acceptable driveway length is 6.1m. If driveways are less than this, cars are likely to overhang the footway. The applicant should confirm that adequate distances have been applied. In addition the applicant should be asked to clarify the widths of **shared** private drives. These should meet the dimensions within the 6C's highway design guidance i.e. to serve up to 5 dwellings; 4.25m wide plus 0.5m if bounded by a wall, fence or hedge on one side, or plus 1.0m if bordered on both sides. A plan showing dimensions would assist.

The private driveways will require bin collection points located as near as practicably possible to the back edge of footway.

There are long lengths of dropped kerb crossings at plots 100-103 and 109-113. These should be avoided and broken up.

Traffic calming features have been shown and it is considered that these may not be necessary and may be deleted or amended when it comes to the Section 38 Highway Adoption Agreement.

There appears to be a grass service margin around the LEAP. It may be that, as part of the road adoption agreement, this will need to be tarmacked. In any case, it is suggested that the footways extend along the eastern and western perimeter of this grassed area to meet potential walking desire lines for residents of plots 83-98. In addition, perhaps a hard paved link to the LEAP should be made from the northern edge of the grassed area. The intended maintenance liability for the footpaths across the grassed area should be clarified and agreed.

These matters should be addressed before further advice is given by this Authority.

**Severn Trent Water** – no comments received.

**Environment Agency** – It doesn't appear that the EA were consulted on the original application and as such I have no comments on the RMAM. The LLFA should be consulted regarding sustainable surface water drainage from the site.

**NCC Lead Local Flood Risk Authority** –

*Comments received 10.05.2018:*

No objections to the proposals following submission of the Sustainable Drainage Statement ref. CPC-BWB-HDG-XX-RP-CD-0001-S2-P1\_SDS.

*Comments received 27.11.2017 and 23.03.2018:*

The information provided is insufficient for us to comment on the reserved matters as gives no clear indication of the surface water strategy and without this we cannot determine whether the layout or scale allow for adequate surface water drainage.

**NSDC Parks and Amenities Officer –**

*Comments received 18.05.2018:*

No objection in relation to Phase 1 provision within the reserved matters boundary which complies with the S.106 requirements.

*Comments received 04.12.2017:*

I would like to see the central open space area increased in size on the back of the 80 dwelling application. Assuming that it's extended to take in the land associated with the 7 dwellings adjacent to it then this would result in an additional c2,000m<sup>2</sup>. This would create a good sized central open space which could cover the 2 developments. Together with the areas of amenity open space on either side of the central area the SPD requirement would be fulfilled, albeit that there would be an over provision for the 100house development and under provision for the 80 house development. Perhaps the SANGS and NSNGS contributions could be partly met on the central open space and the amenity open spaces by the incorporation of features to encourage wildlife such as meadow planting and appropriate tree and shrub planting.

*Comments received 04.12.2017:*

I have not had sight of any detailed plans showing the layout of the proposed children's play area(s), amenity open spaces or landscaped/wildlife areas. I would wish to see these before any Reserved Matters permission is granted.

**NSDC Environmental Health Contaminated Land** – With reference to the above development, I have received a Phase 1 And Phase 2 Geotechnical And Geo-Environmental Site Investigation report submitted by Eastwood and Partners Consulting Engineers acting on behalf of the developer.

This includes an environmental screening report, an assessment of potential contaminant sources, a brief history of the site's previous uses and a description of the site walkover.

Following intrusive sampling the report concludes that there are no exceedances of the relevant screening criteria for the proposed use. In addition no asbestos or pesticides were identified from the sampling carried out.

Given this evidence, I am in agreement that the on-site soils do not present a potential risk to human health for the proposed residential use. I am now therefore in a position to be able to recommend that the contamination condition for the above application references can be discharged.

**10 local residents/interested parties have made representations** (and in some instances on multiple occasions due to the reconsultation that has occurred) which can be summarised as follows:

Principle of development:

- Loss of green space used by dog walkers;
- Cavendish Park estate is flooded with new homes without consideration of available services;
- The houses are not affordable;

- No thought has been given to the sustainability of each phase of the development over the years with no facilities and high reliance of the car.

#### Highways:

- Road congestion;
- Roadside parking would create a safety hazard for motorists;
- Mansfield Road is in need of repair.

#### Residential amenity:

- Overlooking;
- Loss of privacy;
- Impact on peaceful enjoyment of homes and gardens;
- Overbearing;
- Land is raised above the ground level of properties on Primrose Way and Portland Way;
- Multiple properties along boundary line with minimal planting – developer at the time of the outline upheld a comment to ensure planting would form part of any future plans;
- Restriction to views.

#### Impact on visual amenity/ecology:

- Impact on rare birds and wildlife.

#### Flooding/drainage:

- Risk of flooding over retaining walls into existing properties/gardens with damage to the retaining walls and fences;
- Insufficient drainage due to gradient of land;
- Drainage system in Clipstone has collapsed and needs fixing.

#### Other

- Impact on property values;
- Water pressure too low;
- Ability of power, gas and sewage infrastructure to cope;
- Schools are already struggling to cope with the additional children in schools;
- No provision for doctors – the nearest doctors is Forest Town with difficulty getting appointments;
- The plans do not match the indicative plans submitted at outline stage;
- No transport or shops in the area;
- Noise/disturbance during construction;
- Local woodland should be protected and looked after;
- Impact on health.

#### Comments of the Business Manager

#### **The Principle of Development**

Outline planning consent for up to 100 dwellings was approved in August 2010 (09/01136/OUTM) with a subsequent extension of time limit for implementing the permission approved by Planning Committee in December 2014 (13/00458/OUTM).

Following the submission of a viability appraisal and its independent review, the outline planning permission was accompanied by a Section 106 Agreement which secured contributions towards a number of developer contributions as summarised in the table below:

	<b>CURRENT APPLICATION 13/00458/OUTM CONTRIBUTIONS PROPOSED BY APPLICANT</b>
Affordable Housing	<b>£133,218 off site contribution.</b> This equates to a 4.2% off site provision at £32,000 / dwelling.
On Site Open Space (2250m <sup>2</sup> ) / Children's Play Area (LEAP)	<b>Provision &amp; maintenance of amenity green spaces and provision for children and young people:</b> On site physical provision of amenity open space (2250m <sup>2</sup> ) + 20m <sup>2</sup> x 100 (400m <sup>2</sup> to be equipped) LEAP and overall maintenance company. <b>Total area required= 4250m<sup>2</sup></b>
Highways/Integrated Transport	<b>£86,400</b> + indexation for the provision of bus stop and shelter.
Education	<b>£120,278</b> + indexation
Community Facilities	<b>£120,275</b> + indexation
<b>Total S.106 Contributions</b>	<b>£460,171 overall (for off-site affordable housing contribution and all other obligations)</b>

As such the principle of the development is now established through the granting of the outline consent. The principle of the use including overall number of dwellings proposed need not be considered further in any detail, nor do any of the infrastructure requirements or commuted payments already secured.

Only reserved matters including access, appearance, landscaping, layout and scale of the development proposed is open for consideration.

An assessment of the reserved matters against relevant policy and other site specific policies is set out below.

#### Housing Numbers, Density and Mix

It was accepted at outline stage that the 5.4 Ha could provide up to 100 dwellings. Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. It goes on to say that development densities below this will need to be justified, taking into account individual site circumstances. The development of 100 dwellings on the whole outline area would equate to a density of 21 dwellings per hectare which is below the policy requirement. Whilst it is acknowledged that outline planning permission was approved on this basis, it is not considered that the individual site circumstances would warrant the insistence on the retention of a lower density development through the reserved matters application provided all sites specific consideration can be complied with.

The current proposal reduces the site area within which the 100 dwellings are proposed (Phase 1) to approximately 3 Ha. A separate Phase 2 planning application for 72 dwellings on the remaining 2.4 Ha is currently pending consideration (application number 18/00509/FULM). This means that a density of 38 dwellings per hectare is now proposed on the Phase 1 reserved matters site. The density of development is considered to be similar to the density of surrounding housing developments and would also make more efficient use of land.

Paragraph 50 of the NPPF states that “To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand...”

The Development Plan reflects this and is compliant with the NPPF. The Council has sought to plan for a mix for communities and has identified the size, type and range of housing that is required taking into account local demand as is reflected in the following policies.

CP3 also states that the LPA will seek to secure new housing which adequately 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 say that the LPA will secure an appropriate mix of housing types to reflect the local housing need. Such a mix will be dependent on the local circumstances of the site, the viability of the development and any local housing need information.

The Detailed Layout proposed the following housing mix:

	<b>No. of Market Dwellings</b>
2 Bed	17
3 Bed	58
4 Bed	25
<b>Total</b>	<b>100</b>

In terms of what the local demand is, evidence of this is contained within the Newark and Sherwood Housing Needs Survey Sub Area Report 2014 by DCA. Clipstone falls within the Mansfield Fringe Sub-Area from the perspective of our Housing Market & Needs Assessment (2014), with the Sub-Area Report showing demand within the market sector to be predominantly focussed on 32% 2-bed, 25% 3-bed and 14% 4-bed unit types, with lesser demand shown for 1 bed (17.0%) and 5-bed (12%).

I consider the mix proposed to broadly reflect the needs of the Mansfield Sub Area. In addition, the proposal would contribute to the family size market housing that is required in this district as acknowledged by CP3. The proposed housing mix also reflects the character of the adjacent residential development. I would therefore conclude that the density and mix of housing units proposed would comply with the aims of the NPPF and Core Policy 3.

#### Impact on Visual Amenity including the Character of the Area

Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. Policy DM5 requires the local distinctiveness of the District’s landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

Core Policy 13 in the NSDC LDF states that 'The District Council will expect development proposals to positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting Landscape Conservation and Enhancement Aims for the area'. The site lies within the Sherwood Landscape Character Area, in landscape Policy Zone S PZ 12 Cavendish Wooded Estatelands and Wooded Farmlands. The landscape policy for this policy zone is to restore and create because of the poor landscape condition and moderate sensitivity. Suggested policy actions of relevance to this application include restoring historic field patterns including hedgerows and creating woodland.

The Detailed Layout submitted with the application differs to the indicative layout submitted at outline stage given the increased density of development. However, it still complies with the requirements of the outline planning permission including its associated S.106 Agreement in relation to the provision of open space. The S.106 Agreement requires 2,000 m<sup>2</sup> of children's play space and 2,250 m<sup>2</sup> amenity space. This is provided through a central green space totaling providing 2,000 m<sup>2</sup> of play space including a LEAP. The balance of this area would be amenity space along with land on the site frontage – providing a total of 2,436 m<sup>2</sup>, slightly above the requirement. This would equate to an overall requirement of 4,436 m<sup>2</sup>.

The development would inevitably have an impact on the landscape and the character of the surrounding area by virtue of the fact that a greenfield site would become a housing site. However, the site benefits from a good deal of concealment offered by existing dwellings on three sides and existing landscaping. A landscape strip providing a buffer between the application site and the open countryside to the west is located along the west boundary of the site and contains a number of trees, shrubs and hedgerow (albeit this falls outside of the red line boundary of the application). This buffer would still provide an appropriate soft edge to the development and assist in assimilating the development into the surrounding countryside although it is appreciated this could only be secured under the separate application ref.18/00509/FULM as it does not sit within the application site for application no.17/02051/RMAM.

The oak trees identified as Category B (moderate quality) within the submitted Arboricultural Survey and referred to in the Parish Council comments are located in the south part of the site and their retention will be considered in relation to application no. 18/00509/FULM as again the trees do not fall within the application site for 17/02051/RMAM. The proposal is not considered to encroach on a historic spinney as also referred to be the Parish Council albeit there are some areas where special attention will need to be given to new planting including the protection of overhanging trees and hedgerow along the rear boundaries of gardens along the west boundary of the site with the further details/protection measures recommended by planning condition. It is however noted that all other trees and hedgerow within or immediately adjacent to the application site are identified as Category C (low quality) within the submitted Arboricultural Survey.

There would be a mix of style, design and size of dwellings with a mixture of render and brick dwellings proposed. All dwellings would be 2, 2.5 or 3 storey in appearance with a mix of detached, semi-detached and terraced dwellings proposed. Details of materials have not yet been submitted and it is recommended that a condition be imposed requiring the submission and approval of these details.

Concern has been expressed during the lifetime of the application in relation to the number of car dominated frontages proposed within the development. The submission of amended plans has reduced the number/occurrences of these hard surfaced frontages albeit some do remain and the Applicant has declined to reduce these any further as they are necessary to connect the site to the main roads.

requirement. The majority of these occurrences are not located along prominent entrances into the site. As such, it is considered that a reason for refusal on these grounds would be difficult to sustain.

There is no doubt that a scheme for residential development as proposed would alter the existing character of the site but this has already been accepted through the granting of outline consent in any case. As such, it would be difficult to conclude that the character impacts of residential built form in itself would be so harmful as to warrant a resistance of the application in their own right. I am mindful of the character of the surrounding area which has been established through a number of housing developments over recent years. It is my view that the current proposal including the house types proposed, would be in keeping with the scale, character and appearance of this area. I am satisfied that the design has been properly considered and meets an acceptable standard of design. Subject to conditions relating to external materials, finished floor levels, landscaping, tree/hedgerow protection and perimeter boundary treatments the overall design of the proposed development is considered acceptable and in compliance with Core Policies 9 and 13 of the Core Strategy and Policy DM5 of the DPD.

### Impact on Residential Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The dwellings located adjacent to the east boundary of the site would be most affected by the proposed development due to the creation of access off Hilcote Drive and Waterfield Way and the positioning of proposed dwellings adjacent to the boundary.

There are no specific separation distances set out in the Development Plan albeit the supporting text to Policy DM5 says that where proposals involve multiple residential units they should be designed so as to avoid direct overlooking and overbearing impacts on each other. It goes on to say that where new residential development is proposed adjacent to existing dwellings, it should be designed so as to avoid either the existing or proposed development being subjected to the same impacts. In both these instances, the separation distances required to achieve an adequate standard of amenity will be determined by the individual site characteristics including levels and intervening boundary treatments.

In light of concerns raised by the Officer and residents, amendments have occurred during the lifetime of the application in order to address overlooking and loss of privacy concerns raised. The separation distances now provided in relation to the proposed plots and the existing dwellings of 2 Ward Road, No.s 4, 6, 10 and 12 Waterfield Way and No.s 20 (containing a main habitable room window in the 2<sup>nd</sup> floor of its side elevation), 22 and 29 Hilcote Drive meet or exceed the distances usually sought between main elevations.

However, notwithstanding the above, I still consider there are elements of the proposal which demonstrate amenity relationships are on the cusp of acceptability. There are a number of dwellings proposed that would back onto the existing dwellings listed in the paragraph above. This means that there are a significant number of windows within their rear elevations that would result in a perception of being overlooked by the future occupiers of the dwellings on both their dwelling and private amenity space. Improvements have been made during the lifetime of the application through the submission of amended plans to reduce the number of proposed



dwellings with rear elevations backing onto the east boundary with the addition of rear courtyard parking arrangements to also increase the separation distances proposed. The Applicant has confirmed that they would also be willing to introduce hedge/shrub planting in front of any fences defining the rear courtyard areas to increase separation to rear garden areas of proposed dwellings still further and to improve outlook for these dwellings (albeit please note that this offer is not necessary to make the scheme acceptable in terms). Even so, I do consider that there would still be increased perception of overlooking towards the rear garden areas of most of the properties listed above. Albeit, I consider the degree of overlooking to be slight due to the separation distances proposed.

It should be noted that 29 Hilcote Drive benefits from a single storey side and rear extension which includes ground floor windows overlooking the site. The plans have been amended to include car parking adjacent to this window with close boarded fencing proposed to the rear of plots to screen views between ground floor windows and into private garden areas which is considered acceptable from an amenity perspective.

The existing dwellings to the north of the site would not be adversely affected by the proposed development due to the separation distances present. It is also considered that an acceptable level amenity for future residents would also be achieved.

Having carefully assessed the scheme I am satisfied that the proposal would have no significant detrimental impacts upon the amenity of future occupiers of the proposed dwelling or committed dwellings adjacent to the application site in accordance with Policy DM5 of the DPD.

#### Impact on Flood Risk and Drainage

Core Policy 9 requires new development proposals to pro-actively manage surface water. The land is classified as being within Flood Zone 1. As such it is not at risk from flooding from any main watercourses.

The application is accompanied by a Sustainable Drainage Statement (SDS). This states that residential drainage utilises, as far as possible, individual soakaways per dwelling along with porous block paving to shared driveways. The highway drainage is directed to the Public Open Space areas so that Traditional Manhole soakaways can be utilised. Foul water sewage from the residential dwelling plots connect to two existing foul water stub connections along the eastern border of the site. The Lead Local Flood Authority raise no objection to the methods proposed in the SDS.

Subject to a condition requiring implementation in accordance with the SDS, I am satisfied that the proposed development would not result in any increased flood risk and would pro-actively manage surface water in accordance with the requirements of Core Policy 9.

#### Highways Impacts

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The principle of 100 dwellings has already been accepted on the site through the outline consent. Although details of access were reserved for subsequent approval, the outline consent assumes that the development of up to 100 dwellings could be achieved through the existing site roads of

Hilcote Drive and Waterfield Way. An adequate amount of parking has been provided for each dwelling to the side or front of properties, in garages or within parking courtyards. The Highways Officer raises no objection to the detailed design of the access shown on this basis subject to planning conditions relating to surfacing, drainage and garage doors. Whilst it is acknowledged that this proposal for 100 dwellings would take place on a condensed area of the site considered under the outline application, the ability for access to cater for any additional dwellings that might be provided on the remaining portion of the site is being considered separately under planning application no. 18/00509/FULM.

It is not therefore considered that the proposed development would result in any parking or traffic problems subject to the planning conditions in accordance with the requirements of Spatial policy 7.

#### Impact on Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The outline consent considered impacts on ecology and concluded that the existing site is unlikely to be used by protected species and the proposal would not have an adverse impact upon ecology. This conclusion also considered the effect of the proposed development on nightjar and woodlark which considered any increase in human disturbance on these species to be minimal. An updated Ecology Survey has been undertaken and this reaffirms the conclusions and recommendations of the previous survey.

Overall I am satisfied that the proposals will not unduly impact on the biodiversity of the area and opportunities to conserve and enhance biodiversity have been/can be secured through conditions (landscape strip protection and landscape scheme). The proposals therefore comply with the aims of Core Policy 12, Policy DM5 and the guidance in the NPPF.

#### Impact on Archaeology

Core Policy 14 of the Core Strategy requires the continued preservation and enhancement of the District's heritage assets including archaeological sites. Policy DM9 of the DPD states that where proposals are likely to affect sites of significant archaeological potential, the applicant is required to submit an appropriate desk based assessment.

Condition 5 of the original 2009 consent required the submission and approval of an archaeological investigation which was undertaken and subsequently discharged in August 2011. As such, it is not considered necessary to re assess this issue and the proposal is considered unlikely to result in any adverse impact upon archaeological remains in accordance with Core Policy 14 and Policy DM9.

#### Contaminated Land

Policy DM10 of the DPD states that where a site is highly likely to have been contaminated by a previous use, investigation of this and proposals for any necessary mitigation should form part of the proposal for re-development

The outline consent imposed a condition requiring the submission of a contaminated land survey. This has been submitted with the reserved matters application and the Environmental Health Officer is content with its findings. As such, the site is considered suitable for its new use in accordance with the requirements of the NPPF and Policy DM10 of the DPD.

### Other Matters

Some of the representations made at this reserved matters stage relate the principle of development or other issues which relate to the impact of 100 dwellings on site. However, the principle of development of the site for 100 dwellings was set at outline stage and is not a matter which can be open for further debate.

It is noted that some concerns have been raised regarding the impacts of construction traffic and noise. It is therefore recommended that a condition be imposed to ensure no construction work, including site clearance and delivery of materials, shall be carried out except between the hours of 7.30 -18.00 Monday to Friday and 08.30 - 13.00 on Saturdays and at no time on Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

The Applicant have confirmed that they have no plans to construct external lighting other than highway street lighting under the S38 of the Highways Act.

Some of the issues are not considered material to the consideration of the planning application e.g. impact on property values.

### Conclusion

The principle of residential development on this site is established through historical permission and its acknowledgement as a site with planning permission for housing within the ADMDPD. The principle of development for up to 100 houses on this site has already been accepted and this reserved matters scheme for 100 dwellings is considered an appropriate number for the site having regard to the density and mix of houses on offer. The provision of these dwellings would contribute to a need for family housing within the District and contribute to the supply of housing which I attach significant weight to in the overall planning balance.

The design and layout of the scheme is satisfactory with regards to visual amenity and landscape impacts. Some of the residential amenity issues identified are considered to be at the cusp of acceptability. However, when weighed in the overall planning balance, it is considered that a refusal on these grounds alone would be difficult to sustain given that the level of harm identified in relation to the perceived overlooking impacts are considered slight. There would no unacceptable adverse impacts in respect of trees, ecology, contaminated land, flood risk or highway matters.

Subject to the conditions below, the recommendation is for approval. The outline permission means that the developer would get two years from the date of the decision to make a lawful start and implement the scheme.

### RECOMMENDATION

**That reserved matters approval is granted subject to the conditions and reasons shown below.**

## Conditions

01

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

1768.PH1.01 Rev K Planning Layout (Phase 1)  
1768.BT.01 1.8m timber screen fence  
Mainstream 1226 Rev A Ashbury  
Mainstream 1161 Rev A Avebury  
Mainstream 1026 Rev A Barton  
Mainstream 1074 Rev A Canterbury  
Mainstream 1221 Rev A Glastonbury  
Mainstream 1297 Rev A Wrenbury  
Mainstream 995 Rev A Kilmington  
Mainstream 1355 Rev A Dewsbury  
1768.KIN.02 Rev A Kilmington (Plots 19/20)  
1768.KNI.01 Knightsbridge  
1768.KNI.02 Rev A Knightsbridge (Plots 154/155)  
1768.PAN.02 Rev A Paignton  
1768.PEM.01 Pembridge  
1768.PEM.02 Pembridge  
1768.STO.01 Stourbridge  
1768.STO.02 Stourbridge (Plot 144)  
1768.WEY.02 Rev A Weybridge (Plots 127/128)  
1768.WEY.01 Weybridge  
1768.BAM.01 Bambridge  
1768.CAM.01 Cambridge  
1768.CAM.02 Rev A Cambridge (Plots 165/168)  
1768.DEY.02 Rev A Dewsbury (Plots 23/24)  
1768.BT.02 1.8m brick pier and timber panel  
1768.BT.03 Post and rail fence  
1768.BT.04 Knee rail  
1768.G.01 Single Garage  
1768.G.02 Twin Garage  
1768.02 Rev C Street Scenes  
8000-101 Rev B Site Location Plan

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this approval.

02

No development shall be commenced until details of the existing and proposed ground levels and finished floor levels of the site and approved buildings (respectively) have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

03

Prior to the commencement of development, an Arboricultural Method Statement shall be submitted to and be approved in writing by the Local Planning Authority. This shall provide for the retention of hedgerows and trees along and adjacent to the west boundary of the site (which are shown on the Planning Layout as being retained) unless otherwise agreed by the Local Planning Authority. The statement shall include the method of protection for retained trees, hedging and boundary planting during the course of the development. The development shall then be carried out in accordance with the approved details. Any trees, hedging, or boundary planting which are not contained within the curtilage of any plots which die, are removed or are seriously damaged or diseased shall be replaced by trees or shrubs of a similar size and species to those removed, or otherwise first approved in writing by the local planning authority.

Reason: In order to protect biodiversity and visual amenity of the site in accordance with the aims of Core Policies 12 and 13 of the Newark and Sherwood Core Strategy (2011) and Policy 5 of the DPD.

04

No construction work, including site clearance and delivery of materials, shall be carried out except between the hours of 7.30 -18.00 Monday to Friday and 08.30 - 13.00 on Saturdays and at no time on Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with the aims of the NPPF and Policy DM5 of the DPD.

05

Drainage of the development hereby permitted shall be undertaken in accordance with the methodology set out in accordance with the Sustainable Drainage Statement Feb 2018 (by AVIE Consulting Ltd.) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with the requirements of Core Policy 9

06

No development shall be commenced until details of the materials for all aspects of the development identified below have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

Facing materials

Bricks

Render

Roofing materials

Reason: In the interests of visual amenity in accordance with Core Policy 9 of the Core Strategy and Policy DM5 of the DPD.

07

Notwithstanding the submitted details, no development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, hedgerow, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. For the avoidance of doubt, new planting should consist of native species only and also include the provision of planting between car parking spaces along the front boundary of properties where possible;

car parking layout and materials;

other vehicle and pedestrian access and circulation areas;

hard surfacing materials.

Reason: In the interests of visual amenity in accordance with Core Policy 9 of the Core Strategy and Policy DM5 of the DPD.

08

Prior to the occupation of the first dwelling, a scheme for the phasing of the approved landscaping scheme as demonstrated on the plans (required by Condition 7) shall be submitted to and agreed in writing by the local planning authority. Any trees/shrubs which within a period of five years from being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the work is carried out within an agreed appropriate period and thereafter properly maintained in the interests of visual amenity and biodiversity in accordance with Core Policy 9 of the Core Strategy and Policies DM5 and DM7 of the DPD.

09

Details of the boundary treatments proposed for the west boundary of the site including types, height, design and materials, must be submitted to and approved in writing by the local planning authority prior to the commencement of development. The approved boundary treatments shall be implemented in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity in accordance with Core Policy 9 of the Core Strategy and Policy DM5 of the DPD.

10

No dwelling shall be occupied until bin storage facilities have been provided for that dwelling in accordance with design, siting and materials details, which have been first submitted to and approved in writing by the local planning authority. The bin storage facilities shall be provided prior to occupation of that dwelling in accordance with the approved details and retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate bin storage is provided for occupiers in the interests of residential and visual amenity.

11

No dwelling forming part of the development hereby permitted shall be occupied until its associated driveway is surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway boundary. The surfaced driveways shall then be maintained in such hard 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.).

12

Any garage doors shall be set back from the highway boundary a minimum distance of 5.5 metres for sliding or roller shutter doors, or 6.1 metres for up and over doors. Details of the garage doors shall be first submitted to and agreed in writing with the LPA.

Reason: To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway.

13

No dwelling forming part of the development hereby permitted shall be occupied until its associated driveway is constructed with provision to prevent the unregulated discharge of surface water from the driveway to the public highway in accordance with details first submitted to and approved in writing by the LPA.

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

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

14

No site clearance, including the removal of any hedge or tree that is to be removed, lopped, topped, felled or otherwise as part of the development, shall be undertaken during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site in accordance with Core Policy 9 of the Core Strategy and Policies DM5 and DM7 of the DPD.

15

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development in relation to Plots 92, 110 - 123, 140 – 143 and 147 - 151 under Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse.

Class B: Additions etc. to the roof of a dwellinghouse.

Class C: Any other alteration to the roof of a dwellinghouse.

Unless consent has firstly be granted in the form of a separate planning permission.

Reason: To protect neighbouring amenity in accordance with the aims of Policy DM5 of the Allocations and Development Plan Development Plan Document (DPD).

## **Note to Applicant**

01

The applicant is advised that conditions attached to the outline consent remain relevant and may require an application for formal discharge. The applicant's attention is also drawn to those conditions on the decision notice, which should also be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised.

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 on the development hereby approved as the development type proposed is zero rated in this location.

03

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 Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

04

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.

It is strongly recommended that the developer contact the Highway Authority at an early stage and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council in writing before any work commences on site. Correspondence with the Highway Authority should be addressed to [david.albans@nottsc.gov.uk](mailto:david.albans@nottsc.gov.uk)

## **Background Papers**

Application Case File

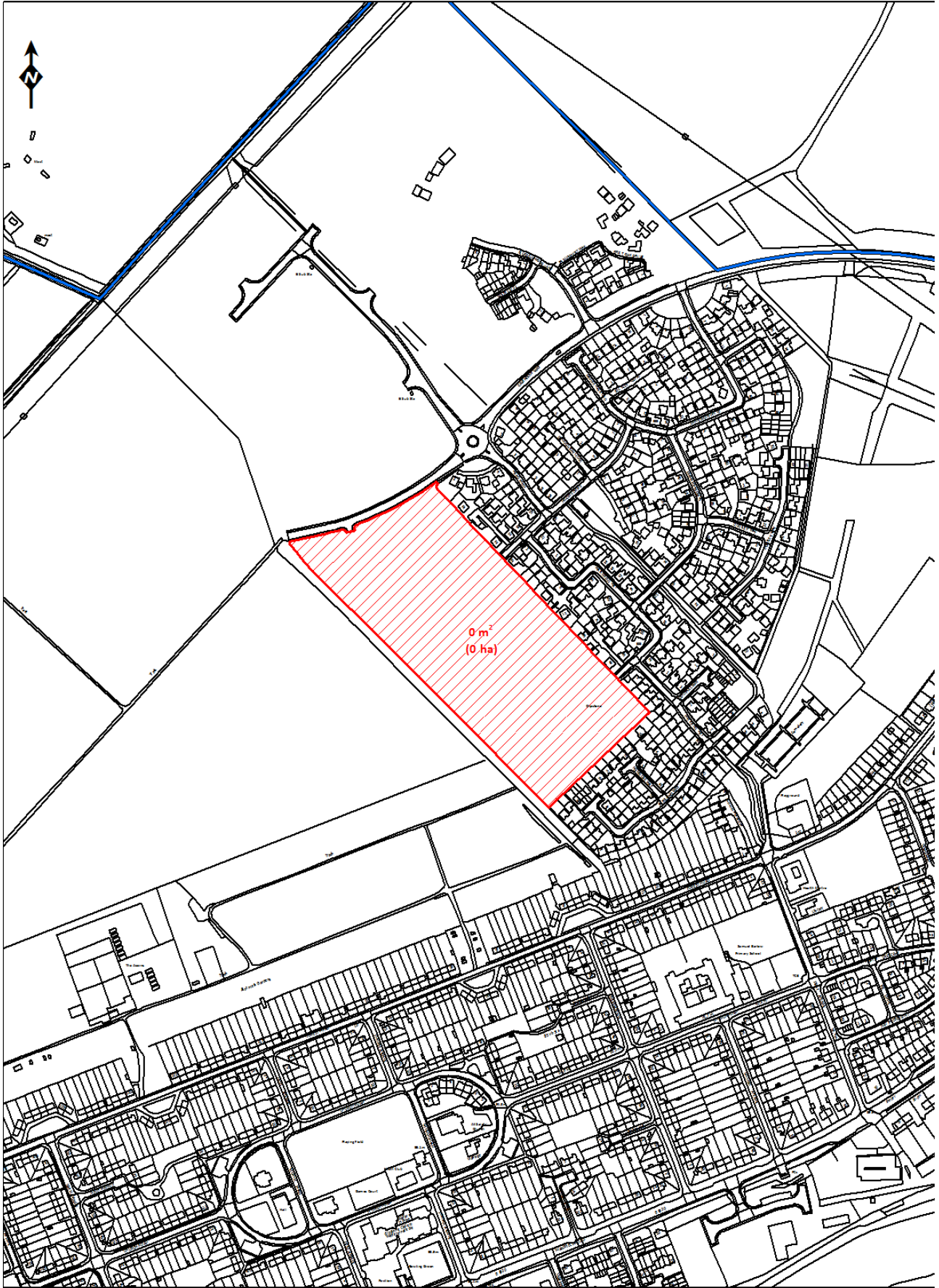
For further information, please contact Helen Marriott on ext 5793

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager - Growth & Regeneration**





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## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>18/00139/FUL</b>	
<b>Proposal:</b>	<b>Proposed erection of a detached two storey dwelling with a detached garage</b>	
<b>Location:</b>	<b>11 Friend Lane Edwinstowe Nottinghamshire</b>	
<b>Applicant:</b>	<b>Mrs Jean Donson</b>	
<b>Registered:</b>	<b>25.01.2018</b>	<b>Target Date: 22.03.2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as the officer recommendation for the application differs from that of the Parish Council.**

### The Site

The application site relates to a proportion of the existing residential curtilage associated to 11 Friend Lane, a detached single storey bungalow located on the south side of Friend Lane and within the defined built-up area of Edwinstowe.

The application site is level in nature and consists of a predominantly manicured lawn with ornamental trees and shrubs. A detached double garage sits adjacent to the west elevation of the existing dwelling with hard surfaced parking and turning area at the front of the site. A brick wall approx. 1.4m high and pair of black painted metal entrance gates is located at the front of the site, together with a mature hedgerow approx. 1.5m high.

Friend Lane contains dwellings that range in design, scale and appearance although the majority of dwellings are either detached or semi-detached and set within fairly large plots. To the east of the application site are a row of two-storey terrace dwellings (1, 7 and 9 Friend Lane) situated at the back edge of the footway and to the west of the site is 13 Friend Lane, a detached bungalow set back from the highway all with frontages onto Friend Lane, to the rear of the site is a narrow private road with the railway line beyond. Friend Lane is a private road that is not formally adopted by the Highway Authority.

### Relevant Planning History

No relevant planning history.

### The Proposal

The proposal seeks full planning permission for the erection of a single independent detached 2 bedroom dwelling and a detached single garage at the site which would utilise the existing vehicular access at the site. The proposed access drive measures 3.5m wide, with a 4.5m entrance width, by 31m in length. The deposited plan states a new access is to be created for the existing dwelling, although exact details of how this would be formed have not been submitted.

The proposed dwelling would face in an easterly direction and have a dormer bungalow design with a single front (east) facing dormer window and 2 No. rooflights on the rear facing roof pitch. The proposed dwelling would measure 12.5m in depth and span 9m in width. The roof design would be dual-pitched with a maximum ridge height of 6.7m and 2.9m to eaves level. The accommodation would comprise an entrance, hall, lounge, living/kitchen, bathroom and bedroom on ground floor and a bedroom and bathroom at first floor level. The bungalow is positioned 6m away from the boundary with 13 Friend Lane to the west and would be served by a 64sqm rear garden area.

The proposed garage would be located in the south-eastern corner of the site and sit at the end of the access drive facing towards Friend Lane. It has a double pitch roof and would measure 5m in depth, 3.6m in width and 3.9m in height to the ridge and 2.4m to the eaves. It is positioned in close proximity to the rear boundary as well as the shared boundary with 9 Friend Lane to the east.

### Public Advertisement Procedure

Occupiers of six properties have been individually notified by letter.

### Planning Policy Framework

#### The Development Plan

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 2 – Spatial Distribution of Growth  
Spatial Policy 6 – Infrastructure for Growth  
Spatial Policy 7 – Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 – Sustainable Design  
Core Policy 10 – Climate Change

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

DM5 – Design  
DM12 – Presumption in Favour of Sustainable Development

### Other Material Planning Considerations

- National Planning Policy Framework and its Technical Guidance, 2012
- National Planning Practice Guidance suite, on-line resource, March 2014
- Publication Amended Core Strategy 2017

### Consultations

**Edwinstowe Parish Council** – Support the proposal.

**NCC Highways Authority** – ‘Friend Lane is not public adopted highway, therefore the Highway Authority has no objections to this proposal.’

**Representations have been received from 3 local residents which can be summarised as follows:**

- Concerns raised over proximity of the proposed dwelling to shared boundary and the potential overshadowing impact.
- Concerns over the proposed dwelling becoming larger at a later date.
- Wishes any damage to the Friend Lane during construction to be repaired.

Comments of the Business Manager

### **Five Year Housing Land Supply**

The Council’s position is that it can demonstrate a 5 year housing supply. Following the allowed appeal at Farnsfield in 2016 where one Inspector concluded we did not have a five year housing supply, in order to address its housing requirement the Council, as it is required to do under the NPPF for both objectively assessed need (OAN) and under the Duty to Cooperate, produced a Strategic Housing Market Assessment (SHMA). The SHMA has produced an OAN for NSDC of 454 dwellings per annum (using 2013 as a base date). Moreover, this Council has now had its Plan Review DPD Examined (EIP). It is acknowledged that the OAN and consequently housing target for the District cannot attract full weight until after examination of the Development Plan. However, the OAN and issues around delivery have moved on considerably, with the EIP Inspector not raising any additional matters. This position has also been confirmed by a recent (August 2017) appeal hearing decision which has accepted that this Council has a 5 year housing land supply against a target of both 454 and 500 dwellings per annum. Even on a 550 OAN the Inspector in that case concluded that any shortfall would most likely be made up by windfall schemes. More recent appeal decisions have also confirmed that this Council has a 5 year land supply.

Given this position the Council considers that limited weight should now be attached to the Farnsfield Inspector’s decision from 2016. To the contrary the OAN of 454 remains robust and against this it is considered that there is a 5 year housing land supply. Consequently, the policies of the Development Plan are up-to-date (also having regard to the PAS review of the Core Strategy Policies and in attaching weight to the fact that the Allocation and Development Management DPD Policies were independently examined and found sound post NPPF adoption) for the purpose of decision making.

### **Principle of Development**

The site is located within the main built up area of Edwinstowe which is defined as a Principal village within the Settlement Hierarchy set out by Spatial Policy 1 of the Core Strategy and where the provision of housing is sought to secure a sustainable community. As such, there is no objection to the principle of the development at the site.

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running through both plan making and decision taking. This is reflected within the Development Plan under Policy DM12 of the Allocations and Development Management DPD.

It is relevant to acknowledge that at the present time, the LPA is well advanced in the process of a plan review following the Independent Examination which took place on 1 and 2 February 2018. However, the policy framework for the assessment of a proposal such as this is not proposed to alter under the current Review and the support for additional housing in Edwinstowe in principle is still supported. Whilst the NPPF identifies that there is a presumption in favour of sustainable development, this does not automatically equate to the development being granted as other material considerations need to be taken into account.

#### Impact on Character and Appearance of the Area

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping.

Core Policy 3 states that the Council will seek to secure an appropriate mix of housing types to reflect local housing need including smaller houses of 2 bedrooms or less and housing for the elderly and disabled population.

Core Policy 9 requires proposals to demonstrate a high standard of sustainable design and that proposals should be of an appropriate form and scale to their context complementing the existing built and landscape environments. This policy also provides that applications 'demonstrate an effective and efficient use of land that, where appropriate, promotes the re-use of previously developed land and that optimises site potential at a level suitable to local character.

Policy DM5 states that proposals creating backland development will only be approved where they would be in keeping with the general character and density of existing development in the area, and would not set a precedent for similar forms of development, the cumulative effect of which would be to harm the established character and appearance of the area. This is consistent with Paragraph 53 of the NPPF which states that 'Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area'.

In terms of Local Distinctiveness Policy DM5 (4) requires the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

Whilst the provision of a small 2-bed dwelling would be in line with the requirements of Core Policy 3, the site comprises a backland development to the rear of 11 Friend Lane with the land proposed for development measuring approximately 0.05 hectares.

Once beyond the three terraced two-storey properties, the existing development along Friend Lane is loose and informal in terms of its layout with good sized plots and fairly low boundary treatments giving an open feel along this part of this narrow lane. Dwellings are both two-storey and bungalows, however, I am mindful that there are no other examples of back land or tandem development along the lane and as such, I am of the opinion that the proposed development would not follow the grain of development and distinctiveness within the locality and would have a negative impact on the character of the area. Both the size and position of the proposed new plot does not reflect that of the surrounding area. Furthermore, I am of the opinion that there would be a number of other opportunities along Friend Lane whereby plots could be developed in a similar manner and this principle could all too readily be repeated which both individually and

cumulatively would have a material harmful impact on the character and appearance of the wider locality. Whilst the proposed development would be to the rear of 11 Friend Lane and set back from the highway, due to the nature of the site which is level and open, as well as the modest height of No. 11 Friend Lane, I am of the opinion that elements of both the proposed dwelling and garage would be visible from Friend Lane and be clearly read as a separate development plot, which is not associated to 11 Friend Lane, to the detriment of the visual amenities of the site and character of the wider street scene. I am also conscious that the ridge and scale/massing of the proposed dwelling would be greater than the existing dwelling which would also contribute to the intrusive and inappropriate nature of the development when viewed from the lane. The creation of the new driveway would result in the loss of small ornamental trees and although no details have been submitted, the creation of a new access to serve the existing dwelling may result in hedgerow loss.

It is therefore considered that the proposal represents inappropriate backland development that would not be in keeping with the general character and grain of development within the immediate locality and as such is contrary to Policy DM5 which seeks to resist undesirable development in backland sites. In addition it is contrary to the aims of the NPPF, in particular paragraphs 53 and 64 which seek to resist inappropriate development of residential gardens that would cause harm to the local area and advises that permission should be refused for development of poor design and fails to take the opportunities for improving the character and quality of an area and the way it functions.

#### Impact on Neighbours

Impact on amenity is a long standing material consideration of the planning process and relates both to the impact on existing development as well as the amenity created for the proposed occupiers.

Policy DM5 of the DPD provides 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'. In addition a core planning principle of the NPPF is to 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'.

In considering the relationship with the existing dwelling at the site, I am mindful that there would be a separation distance of 14m between the side elevation of the proposed dwelling and the closest elevation of no. 11 Friend Lane, which is considered sufficient for the proposal to not result in any material overbearing or overshadowing impact on neighbouring amenity. I note that there would be no windows on the side elevation of the proposed dwelling facing 11 Friend Lane, and as such it is considered that the proposal would not result in any material overlooking issues between the proposed dwelling and 11 Friend Lane.

I am mindful that the proposal would result in the loss of a portion of the private amenity space associated to no. 11 Friend Lane, however I am of the opinion that the remaining portion (380m<sup>2</sup>) would be adequate in order serve the existing dwelling. The amenity area associated to the proposed dwelling of 64 sqm is considered appropriate when taking account of the size of the proposed dwelling and number of bedrooms.

Having considered the separation distances to No. 9 Friend Lane and No. 13 (65m and 40m respectively) I am also satisfied that the proposed dwelling would not result in any material impact on neighbouring amenity. Proposed first floor windows would face onto the rear extremities of the neighbours' rear gardens and due to the acute angles are unlikely to have a significant detrimental impact on the privacy of the remaining gardens areas or dwellings either side of the site. I note that the proposed garage would be positioned close to the shared boundary with No. 9 Friends Lane, however when taking account of the relatively modest dimensions of the proposed garage and position at the rear of the site, I am of the view that this element of the proposal would also not result in any material impact on neighbouring amenity.

I am therefore satisfied that the proposal accords with the amenity criteria set out within Policy DM5 of the DPD.

### Highway Matters

Spatial Policy 7 of the Core Strategy seeks to ensure development proposals provides safe, convenient and attractive accesses for all and provide appropriate and effective parking provision, both on and off site, and vehicular servicing arrangements.

Policy DM5 of the DPD reflects the aims of SP7 and adds that parking provision should be based on the scale and specific location of the development.

I am mindful of the unadopted status of Friend Lane and that the Highway Authority has not raised an objection to the proposal. I am of the view that the existing access to the site would be suitable and that there would sufficient parking and turning areas for both the proposed dwelling and the existing dwelling 11 Friend Lane. As such I am satisfied that the proposal would not result in any material highway safety concerns and in accordance with Spatial Policy 7 and Policy DM5.

The comments in relation to the potential damage to Friend Lane highway are noted however this would be a civil matter between the shared owners of the highway and would therefore not be afforded any material weight in the determination of this planning application.

### Conclusion and Planning Balance

The proposed development would not result in any material impact on the amenity of neighbouring properties or upon highway safety at the site. It is noted that the application site is in a sustainable location for new housing development and would contribute to the supply of housing and therefore have some economic and social benefits which also weigh in favour of the application. However, the proposed development, would represent an incongruous and alien form of development at odds with the grain and layout of existing built form by virtue of its backland position, height and scale/massing in comparison to the existing dwelling at the site and is considered to result in a material and harmful impact on the character and appearance of the site and wider locality, which could too readily be repeated along the lane. It is therefore contrary to the aims of Policy DM5 of the DPD and para 53 of the NPPF. The harm is considered to outweigh the benefits of the scheme in this case.

### RECOMMENDATION

**That planning permission is refused for the following reason:**

01

In the opinion of the Local Planning Authority (LPA) the proposal would constitute an incongruous and alien form of development that would be at odds within the existing grain and layout of development by virtue of its backland position and its height and scale/massing in comparison to the existing dwelling when viewed from the lane which would result in a material adverse impact on the character and appearance of the site and wider area. The proposal is therefore contrary to Core Policy 9 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD as well as the advice within the NPPF, a material planning consideration. There are no other material planning considerations that outweigh this harm.

#### Notes to Applicant

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

02

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date.

Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

#### Background Papers

Application Case File

For further information, please contact Gareth Elliott on ext 5836.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth & Regeneration**





## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>18/00413/FUL</b>	
<b>Proposal:</b>	<b>Demolition of existing garages and development of 1 x 3 bed unit</b>	
<b>Location:</b>	<b>Former Garage Site, Thorpe Close, Coddington, Nottinghamshire</b>	
<b>Applicant:</b>	<b>Newark and Sherwood District Council</b>	
<b>Registered:</b>	<b>06 March 2018</b>	<b>Target Date: 01 May 2018</b>
		<b>Extension of Time Agreed until 06 June 2018</b>

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Coddington Parish Council has objected to the application which differs to the professional officer recommendation.

This application is one of several schemes currently being considered by the Council for the residential development of land owned by the Council. The need for affordable housing remains high on the Council's agenda, as indeed it does nationally. The developments are being put forward as part of a five year building programme by Newark and Sherwood Homes (NSH) to deliver approximately 360 new affordable dwellings across the District to directly meet affordable housing need. Under the Council's constitution, schemes submitted specifically as part of this 5 year affordable housing programme need to be determined by the Planning Committee where the officer recommendation differs from that of the host Parish or Town Council.

### The Site

The site comprises a garage court located on the western side of Thorpe Close with its access taken between numbers 20 and 22. This garage court is laid with a bound hardstanding and comprises 10 single storey garages which are sited along the western site boundary.

Two storey residential dwellings surround the site. There are three existing vehicular accesses/rights of way off the garage court serving numbers 20, 22 & 24 Thorpe Close. It was noted at the time of the officer site visit that the garage court is also being used for the parking of cars on an informal basis.

The site lies within an area prone to surface water run-off and is outside of the Coddington Conservation Area which lies to the south-west.

### Relevant Planning History

None relevant.

### The Proposal

Full planning permission is sought for the demolition of an existing garage court and the erection of one bungalow. There are currently 10 garages on site which are proposed to be demolished.

The proposed bungalow has a rectangular footprint and would measure c11.6m wide by c7.57m deep to a ridge height of c5.45m. It has a simple ridge roof and its front elevation has two small projecting rendered gables. The dwelling would comprise hall, open plan kitchen/diner and lounge, bathroom and three bedrooms. It should be noted that the application description has been changed to reflect this as it originally referred to a 2 bedroom unit. Proposed materials are cited as Cadeby red multi facing bricks with the render being off white and the use of Russell Grampion roof tiles in slate grey.

The application is accompanied by the following plans and supporting information:

Site Location Plan, Ref 40860/ID43001B (amended and received 18/05/2018)  
Proposed Site Layout Op 4, 40860/ID43009F (amended and received 24/05/2018)  
Proposed Plans & Elevations, 40860/ID4306A  
Materials Elevations, 40860/ID43006B  
Proposed Drainage, 100 P02  
Phase 1 Desktop Study Report, by Collinshallgreen, November 2017  
Phase 2 Desktop Study Report, by Collinshallgreen, November 2017  
Information provided in respect of Garage Useage  
Proposed Tracking, E454/150/P03 (as amended, received 16<sup>th</sup> May 2018)  
Amended Application Form (received 11/05/2018) with confirmation of Notice having been served on neighbouring land owner.

#### Departure/Public Advertisement Procedure

Occupiers of 14 properties have been individually notified by letter. A site notice has also been displayed near to the site giving an overall expiry date of 30<sup>th</sup> March 2018.

#### **Planning Policy Framework**

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

##### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 - Settlement hierarchy  
Spatial Policy 2 - Spatial distribution of growth  
Spatial Policy 3 – Rural Areas  
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 12 - Biodiversity and Green Infrastructure

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

DM1 – Development within settlements central to delivering the spatial strategy  
DM3 - Developer Contributions  
DM5 – Design  
DM7 - Biodiversity and Green Infrastructure  
DM12 – Presumption in Favour of Sustainable Development

## Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Publication Core Strategy 2017

### Consultations

Amendments have been sought during the lifetime of the application which have been subject to re-consultation. Comments on the final amendments will be reported to Members are late items where necessary.

**Coddington Parish Council** - Comments on the latest plans received 16<sup>th</sup> and 18<sup>th</sup> May are awaited.

#### *Previous comments:*

04/05/2018 – ‘We note from the web site that the closing date for comments on this application is now 15 May. Following concerns raised by the Parish Council on behalf of residents adjacent to the proposed development site, we have not been notified of any changes to the plans to allow unrestricted vehicle access to the neighbouring driveways. There is a new diagram of tracking on the web site, but no explanation of what has changed or any practical proof that this will resolve the problems.

At the site meeting with Newark and Sherwood Homes, questions over encroachment on to privately owned land of a house on Ross Close and the right of rear access to a house on Beckingham Road were also raised. Have these issues been addressed?’

27/03/2018 - ‘Coddington Parish Council unanimously objects to the application for a 3-bedroom bungalow to be built on the site of the Thorpe Close garages.

The position of the new dwelling and its car parking spaces would restrict the vehicular access of residents living on either side of the access road, to the extent that they could not get their vehicles in and out of their own driveways. In addition, the newly-built detached house on Beckingham Road which was granted vehicular access at the rear of the property through the Thorpe Close garages’ forecourt would be left with no vehicular access.

The Council is in agreement that there is a need for more social housing to be built, but not in this confined space which is particularly unsuitable for what is designed to be a family home. The development would be an over-intensification of the site, resulting in loss of privacy for existing homes and for the new dwelling, being over-looked on three sides by two-storey houses. Furthermore, it would appear from the plans that the site of the proposed bungalow encroaches on the privately-owned land of a property on Ross Close.

Residents have complained of a lack of communication, and there has been conflicting information on the type of property to be built. The plans show that this is an application for a 3 bed bungalow, not a 2 bed bungalow as stated in the consultation letter and on the site notice.’

**NCC Highways Authority** – 24/05/2018 – Comments on plan Proposed Site Layout Op 4, 40860/ID43009E:

"I have just seen the latest submission and remain concerned (23 & 24.5.18). I don't think that all is as clear as it may first appear. Please can we have a chat?"

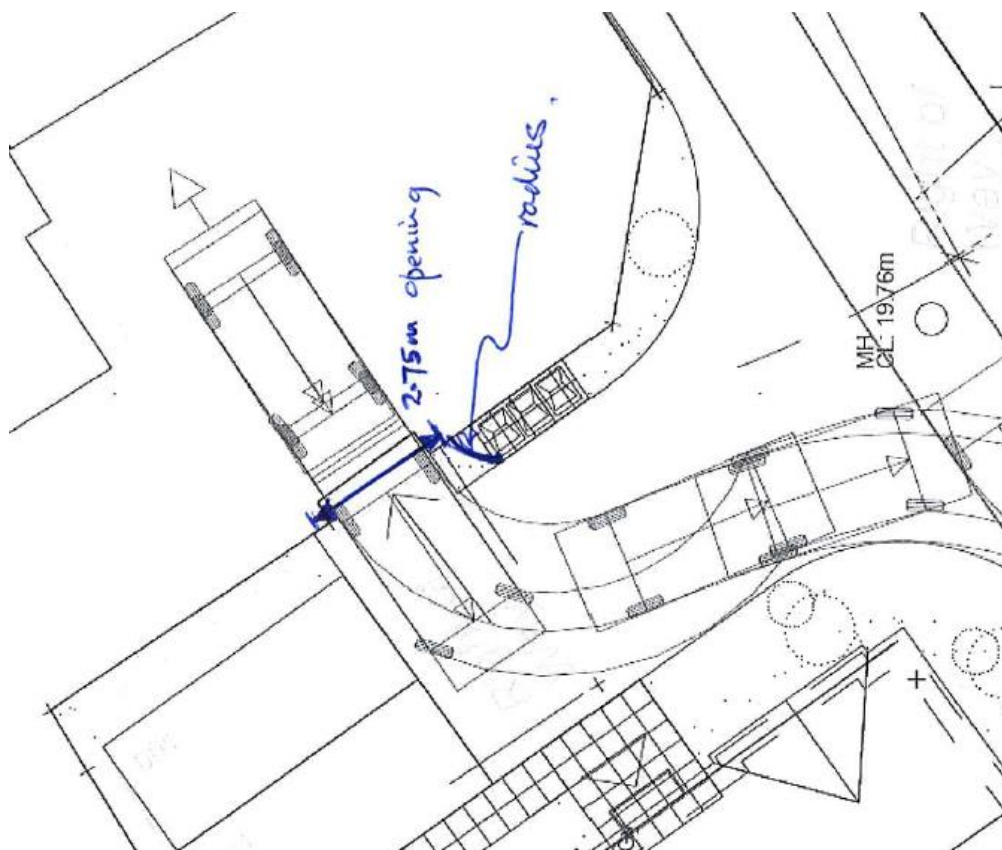
**A discussion took place with NCC and it was established that if the access to no. 20 Thorpe Close could not be widened (which this application cannot secure due to ownership issues) then the amount of reversing space rear of the access would need to be increased by 600mm in which case it would remove NCC's concerns. This was relayed to the applicants and an amended plan has been submitted to reflect this overcoming their concern.**

18/05/2018 – Comments on amended tracking plan:

"It is unnecessarily very tight.

I think they should widen the rear access to 2.75m and have radius kerb (I have illustrated this roughly on the sketch below).

If they can meet this, then all should be ok."



Previous Comments:

27/03/2018 - "The loss of off-street parking provision is regrettable and, ideally, alternative provision should be made for any existing users of the garages. However, consideration has to be given to the proposed use rather than the consequence of the loss of the existing use.

The access off Thorpe Close is sufficiently wide to cater for the traffic associated with the proposed dwelling and benefits from a separate footpath. It is assumed that the access will remain private, but consideration may be given to lighting the access/parking area.

Parking provision is acceptable and turning facilities are provided.

Notwithstanding the above, if the right of way to the rear of 20 Thorpe Close is intended for vehicular use, a swept path drawing should be submitted to demonstrate how a car may conveniently manoeuvre in and out of the access. Alternatively, I suspect that minor scheme amendments will need to be made to provide adequate turning space. Subject to seeing the above matter resolved, I would offer no objection."

**Trent Valley Internal Drainage Board – Comment as follows:**

"The site is outside of the Trent Valley Internal Board's district but within the Board's catchment.

There are no Board maintained watercourses in close proximity to the site.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority."

**NSDC (Environmental Health) – 07/03/2018**

The EHO has reviewed the submitted Site Investigation and recommends that the outstanding matters are dealt with via a condition (see proposed Condition 2)

**Cadent Gas (14/03/2018)** – 'Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required. All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.'

**Two representations have been received from local residents making the following summarized comments:**

- No objection to the bungalow but object to the insufficient space allowed to enable vehicles to manoeuvre into the gardens of existing properties through the site; making it impossible for residents to access their properties over their existing right of way.
- Concern that cars will now have to be parked on the road because there would be no garage.

*It should be noted that these comments above were made in respect of the first tracking plan which has since been amended. Since the revised tracking plan was consulted upon the following comments have been received;*

- Access is required on foot or by vehicle to the rear of 7a Beckingham Road – the proposed tracking plan submitted on the planning application does not consider this nor does it consider the impact it has on the right of access for the residents of 24 Thorpe Close;
- Concerns that right of access to 24 Thorpe Close, 20 Thorpe Close and 7a Beckingham Road will be restricted in the event the occupiers of the proposed development have guests or own more than two cars;
- Assumed the 3 bed bungalow would be occupied by a family which could own least 2 cars and possibly 3 and will most certainly have guests that will require a parking provision which has not been considered;
- Concerns that the revised planning application may infringe on the garden to the rear of 7a Beckingham Road;
- Loss of privacy as the proposed garden backs onto the garden of 7a Beckingham Road. The proposed garden boundary will replace a brick garage wall. If the proposed development is approved what measures will be taken to maintain our privacy and restore the property boundary on a like for like basis?
- The proposed site is a small area overlooked on all sides by homes that require and have the right to continued access to the site;
- Due to the approved development of the other garage site on Thorpe Close, street parking will be reduced further;
- Concerns about safety and land access during the construction phase.

#### Comments of the Business Manager

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan unless (emphasis added) material considerations indicate otherwise.

Notwithstanding the current process of Plan Review, at the current time the Adopted Development Plan for the District is the Core Strategy DPD (2011) and the Allocations and Development Management Policies DPD (2013). The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply. This was confirmed by the Secretary of State in dismissing the appeals for the housing developments at Farnsfield (heard through a Public Inquiry which sat in November 2017) in April 2018. The policies of the Development Plan are therefore considered up to date for the purposes of decision making.

#### Principle of Development

Spatial Policy 1 of 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 residential development to the Sub-Regional Centre, Service Centres and Principal Villages, which are well served in terms of infrastructure and services. At the bottom of the hierarchy, within 'Other Villages' in the district, development will be considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas). Coddington is defined as an 'other village.'

The five criteria outlined by SP3 are location, scale, need, impact and character, which are considered below.

### *Location*

The first criterion of SP3 details that 'new development should be within the main built up areas of villages, which have local services and access to Newark Urban Area.' The proposed development site is within the main built up area of the village adjacent to existing residential development on Thorpe Close and Beckingham Road. With regards the provision of services; whilst Coddington is defined as an 'Other Village' in the settlement hierarchy it does contain a Primary School, two public houses, a shop, a village hall, recreation ground and church. In addition, Coddington is served by regular bus connections to Newark where a wider range of services can be found. I therefore consider the site accords with the locational requirement of Policy SP3.

### *Scale and Impact of Development*

The guidance note to accompany SP3 confirms that the scale criterion relates to both the amount of development and its physical characteristics, the latter of which is discussed further in the Character section below. One single storey dwelling is considered relatively small scale in numerical terms in a village which was detailed as having 1,684 residents in 2016. As such the proposal is unlikely to detrimentally affect local infrastructure such as drainage and sewerage systems. I also consider that one additional dwelling is highly unlikely to materially affect the transport network in terms of increased traffic levels in volume particularly as two off street car parking spaces would be provided for it. The displacement of parked cars is discussed in detail within the highway section of this report.

### *Impact on Character/Visual Amenities*

The character criterion of SP3 states that new development should not have a detrimental impact on the character of the location or its landscaped setting. The assessment overlaps with the consideration required by Policy DM5 which confirms the requirement for new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing. Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Furthermore the NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping.

The application site falls within a residential area which has a mix of single and two storey semi-detached, and terrace dwellings.

The development proposes one single storey dwelling located centrally within the site and would be constructed of red brick with rendered elements. Its positioning on what would become a private drive would make the dwelling discreet when combined with its height and I am satisfied that the design of the proposed dwellings is acceptable and that in terms of appearance, the proposed development would sit well within the context of the adjoining dwellings and the wider residential setting, meeting the policy requirements of SP3, CP9 and DM5.



### *Need for Development*

With respect to the local need criterion of SP3, it is noted that the bungalow proposed would be a dwelling offered for social rent and thus a type of house that meets with the definition of affordable housing which forms part of a wider capital programme for investment and delivery of affordable housing provisions within this District over the next 5 years. For the avoidance of doubt there is an affordable housing need across the District, which includes Coddington. The need is not Coddington specific in that there is no local housing needs survey for the village. The need covers a slightly wider geographical area, including Newark. The district wide Housing Market and Needs Assessment (2014) identified that within the rural south sub area (of which Coddington is a part of) there is a housing need for smaller homes (1 bedroom - 234 units and 2 Bedroom - 458), with a clear demand for bungalows in particular. The Council's housing register indicates a demand for affordable housing for older people's accommodation and for small dwellings. It is therefore considered that a need exists within Coddington for small, single storey affordable units and this proposed development would assist in meeting that need. The proposal is therefore considered to accord with the need element of policy SP3.

### Impact on Residential Amenity

Policy DM5 of the DPD states 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. The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

The site is surrounded by existing residential properties on all boundaries and as such consideration of the perceived impact on neighbouring amenity forms a material consideration.

The proposed dwelling is single storey being approximately 5.45m in height. It is considered that the separation distances of the proposed bungalow to neighbouring properties are sufficient (they range from 12.39m (NE) to 16.78m (N) at their closest points) to ensure that the dwellings would not result in an unacceptable degree of overbearing impact or loss of light for existing neighbours. Given the proposal is single storey in height, it is not considered that the development would result in overlooking of neighbouring properties subject to appropriate boundary treatment which would be secured by way of condition. Given the distances involved there will inevitably be overlooking of the garden of the proposed bungalow from existing dwellings. However I do not consider that this is any worse than many existing relationships in the area and is not so harmful as to warrant a reason for refusal.

### Highway Impacts

SP7 provides, amongst other things, that development should provide for safe, convenient access, be appropriate for the highway network in terms of the volume and nature of traffic generated, ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected; provide appropriate and effective parking provision and ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems. Policy DM5 reflects this.

NCC Highways Authority have commented that the proposed access to the new dwelling and the level of parking are acceptable such that they do not raise any objections. However there are other factors that require consideration;

### *Displacement of Parked Cars*

It was noted that several cars were parked on the site during the officer site inspection, which I understand belong to local residents who park there on an informal basis, without any express permission to do so as confirmed by the agents of this application.

It is noted that the NCC Highways Authority have not made comments/raised concerns regarding the loss of car parking spaces. Nevertheless it is a matter that warrants consideration.

The table below provided by the applicants (which has been edited to remove personal information) shows that of the 10 garages, only 4 are rented out to properties within a 10 minutes (approx.) walking distance of the site. Of these, 3 use the garages to park their car one of which has a driveway as an alternative option. The other 2 do not have a driveway where they could park their cars so arguably the scheme would displace these 2 cars to on-street parking onto both Thorpe Close and Ross Close.

<b>Address of current garage renter</b>	<b>Postcode of garage renter</b>	<b>Garage Address</b>	<b>Tenant has off street parking</b>	<b>Garage Use</b>	<b>Is property in local area</b>
Beckingham Road	NG24	1 Thorpe Close	Property Not local	Storage	Yes 10 mins walk
The Osiers	NG24	2 Thorpe Close	Property Not local	Storage	No 1hr walk
Thorpe Close	NG24	3 Thorpe Close	No Drive	Daily use car	Yes 2 mins walk
Vacant		4 Thorpe Close	Vacant	Vacant	Vacant
Primrose Avenue	NG24	6 Thorpe Close	Property Not local	Storage	No 1hr walk
Butt Lane	LN6	7 Thorpe Close	Property Not local	Storage	No 2hr walk
Vacant		8 Thorpe Close	Vacant	Vacant	Vacant
Thorpe Close	NG24	9 Thorpe Close	Yes Property has drive	Daily use car	Yes 2 mins walk
Ross Close	NG24	10 Thorpe Close	No Drive	Daily use car	Yes 2 mins walk

I have also had regard to the cumulative impact specifically in relation to the scheme (17/02294/FUL) that was approved by Members at the March 2018 Planning Committee relating to the garage court to the north of this, also at Thorpe Close. It was established that of the 19 occupied garages 9 could potentially be used for tenant vehicle parking that are within a 5 minute walk, 3 benefitted from off street parking (driveway or parking bay) which leaves a total of 6 tenants which could potentially be using their garages for vehicle parking. For clarity of these 6 tenants 1 is a NSH resident and 5 are private occupiers. The report goes on to state:

*It is not possible to categorically state that 6 of the total 28 garages (21%) are being used for vehicle parking, however having reviewed street view imagery it would appear that should this be the case that all of the 6 properties which currently do not have off street parking and rent a*

*garage within the development site could, should they so wish, accommodate a driveway to the side/front of their properties to accommodate a vehicle. It is therefore not considered that the removal of the garages on the development site would result in such a significant increase in on-street parking in the area to such a detriment to highway safety to warrant refusal of the application.*

Even taking into account the worst case cumulative situation, I do not consider that the displacement of 8 cars (cumulatively) would amount to such harm that would warrant a reason for refusal that could be successfully defended on appeal.

### *Rights of Access*

Two properties (no.20 & 24 Thorpe Close) currently enjoy rights of access over the land/garage court to get to their properties. No. 20 has an existing gated access that opens onto to the garage court whilst no. 24 has two accesses to their front boundary and to a garage to their west. These accesses are shown to be maintained as part of the planning application.

However residents and the Parish Council have commented that the layout is such that users would find it difficult to maneuver a car over the right of way. A tracking plan was submitted in an attempt to demonstrate that the rights of accesses worked for residents and NCC Highways Authority raised some concerns that this appeared tight and that a small car had been used for the tracking. An amended tracking plan was subsequently provided on 16<sup>th</sup> May 2018. In response NCC commented that the tracking plan in respect of No. 20 was unnecessarily very tight and suggested widening the access to 2.75m and to use a radius kerb and that if this were to be achieved it would be acceptable.

The applicant has indicated that they are able to add the curb radius but that the existing access point to number 20 lies outside of their control and they are unable to widen it. Separately and via the Parish Council, the owners of no. 20 have expressed a wish to widen their access (which does not require planning permission) and the agents have confirmed there would be no objection to this. There is now a separate 'in principle' agreement in place for the agents to undertake these works if the owners give consent albeit this is a matter that lies outside of the planning regime as it would not be possible to require the applicant to widen an access that they do not control.

Members will note that the Highways Authority were still raising concerns in relation to the penultimate plan revision E and it has been established that as the access cannot be widened through this application, a suitable alternative would be to lengthen the amount of turning space behind the access by 600mm to make it easier for the affected resident and avoid the snaking in and out. This has now been achieved through a slight change to the plan involving a tweak to the path to the front of the bungalow and its marginal re-siting, which in my view is acceptable. This amended plan (revision F) is therefore acceptable and is expected to satisfy NCC Highways Authority who have already confirmed subject to this revision they would raise no objection.

I am also aware that there is a concern regarding maneuvering in the dark and I consider that it would be reasonable to require the applicants to provide a low level lighting scheme to assist with this and this can be controlled by condition (see Condition 11). The right of access(es) to no. 24 are demonstrated as being acceptable and has been revised to include additional space to allow the residents an extra 1m to enable easier maneuvering of their personal truck. There is no material reason to withhold a planning permission on the basis of inability for existing residents to utilise their existing rights of way. In any event NSH have worked positively with the affected persons in

order to resolve these issues and via the Parish Council, I am advised that these residents now 'welcome this development'.

### Drainage

The site lies within Flood Zone 1 albeit it is noted to lie within an area prone to surface water flooding. A surface water management plan has been submitted as part of supporting documentation which details how surface water would be managed on the site. The proposed layout is considered to be acceptable and would not result in any greater surface water flooding issues than that which currently exists from the large areas of hardstanding on the site. Rather, the level of hardstanding on site would be reduced which could improve the existing situation.

### Other Matters

The comments received from colleagues in Environmental Health regarding potential contaminated land are noted and are capable of being controlled by condition which is necessary and reasonable.

### *Land ownership/Boundary Disputes*

Following the concerns raised by one local resident (verbally) that the site location plan was incorrect because it showed the use of part of their garden, it has been established the original site location and block plans were incorrect insofar as they show the garages protruding into the garden of a dwelling to the west, showing a doglegged shaped garden. In reality the garden of the neighbour runs straight and it was established that the Ordnance Survey layer of the plan is incorrect. Revised plans have been submitted to show that the site would not encroach into the neighbour's garden and the plans have been appropriately annotated. I am satisfied that the correct ownership certificate has been served and that no persons have been prejudiced.

### *Walls of Garages*

The walls of the garages that form the boundary with the application site appear to be of sound construction and appearance. It has been requested that the applicant carefully demolish the garages to allow the walls of the garages (which would need to be suitably reinforced) be retained thus maintaining the common boundaries with neighbours and minimizing disruption to them. The applicant has in principle agreed to this approach and is exploring this further and a condition (see number 5) has been imposed to reflect this.

### Conclusion and Planning Balance

Taking the above into account I am of the view that the proposed development would provide for a family home in an area where there is a need for small single storey units and conclude that the site is in a relatively sustainable location. The development would have an acceptable impact on the character of the area, neighbouring amenity, highway safety and drainage. Whilst this scheme would displace some cars from the garages lost, on balance it is considered that the limited harm through consequential on-street parking would be outweighed by the positive of providing a much needed affordable home. There are no further material considerations that would warrant refusal of the application.

### **RECOMMENDATION**

**That planning permission is approved subject to the conditions and reasons shown below**

Conditions

01 (Time for Implementation)

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 (Land Contamination)

No development shall take place until the applicant has verified that clean capping material imported to site for use in garden areas and soft landscaping is suitable for its proposed use, in line with current guidance, to the satisfaction of Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised.

03 (Plan Condition)

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

Site Location Plan, Ref 40860/ID43001B

Proposed Site Layout Op 4, 40860/ID43009D

Proposed Plans & Elevations, 40860/ID4306A

Proposed Drainage, 100 P02

Phase 1 Desktop Study Report, by Collinshallgreen, November 2017

Phase 2 Desktop Study Report, by Collinshallgreen, November 2017

Information provided in respect of Garage Useage

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

04 (External Materials)

The development hereby permitted shall be constructed entirely of the materials details as shown on drawing number Materials Elevations, 40860/ID43006B unless otherwise agreed in writing by the local planning authority through a non-material amendment application.

Reason: In the interests of visual amenity.

05 (Methodology for Demolition and Boundary Treatments at Construction phase)

No development shall be commenced, including any demolition, until a methodology for the demolition of the garages and the retention (and reinforcement where necessary) of the garage walls where they adjoin neighbouring gardens has been submitted to and approved in writing by the Local Planning Authority. Where this is identified as not being possible, details of an alternative boundary treatment (for the construction phase) following the demolition works shall be submitted to and be agreed in writing by the LPA prior to commencement on site. The

approved boundary treatment shall be implemented on site as agreed and shall be retained until construction works have been completed unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of amenity and site safety.

#### 06 (Boundary treatments at operational phase)

No part of the development shall be brought into use until precise details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the occupation of the dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

#### 07 (Landscaping Scheme)

Prior to first occupation of the dwelling hereby approved, full details of both hard and soft landscape works shall be submitted to and shall be approved in writing by the local planning authority. These details shall include:-

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;

hard surfacing materials; and

Reason: In the interests of visual amenity and biodiversity.

#### 08 (Implementation of Landscaping)

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping scheme shall be implemented prior to first occupation of the dwelling hereby approved.

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

#### 09 (Removal of PDR)

Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015, other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class B - additions etc to the roof of a dwellinghouse

Class C - other alterations to the roof of a dwellinghouse

Reason: In the interest of protecting neighbouring amenity in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (2013).

#### 010 (Provision of car Parking)

No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with the approved plan. The parking areas shall not be used for any purpose other than parking of vehicles.

Reason: In the interests of highway safety.

#### 011 (External lighting scheme)

Prior to first occupation of the dwelling hereby approved, details of an external lighting scheme shall be submitted to and be approved in writing by the local planning authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual and residential amenity and to help ensure that manovering of vehicles is done so safely in times of darkness.

### **Notes to Applicant**

#### 01

The applicant is advised that all planning permissions granted on or after 1 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 understanding that CIL may not payable on the development hereby approved as the development is made up entirely of Social Housing provided by local housing authority, registered social landlord or registered provider of social housing and shared ownership housing. It is necessary to apply for a formal exemption to confirm this view, which must be made to the Council prior to the commencement of development on CIL 4 form which is also available on the Council's website.

#### 02

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 Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

#### Background Papers

#### Application Case File

For further information, please contact Clare Walker on ext 5834.

All submission documents relating to this planning application can be found on the following  
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website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth & Regeneration**





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## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>18/00357/FUL</b>	
<b>Proposal:</b>	<b>Erection of 4no. One and a half storey dwellings</b>	
<b>Location:</b>	<b>Land To Rear 90 Main Street, Balderton, NG24 3NU</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs K. Smith</b>	
<b>Registered:</b>	<b>19/02/2018</b>	<b>Target Date: 16/04/2018</b>
		<b>Extension of Time: 06/06/2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation because the recommendation differs from the Parish Council's views.**

### The Site

The Old Hall (90 Main Street) is a substantial and attractive period dwelling located on the south side of Main Street within the urban area of Balderton. It is situated within a Conservation Area. It was previously used by Nottinghamshire Healthcare NHS Trust as a care home but was recently converted to flats (application number 14/00579/FUL).

Whilst it is not a listed building, it is regarded as a positive building within the Conservation Area and a non-designated heritage asset. The Hall is two storey and rendered with a slate roof with sashed and bay windows. It is set within an extensive south facing garden containing a number of mature trees. Additional structures within the site include an air-raid shelter, ice house and a row of 3 single storey outbuildings.

The application site itself relates to the garden to the rear of the Old Hall, utilising the existing access off Main Street. The garden contains a number of trees which are protected by Tree Preservation Order. The boundaries of the garden contain a mix of close boarded fences, trees and hedge.

### Relevant Planning History

14/01908/OUT Outline Application with Some Matters Reserved for Construction of 4 no. detached houses to the rear of the Old Hall – permission 08.07.2015

14/00579/FUL Proposed conversion of The Old Hall into 8 no. flats with an additional 1 no. new dwelling and demolition of outbuildings and air-raid shelter – permission June 2014. This relates to a scheme on land to the north of the application site and shares the same access.

06/01541/CAC Demolition of glasshouse – consent Jan 2007

00/50040/FUL Retention of entrance porch – permission May 2000

97/50106/CAC Demolish existing porch – consent Sep 1997

92/50054/FUL Refurbishment to form residential home for mentally ill and community workers office – withdrawn Oct 1992

03920358 Refurbishment to form residential home for mentally ill and community workers office – withdrawn Oct 1992

03911072 Residential development for two detached dwellings – withdrawn Apr 1992

### **The Proposal**

The application seeks full planning permission for the erection of 4 no. one and a half storey dwellings with detached garages.

The plans have been amended during the lifetime of the application to overcome the concerns of the Conservation Officer, in relation to the design and of the scheme, and the Tree Officer in relation to the impact on protected trees. Amendments include the deletion of the garages and re-massing plots 1-3. The resulting application now proposes a scheme which is similar to a scheme which received outline planning permission in 2015 (14/01908/OUT).

Each dwelling would be detached and have 4/5 bedrooms and a relatively small area of private garden space. The dwellings have been sited so as to avoid the root protected areas of the protected trees on site. Each dwelling would be roughly rectangular in shape with widths varying between 8-11 metres and depths of approximately 17-20 metres. Proposed materials comprise facing brickwork with stone cills and brickwork or timber lintels, timber fenestration and pantile roofs.

The proposed access would utilise the existing access to the Old Hall from Main Street and off street parking would be provided for each dwelling.

The application is accompanied with the following:

- Tree Survey
- Protected Species and Ecology Survey
- Design, Access and Heritage Statement

### **Public Advertisement Procedure**

23 neighbours notified individually by letter and reconsulted.

Site notice posted 08.03.2018

Press notice published 01.03.2018

### **Planning Policy Framework**

#### **The Development Plan**

##### **Newark and Sherwood District Council Core Strategy DPD (adopted March 2011)**

- Spatial Policy 1 – Settlement Hierarchy
- Spatial Policy 2 – Spatial Distribution of 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 12 – Biodiversity and Green Infrastructure
- Core Policy 14 – Historic Environment
- NAP1 – Newark Urban Area

### **Allocations and Development Plan Development Plan Document (DPD) Adopted July 2013**

- Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM5 Design
- Policy DM7 Biodiversity and Green Infrastructure
- Policy DM9 Protecting and Enhancing the Historic Environment
- Policy DM12 Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework (NPPF) 2012
- Planning Practice Guidance (PPG) 2014
- Newark and Sherwood Amended Core Strategy DPD 2017

### **Consultations**

#### **Balderton Parish Council –**

*Comments received 16.03.2018:*

Object – Though pleased to see that the garages are now single storey only, the amended plans do not alter the committee’s original objections to this application. This style of properties are seemed to be out of character for the Conservation Area and members still consider that highways issues are a concern.

*Comments received 16.03.2018:*

Object - Members consider the visual appearance of the proposed dwellings are not in keeping with the Conservation Area. Highways issues are a concern from the generation of extra traffic and vehicular access to the site.

#### **NSDC Conservation Officer –**

*Comments received 14.05.2018:*

Following further revision (removal of the 1800mm featherlap fencing and replacing with 900mm post and rail fencing with planted hedging), my concerns in relation to the extent of proposed panel fences have been addressed.

*Comments received 14.05.2018:*

We raised a number of concerns with the proposals, including mass and scale of new dwellings and garages, as well as design detailing. We are pleased to see that plots 1-3 have been reduced in mass, and that plots 2 and 3 have been revised in accordance with our advice, incorporating matching gables. The reduction in scale of the garages is also welcomed.

Overall, we consider that the revisions sufficiently address our concerns so as not to cause harm to the character and appearance of the Balderton Conservation Area. We recognise that the proposal will have an impact on the setting of the former Hall, an important building within the conservation area. However, this matter was addressed in the recent outline approval for residential development (ref 14/01908/OUT), and the revised scheme before us is materially similar to the indicative details included within that scheme. The retention of trees and a sense of openness within the site will help sustain the positive contribution made by the former gardens to the Hall. Nevertheless, the extent of panel fences indicated to the front of properties should be amended. Post and rail fences and/or hedges will better reflect the landscape setting of the former Hall.

If approved, suitably worded conditions will be required covering all facing materials, joinery details (timber, to be retained), full height glazing, roof lights and architectural detailing such as opening headers/sills, eaves, verges, chimneys, dormers, rainwater goods, services and other external accretions. A brick panel showing masonry construction should be erected on site before walls above the footings are constructed, showing brick, bond, mortar and pointing. As above, and notwithstanding the submitted details, the scheme will benefit from using primarily soft landscaping for boundaries, noting our preference for post and rail fences and hedges instead of panel fences. In addition, pantiles shall be natural red clay of a non-interlocking variety, and slate shall be natural and not artificial, samples of both to be submitted and agreed.

*Comments received 12.04.2018:*

#### Legal and Policy Considerations:

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. Such matters are of paramount concern in the planning process. In this context, case-law has established that 'preservation' means to cause no harm.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas (paragraph 137). The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Additional advice on considering development within

the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

### Assessment of Proposal

The proposal seeks to erect 4 dwellings. Outline approval was granted for 4 residential units in 2014 (ref 14/01908/OUT). This established the principle of redevelopment of the site, and agreed the layout and access. The scale of the dwellings was to be limited to one and a half storeys. The submitted scheme is for full planning permission and not reserved matters, although the layout and scale is similar to that indicated in the approved outline approval.

Having reviewed the submitted plans and details, Conservation objects to the proposed development in its current form. We have a number of concerns with the proposals:

- The increase in mass of some of the units beyond that envisaged in the original scheme results in a greater impact on the setting of the Old Hall and has the potential to dominate the former polite gardens, in turn harming the character of the CA. Although it is recognised that impact on the street is negligible, impact on the Old Hall is a relevant material consideration in the context of its contribution to the CA;
- The appearance of the proposed units is significantly different from that indicated in the outline approval. The small scale units in the outline referenced both cottage vernacular, appropriate to the setting of the former walled garden whereas the proposal before us includes extensive full height gable glazing and more individuality. This is best typified in units 2 and 3. In the original scheme, the indicative details suggest homogeneity between these two units unlike the proposal before us;
- Detailing in general terms would benefit from simplification, with less variety in fenestration sizes and styles, and perhaps less rooflights and no dormers;
- The extent and scale of the garages goes well beyond that originally envisaged. Nevertheless, the applicant has suggested that this concern could be addressed by reducing the garages to single storey open cart shed type structures.

If the scheme was amended to address the concerns above, we are likely to support the proposal. In particular, we urge the applicant to reconsider the massing of the units, particularly units 1 and 2 and recommend that they are reduced to the indicative details of the original outline approval. The appearance of the units would also need to be closer to that originally envisaged, notably units 2 and 3, with a greater similarity in appearance when viewed on approach (e.g. perhaps matching gables with subservient elements to side and rear). The garages should also be reduced in scale, and where possible consolidated so as not to be scattered throughout the site.

### Recommendation

In its current form, we object. The proposal does not accord with the objective of preservation required under section 72 of the Act, and contradicts heritage policies within the Council's LDF DPDs and section 12 of the NPPF. The harm identified is moderate, and therefore falls within paragraph 134 of the NPPF. Although we recognise that some public benefit might be achieved through a positive contribution to housing stock, we recommend that the decision-maker pays special attention to the preservation of the CA in weighing the balance. In effect, the public benefit must outweigh the harm identified convincingly.

## **NSDC Tree Officer –**

*Comments received 02.05.2018:*

Amended plan indicating revisions to proposed garages and a reduction in the impact of the rooting areas of T11 are acceptable. Other issues previously noted are still a concern albeit I am aware that previous approval has probably limited any response to my other comments. Proposed landscaping plan noting Terram geocell root protection load platform shows both areas of drive and also ground protection areas for construction. It is likely that different specifications will be required as I would expect a no dig drive permanent construction for hard surfaced areas while ground protection measures would be a temporary solution.

It is recommended that any approval should have the following conditions to protect existing trees and potentially request additional soft landscaping.

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

- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.
4. No works or development shall take place until the District Planning Authority has approved in writing the full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards.
  5. The approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is soonest, unless otherwise agreed in writing with the District Planning Authority. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted on written consent of the District Planning Authority.

Reasons: To preserve and protect existing trees and new trees which have and may have amenity value that contribute to the character and appearance of the area.

*Comments received 16.04.2018:*

After reviewing the submitted plan I have the following comments. Trees T4/T7 are likely to require significant pruning works in order to enable sufficient room for access into the site along the proposed access. Construction traffic is likely to require the use of larger vehicles of a size that requires additional clearances and upgraded root protection within rooting areas. Garage to plot 4 is likely to require additional ground protection areas in order to protect adjacent trees T3,5,6.

Proposed hard surfacing within the RPA of T11 is excess of the 20% recommendation within BS5837-2012 and could result in excessive adverse impact on tree roots. Plot 3 and to a lesser extent plot 4 will be dominated by adjacent retained trees. Plot 3 also has the close proximity of plot 2 resulting in very little natural light or useable amenity space. Similar issues of limited garden area for plot 2 is also a concern.

*Comments received 28.03.2018:*

Request tree survey/constraints plan in accordance with recommendations within BS5837-2012 in order to evaluate potential issues with trees on proposed development.

**NCC Highways** – No objection subject to the following conditions:

1. Occupation of the proposed dwellings shall not take place until the parking/turning areas shown on drawing KS533-A103 Rev P3 have been provided. The parking and turning areas shall not be used for any purpose other than the parking and turning of vehicles, and shall be retained for the lifetime of the development.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area.



2. Occupation of the proposed dwellings shall not take place until a refuse collection point has been provided in accordance with details first submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent bins from being obstructing the public highway.

**Severn Trent Water** – no comment received.

**NSDC Access Officer** – As part of the developer's considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that their attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of visitable, accessible and adaptable, and wheelchair user dwellings, and that consideration be given to incorporating 'accessible and adaptable' dwellings within the development. The requirements of a dwelling's occupants can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors' alike as well as meeting residents' changing needs, both temporary and longer term. Similarly, inclusive access improves general manoeuvrability for all including access for those with push chairs and baby buggies as well as disabled people etc.

It is recommended that disabled persons and wheelchair users' access to, into and around the new dwellings on all floors be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards to ensure that they provide suitable clear unobstructed access to the proposals. In particular, step-free access to and into the dwellings is important and an obstacle free suitably surfaced firm level and smooth 'traffic free' accessible route is essential to and into the dwellings from facilities such as car parking and from the site boundary. Any loose laid materials, such as gravel or similar, can cause difficulty for wheelchair users, baby buggies or similar and should be avoided. It is recommended that inclusive step free access be considered to garden areas, amenity spaces and external features.

Carefully designed 'step-free' approach, ramps, level flush thresholds, generous doorways, all carefully designed to facilitate easy access and manoeuvre are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the dwelling together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations matters.

**Neighbours/Interested Parties** - One letter of representation received. Main issues raised include increasing the areas' population, not in keeping with area and impact on wildlife including birds and squirrels

Comments of the Business Manager

### **The Principle of Development**

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan unless (emphasis added) material considerations indicate otherwise.

Notwithstanding the current process of Plan Review, at the current time the Adopted Development Plan for the District is the Core Strategy DPD (2011) and the Allocations and Development Management Policies DPD (2013). The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply and policies of the Development Plan are considered up to date for the purposes of decision making. This has been confirmed by an Inspector through recent appeal decisions dated April 2018.

The site is located within Newark Urban Area as set out in the Settlement Hierarchy defined by Spatial Policy 1. New housing and employment growth should be focused in this area as it is considered to be a sustainable location for new development subject to consideration of the site specific issues which are set out further below.

### **Housing Numbers, Density and Mix**

Core Policy 3 states that the District Council should seek to secure an appropriate mix of housing types to reflect local housing need. The need to achieve a wide choice of quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities is also reflected in the NPPF.

In terms of what the local demand is, evidence of this is contained within the Newark and Sherwood Housing Needs Survey Sub Area Report 2014 by DCA. Balderton falls within the Newark Sub-Area from the perspective of our Housing Market & Needs Assessment (2014), with the Sub-Area Report showing demand within the market sector to be predominantly focussed on 40% 3-bed and 34% 2-bed unit types, with lesser demand shown for 4+ bed (22%) and 1-bed (4%).

The proposed plans indicate the provision of four 4/5 bed detached dwellings (with bedrooms provided at ground and first floor level). As such, the proposal would not necessarily deliver an appropriate mix of housing. The proposed density is also lower than the average recommended density of 30 dwellings per hectare or more. However, this shortfall is still considered to represent efficient use of the land when balanced against the specific characteristics of this site. This includes the need to preserve the character and appearance of the Conservation Area including the setting of the Old Hall and the preservation of the most important trees which required a reduction in the overall number of units proposed. The assessment of these impacts is set out below with the overall balancing exercise set out in the conclusions at the end of the Appraisal.

### **Impact on Visual Amenity including the Character and Appearance of the Conservation Area**

Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. It also states that backland development will only be approved where they would be in-keeping with the general character and density of the existing development in the area.

Core Policy 14 of the Core Strategy and Policy DM9 of the DPD requires the preservation of the special character of Conservation Areas. The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. It also states 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.

As a building of local interest, the Old Hall is considered to contribute positively to the character and appearance of the Conservation Area. Paragraph 137/138 of the NPPF goes on to say that Local Planning Authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance. The loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm or less than substantial harm. The site is also located within Balderton Conservation Area. As such, the local planning authority must have regard to the desirability of preserving or enhancing the character and appearance of the area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The Conservation Officer raises no objection to the most recent set of revised plans which ensure that the site layout is similar to the indicative site layout approved in outline form in 2015 (14/01908/OUT). This revised layout is considered to take account of the linear form of the Old Hall, and sits more comfortably within the historic garden by ensuring the retention of protected trees. The scale and form of the development would not be unduly prominent and would maintain the primacy of the Old Hall. I therefore concur with the Conservation Officer view that the development would preserve the character and appearance of the Balderton Conservation Area in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Whilst the development represents a form of backland development, the layout proposed is considered to be in-keeping with the general character and density of the existing development in the area.

Subject to a number of conditions relating to details and materials, it is considered that the proposed development would enhance the character and appearance of the Conservation Area in the interests of visual amenity and in accordance with the NPPF, Core Policy 14 of the Core Strategy and Policy DM9 of the Allocations and Development Management Development Plan Document (DPD).

### **Provision of Affordable Housing**

Core Policy 1 of the Core Strategy states that the District Council will seek to secure 30% of new housing provision as affordable housing on all housing proposals of 10 or more dwellings or on sites of 0.4 ha or above (irrespective of dwelling numbers) inside the Newark Urban Area. However, an order of the Court of Appeal dated 13 May 2016, gave legal effect to the policy set out in the written ministerial statement of 28 November 2014 which required that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area). In this case, the floorspace exceeded 1,000 square metres prior to the submission of amended plans to remove the detached garages from the scheme. However the revised overall floorspace is now 999.67m<sup>2</sup> and it is no longer considered reasonable to seek a contribution towards affordable housing provision in this instance.

### **Impact on Residential Amenity**

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The application site includes part of the rear garden area of No. 6 Wetsyke Lane and No. 94 Main Street. Both of these gardens are over 30 metres in length and it is not considered that any adverse impact upon these dwellings would result. For the same reason, it is not considered that any adverse impact would result upon the amenity of the occupiers if any other properties which share the east boundary of the application site.

The frontages of dwellings to the south of the application site are separated from the application site by Steeles Drive. It is considered that the separation distances proposed are sufficient so as not to cause any adverse impact upon amenity.

The garden of 88b Main Street is located immediately to the west of the site. Overall, it is not considered that the proposed development would create an overbearing impact upon the occupiers of No. 94 given the large size of the garden and distance of more than 25 metres to the dwelling itself.

Access to the site would be past the apartments within the Old Hall. Given that this access is/would be shared by the occupants of the apartments themselves, it is not considered that any adverse impact upon amenity would result.

Having carefully assessed the scheme I am satisfied that the proposal would have no significant detrimental impacts upon the amenity of future occupiers of the proposed dwelling or dwellings adjacent to the application site in accordance with the Policy DM5 of the DPD.

### **Impact on Ecology and Trees**

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

A Protected Species and Ecology Survey (by Scarborough Nixon Associates March 2014) was submitted with the application (and is the same survey submitted with the extant outline consent 14/01908/OUT). This concluded that *'the mature pine trees on site had features with some limited potential for use by bats. In order to comply with the latest guidelines, further survey work in the active season for bats will be required in order to fully establish the status of the site (including the trees) for bats'*. Notts Wildlife Trust raised no objection to the application at the time due to the further emergence surveys undertaken which confirmed that no bat roosts were identified in the trees or outbuildings, but the ecologist advised as many trees and hedgerows as possible to be retained.

I note that this survey is now considered out of date in accordance with best practice guidance and site circumstances may have changed. However, I also note that the outline planning consent is still extant and that the submitted Tree Survey also includes an assessment on the potential for protected species on site. On this basis, it is not considered essential to request an up to date survey. All trees were considered to have negligible or no roost potential albeit conditions requiring the provision of bat boxes and details of lighting in the interests of maintaining/encouraging biodiversity are recommended. An informative note advising the Applicant of their legal responsibilities in relation to protected species is also advised.

The site contains a number of significant mature trees and an up to date Tree Survey has been submitted with the application. Various tree works have already taken place on site under application no. 17/01408/TPO. All protected trees would be retained as part of the proposed development and the Tree Officer raises no objection to the development subject to the imposition of conditions relating to tree retention/protection and the submission of a landscape scheme.

Overall, the proposed development is unlikely to have an adverse impact upon ecology and it is not considered that the proposed development would result in the loss of natural features of importance in accordance with the aims of Core Policy 12 and Policy DM5. This is subject to conditions requiring mitigation for any loss in the form of a landscape scheme which would include tree and hedgerow planting and reinforcement.

### **Highways and Parking**

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The Highways Officer raises no objection to the proposal subject to conditions relating to the provision of the parking/turning areas and a bin collection point. Whilst the proposals would result in increased traffic movements in and out of the site, these movements are not considered to be so significant as to cause any adverse impact upon highway safety. As such, it is unlikely that the proposed development would result in any adverse impact upon highway safety and the proposals are therefore in accordance with the aims of Spatial Policy 7 and Policy DM5 of the DPD.

### **Drainage and Sewage**

Core Policy 9 requires new development proposals to pro-actively manage surface water. The application proposed the disposal of foul sewage by mains sewer and connection to the existing drainage system, however no specific details have been provided at this stage. As such, it is recommended that a condition be imposed requiring the submission and approval of drainage plans for the disposal of surface water and foul sewage. This would ensure that the development is provided with a satisfactory means of drainage in accordance with the aims of the NPPF and Core Policy 9 of the Core Strategy and Policy DM10 of the DPD.

### **Conclusion**

As a site located within Newark Urban Area, the principle of residential development on this site is considered acceptable. Subject to planning conditions, the proposed development would not result in any adverse impact upon the character and appearance of the Conservation Area or setting of any heritage assets including the Old Hall. In my view, this requirement tips the balance in favour of a development that does not fully comply with the density and housing mix requirement set out in policy. Nor is it considered that the proposal would result in any adverse impact upon residential amenity, highway safety, ecology or any important trees. Subject to the conditions below, the recommendation is for approval.

### **RECOMMENDATION**

**That full planning permission is approved subject to the conditions set out below:**

## **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

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

KS 533 – A106 Rev P4 Proposed Site Landscaping (revised plan received 21.05.2018)

KS 533 – A103 Rev P7 Proposed Site Block Plan and Site Visuals (revised plan received 21.05.2018)

KS 533 – A111 Rev P1 Proposed Plot 1 Dwelling (revised plan received 01.05.2018)

KS 533 – A112 Rev P1 Proposed Plot 2 Dwelling (revised plan received 01.05.2018)

KS 533 – A113 Rev P1 Proposed Plot 3 Dwelling (revised plan received 01.05.2018)

KS 533 – A114 Rev P1 Proposed Plot 4 Dwelling (revised plan received 01.05.2018)

unless otherwise agreed in writing by the Local Planning Authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

Occupation of the proposed dwellings shall not take place until the parking/turning areas shown on drawing KS533-A103 Rev P7 have been provided. The parking and turning areas shall not be used for any purpose other than the parking and turning of vehicles, and shall be retained for the lifetime of the development.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area in accordance with the aims of Spatial Policy 7 and Policy DM5 of the DPD.

04

Prior to the occupation of any dwelling hereby approved, details of a wheelie bin collection point to serve the development shall be submitted to the local planning authority. The wheelie bin collection point shall be located near to but not upon the adopted highway. Once approved in writing by the local planning authority, the wheelie bin collection point shall be provided in accordance with the approved details prior to the occupation of any of the dwellings hereby approved and shall thereafter be retained indefinitely.

Reason: To prevent wheelie bins obstructing the public highway, in the interests of highway safety in accordance with Spatial policy 7 and Policy DM5 of the DPD.

05

Prior to the occupation of the development, a scheme for the provision of external lighting shall be submitted to and approved in writing by the local planning authority. The scheme shall include full details of the locations, design, luminance levels, light spillage and hours of use of, and columns for all external lighting within the site and once approved in writing the approved scheme shall be implemented in full prior to the occupation of development.

Reason: To safeguard the amenity of the area and in the interests of biodiversity in accordance with Core Policy 12 of the Newark and Sherwood Core Strategy DPD (2011) and Policies DM5 and DM7 of the Newark and Sherwood Allocations and Development Management DPD (2013).

06

No building on site shall be occupied until details of bat and bird boxes and/or bricks have been submitted to and approved in writing by the local planning authority. The nest boxes/bricks shall then be installed, prior to occupation of the dwellings hereby approved, in accordance with the approved details and retained thereafter for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of maintain and enhancing biodiversity in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the A&DMDPD.

07

No development shall be commenced until samples of the materials for all aspects of the development identified below have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

Facing materials

Bricks

Roofing materials

For the avoidance of doubt, pantiles shall be natural red clay of a non-interlocking variety.

Reason: In the interests of the character and appearance of the Conservation Area in accordance with the aims of the NPPF and Core Policy 14 of the Core Strategy and Policy DM9 of the DPD.

08

Prior to the construction of walls above the footings, a brick work sample panel showing brick work, bond, mortar mix and pointing technique shall be provided on site for inspection by and subsequent written approval by the local planning authority. The brick work shall be flush jointed using a lime based mortar mix. Development shall thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the character and appearance of the Conservation Area in accordance with the aims of the NPPF and Core Policy 14 of the Core Strategy and Policy DM9 of the DPD.

09

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in accordance with the approved details.

External windows including roof windows, doors and their immediate surroundings, full height glazing, dormers including details of glazing and glazing bars. For the avoidance of doubt, all joinery shall be timber and the use of timber joinery shall be retained in perpetuity.

Chimneys

Treatment of window and door heads and cills

Verges and eaves

Rainwater goods

Any other external accretion including extractor vents, flues, meter boxes, airbricks and soil and vent pipes

Reason: In the interests of visual amenity and in order to safeguard the character and appearance of the Conservation Area in accordance with the aims of the NPPF and Core Policy 14 of the Core Strategy and Policy DM9 of the DPD.

10

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

Class B: Additions etc. to the roof of a dwellinghouse.

Class C: Any other alteration to the roof of a dwellinghouse.

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development of building etc. incidental to the enjoyment of a dwellinghouse.

Class F: The provision or replacement of hard standing within the curtilage of a dwellinghouse.

Class G: The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

Class H: The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse.

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class B: Means of access.

Class C: The painting of the exterior of any building.

Unless consent has firstly be granted in the form of a separate planning permission.



Reason: To ensure that any proposed further alterations or extensions preserve the character and appearance of the Conservation Area in accordance with Policy CP 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

11

No works or development shall take place until a scheme for protection of the retained trees/hedgerows has been agreed in writing with the District Planning Authority. This scheme shall include:

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers.
- c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, surfacing).
- e. Details of working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. Details of any scaffolding erection within the root protection areas
- h. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme.

Reason: To preserve and protect existing trees and new trees which have and may have amenity value that contribute to the character and appearance of the Conservation Area in accordance with Policy CP 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

12

The following activities must not be carried out under any circumstances:

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
- b. No equipment, signage, fencing etc. shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- e. No soakaways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

Reason: To preserve and protect existing trees and new trees which have and may have amenity value that contribute to the character and appearance of the Conservation Area in accordance with Policy CP 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

13

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, hedgerow, shrubs and other plants, noting species, plant sizes, proposed numbers, densities and approximate date of planting). For the avoidance of doubt, new planting should consist of native species only;

details of tree planting pits including associated irrigation measures, tree staking and guards.

car parking layout and materials;

other vehicle and pedestrian access and circulation areas;

hard surfacing materials including bin storage area.

Reason: In order to preserve the character and appearance of the Conservation Area and enhance biodiversity in accordance with Policy CP 14 of the Core Strategy and Policies DM5, DM7 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

14

The approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is soonest or such longer period as may be agreed in writing by the Local Planning Authority. Any trees/shrubs which, within a period of seven years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained and in order to preserve the character and appearance of the Conservation Area in accordance with Policy CP 14 of the Core Strategy and Policies DM5, DM7 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

15

Any clearance works of vegetation (lopped, topped, felled or otherwise removed), shall not be undertaken during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy.

16

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution in accordance with the aims of the NPPF and Policy Core Policy 9 of the Core Strategy and Policy DM10 of the DPD.

### **Note to Applicant**

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/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 hereby approved as the development type proposed is zero rated in this location.

02

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) Order 2010 (as amended).

03

In the event that any bat/s are found during demolition, work must stop immediately. If the bat/s does not voluntarily fly out, the aperture is to be carefully covered over to provide protection from the elements whilst leaving a small gap for the bat to escape should it so desire. The Bat Conservation Trust should be contacted immediately on (0845) 1300228 for further advice and they will provide a licensed bat worker to evaluate the situation and give advice. Failure to comply is an offence under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 which makes it an offence to kill, injure or disturb a bat or to destroy any place used for rest or shelter by a bat (even if bats are not in residence at the time). The Countryside and Rights of Way Act 2000 strengthens the protection afforded to bats by covering 'reckless' damage or disturbance to a bat roost.

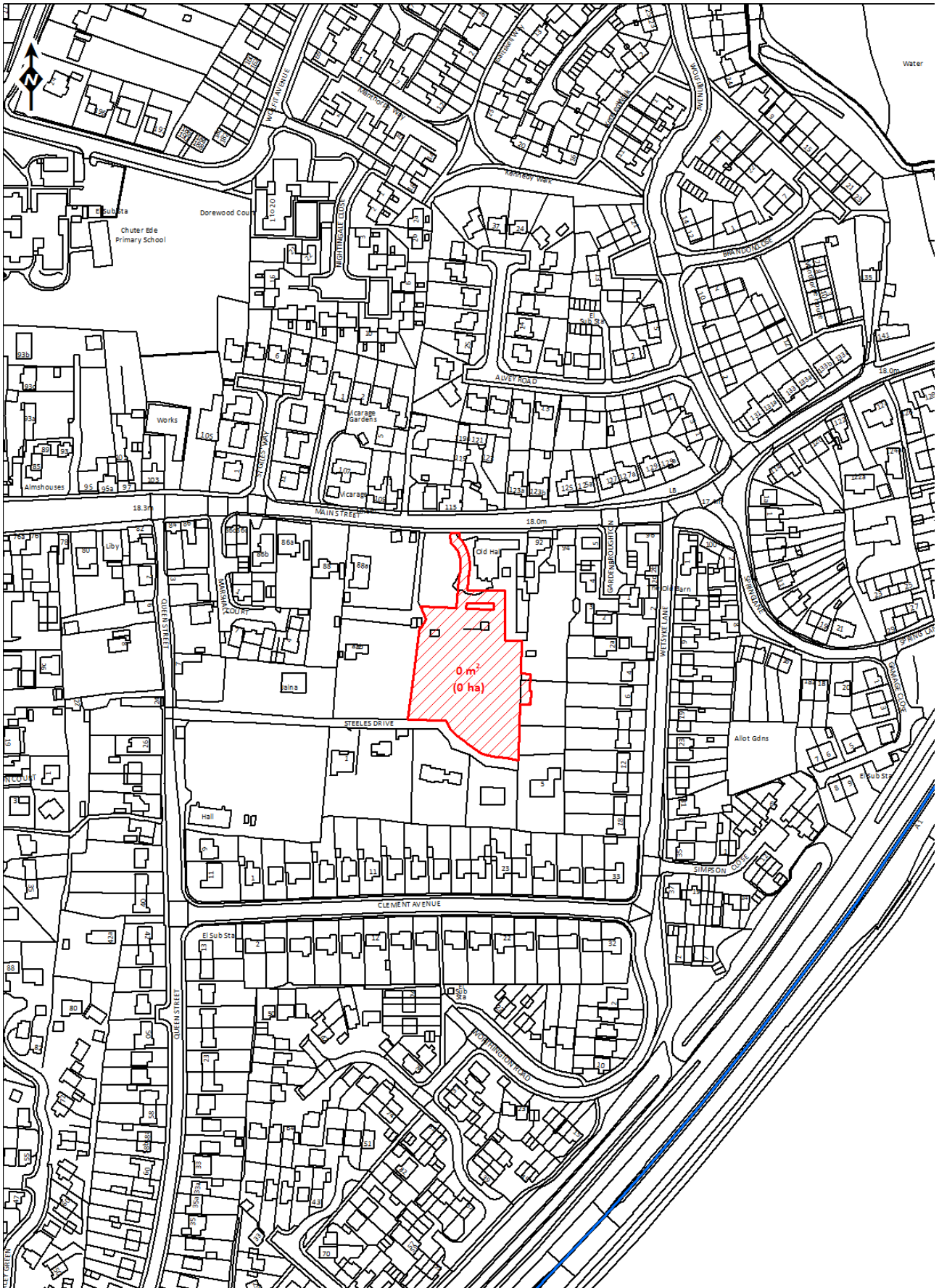
### **Background Papers** - Application Case File

For further information, please contact Helen Marriott on ext. 5793

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth & Regeneration**



## PLANNING COMMITTEE - 05 JUNE 2018

<b>Application No:</b>	<b>18/00501/FUL</b>	
<b>Proposal:</b>	<b>Erection of a new detached dwelling and detached garage</b>	
<b>Location:</b>	<b>Land Adjacent Lime Tree House, Halam Hill, Halam</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Stuart And Christine Butler</b>	
<b>Registered:</b>	<b>09.03.2018</b>	<b>Target Date: 04.05.2018</b> <b>Extension agreed to 07.06.2018</b>

**This application is being referred to the Planning Committee for determination as the Officer recommendation is contrary to that of the Parish Council.**

### The Site

The site comprises a parcel of land to the south of Halam Hill. To the east is a substantial two storey dwelling, Lime Tree House with Radley Terrace to the north-west, a row of two storey dwellings with pedestrian accesses and yards to the rear. To the south is a large open space which, together with the application site, comprises part of the rear garden of Barn Cottage, which is a Grade II Listed Building. The grade I listed church is also south of the application site, across the open garden area of Barn Cottage. The site is a rectangular piece of land with a frontage onto Halam Hill.

### Relevant Planning History

**97/50859** approved a dwelling.

**16/01897/FUL** - Proposed erection of 1no. dwelling – Permitted 21.02.2017 for an 18 month period only.

### The Proposal

The application seeks consent for the erection of a new two-storey dwelling. The main body of the proposed dwelling would have footprint of c.14.4 m by 13.3 m with an additional 5 m x 4.5 m single storey conservatory to the rear (SW) and a 4.3 m x 3.5 m single storey extension to the side (NW). The dwelling is proposed to be 8.8 m to the ridge and 4.9 m to the eaves with a front facing gable to the NE (c.8 m to the ridge, c.5 m to the eaves).

The application also seeks approval for a detached double bay garage c. 6 m by 6.7 m with a ridge height of approx. 6.3 m and eaves of 2.7 m. The garage is proposed to be positioned towards the NW of the site with the dwelling orientated with its principal elevation fronting the highway to the NE positioned towards the SE common boundary with Lime Tree House. The principal elevation will project approx. 3 m further forward within the plot than Lime Tree House directly to the SE.

The accommodation at ground floor would provide a hall, kitchen and family room/day room, lounge, one bedroom and bathroom, a conservatory and a utility room associated with the kitchen. At first floor there are three bedrooms proposed with two shared en-suite bathrooms and a study.

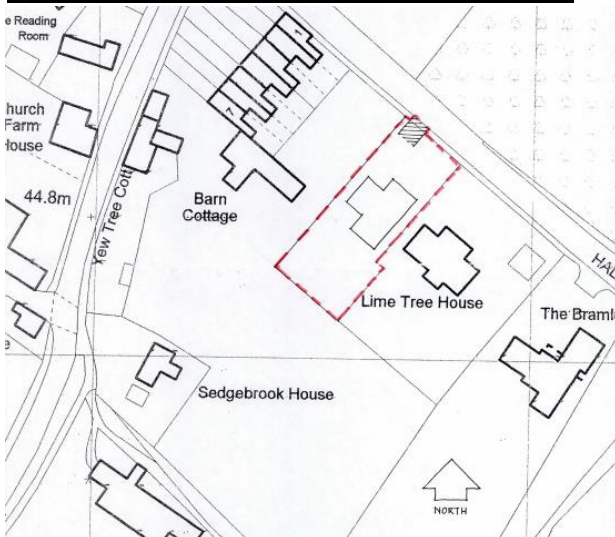
**Materials** – Facing brick with stone cills and flat brick arches to heads of all openings. Clay pantile roof and timber painted or coloured uPVC windows, all subject to confirmation by condition.

**Comparison with 16/01897/FUL** - The current application seeks to amend the level of accommodation proposed within the dwelling, increasing from 3 beds to 4, introduce a garage (which the 2016 approval does not have), re-position the footprint and adjust the red line boundary of the application site to increase the curtilage.

Access is to be taken from the NE boundary of the site on to Halam Hill Road – the access remains the same as that approved under 16/01897/FUL – minimum 2.75 m wide with 0.5 m clearance either side. Any gates are to be set back 5 m from the highway boundary and visibility splays are 2.4 m x 43 m.

The dwelling permitted in 2016 had two floors with accommodation in the roof, ridge height was 6.1 m with 2.6 m eaves. (The dwelling proposed by this application is 8.8 m to the ridge and 4.9 m to the eaves.

### Departure/Public Advertisement Procedure



Block Plan **Approved** under 16/01897/FUL



**Proposed** Block Plan 18/00501/FUL

13 neighbours have been notified by letter.

### Planning Policy Framework

#### The Development Plan

#### **Newark and Sherwood Core Strategy DPD (Adopted March 2011)**

- Spatial Policy 1 Settlement Hierarchy
- Spatial Policy 2 Spatial Distribution of Growth
- Spatial Policy 3 Rural Areas
- Spatial Policy 6 Infrastructure For Growth
- Spatial Policy 7 Sustainable Transport
- Core Policy 3 Housing Mix, Type and Density
- Core Policy 9 Sustainable Design
- Core Policy 14 Historic Environment

## **Allocations and Development Management DPD (Adopted July 2013)**

Policy DM5 Design

Policy DM9 Protecting and Enhancing the Historic Environment

Policy DM12 Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Newark and Sherwood Amended Core Strategy DPD 2017

Spatial Policy 3 Guidance Note SPD

### **Consultations**

**Halam Parish Council** – Halam Parish Council do not support the application- 5 for, 1 abstention  
*“there were no official objections listed, the cllrs all had different opinions -these were some of the comments from cllrs as they were talking, for some it was too big, too large for the plot, would probably be visible over the terrace and some think there is a 106 agreement on part of the land”.*

**Trent Valley Internal Drainage Board** - “The site is outside of the Board’s district but within the extended catchment area. There are no Board maintained watercourses in close proximity to the site. Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.”

**NCC Highways** – “This proposal is for the erection of a single dwelling on land adjacent Lime Tree House. A new vehicular access onto Halam Hill is to be constructed as part of this application, as shown on the block plan/site plan (dwg. 2017/08/02), and has been previously approved under planning application ref. 16/01897/FUL.

The block plan/site plan 2017/08/02 states that the details of the proposed access are to remain the same as previously approved under 16/01897/FUL (site layout plan 16/218-03).

Therefore, there are no highway objections to this application subject to the following:

1. No part of the development hereby permitted shall be brought into use until the access to the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with the approved plan no. 16/218-03. Reason: In the interests of highway safety.
2. No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstruction, structures or erections exceeding 0.6m in height.  
Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.
3. No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than the parking/turning of vehicles. Reason: In the interests of highway safety.

## Note to Applicant

The development makes it necessary to construct a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

A lighting column and a utility pole may require relocating as part of the access works. It should be noted that this will be at the applicant's expense."

Confirmation from Highways received 04/05/2018 – "The current plan, ref. Drawing no. 2017/08/02 is acceptable."

**Cadent Gas** – "Should you be minded to approve this application please can the following notes be included an informative note for the Applicant

### Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) Tel: 0800 688 588"

**NSDC, Access Officer** – "As part of the developer's considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that their attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of visitable, accessible and adaptable, and wheelchair user dwellings. The requirements of a dwelling's occupants can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors' alike as well as meeting residents' changing needs, both temporary and longer term. Similarly, inclusive access improves general manoeuvrability for all including access for those with push chairs and baby buggies as well as disabled people etc.



It is recommended that disabled persons and wheelchair users' access to, into and around the new dwelling be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards with reference to the topography of the site to ensure that they provide suitable clear unobstructed inclusive access to the proposal. In particular, 'step-free' access to and into the dwelling is an important consideration and an obstacle free suitably surfaced firm level and smooth 'traffic free' accessible route clear of parked vehicles is important to and into the dwelling from facilities such as car parking and from the site boundary. It is recommended that inclusive step free access be considered to garden areas, amenity spaces and external features.

Carefully designed 'step-free' approach, ramps, level flush thresholds, generous doorways, corridors etc. all carefully designed to facilitate easy access and manoeuvre throughout are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the dwelling together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations matters."

**NSDC, Legal Service: The following comments were received regarding the 16/01897/FUL application from the NSDC Legal department which have been subsequently reaffirmed within this application** – "I have looked at the original plan on the Agreement dated 9<sup>th</sup> September 1998 and the red line to the North West of Lime Tree House does appear to include the latest 16/01987 application site so the terms of that 1998 Agreement are relevant. Freeths are right in saying that if the LPA were to grant permission under the new application, this would not breach the 1998 Agreement. This is however, not at all unusual and in no sense can it be said that the Council has failed here. The last three lines ("... and in particular etc.") are bespoke to this Agreement but the rest of it is a standard term in most 106s. Owners of land are allowed to apply after 5 years to vary 106s and can appeal any refusal so it would be totally wrong for the Council to try to stop any future development which is subject to due consideration in the course of a new application."

**NSDC Conservation** – "The current proposal is an evolution of an approval for a new dwelling here under 16/01897/FUL and then preapp advice with regards to re-siting it given under PREAPP/00188/17. I had no objection to the principle of a new dwelling in this approximate site and my comments can be found on 16/01897/FUL.

With regards to the repositioning of the house and a revised footprint I repeat here my pre-app comments:

I have no objection to this revised red line and overall new footprint for the new build already approved at this site on Halam Hill.

The area is not a Conservation Area, but Halam is an attractive historic village. In addition the proposed site is next to the Grade II listed Barn Cottage and could also affect the setting of the listed parish church.

From Halam Hill the tall laurel hedge along this stretch prevents any clear vistas to the church that could otherwise be blocked or affected by creating a wider building frontage here. In views from the church the main open area around it would still remain open and this new build would be read against, and absorbed into, existing residential development along Halam Hill. As such I the setting of the church would be preserved by this alteration.

In size the revised footprint of the new build would still remain similar to its modern neighbours at Lime Tree House and The Bramley so wouldn't be out of character in terms of townscape. In footprint the proposed detached garage has been reduced to more in line with that at Lime Tree House and would hold a similar position to that at Lime Tree House.

In terms of impact on the listed building at Barn Cottage I am aware that the proposed new building would now encroach into land to its north east which is currently part of the garden area around it. The wing which faces this garden area is mostly modern, with the core of the historic building having aspects to the south east and south west. The garden area around the building is attractive, but its strongest contribution is the area to the south between the historic part of the cottage and the church, which together with the open space between forms a very attractive and in some ways unchanged composition. The view from the later wing to the north east takes in the rear of the adjacent terraced row and has a more suburbanised character than the views to the south.

Given the later age of the wing most affected, the more suburban character of the aspect this wing and the fact that there is still a good degree of 'breathing space' around this wing, I think on balance the revised footprint would retain the significance of the setting of this listed building.

Since the pre-app advice was given revised elevations have now been submitted. What is now proposed is a substantially more significant house, not just in footprint but in height and also in overall status.

However, when I found the principle of a new house here acceptable in 2016 this did not rely on this being a small bungalow as approved. I note that the design of what is submitted now is not dissimilar to the house adjacent at Lime Tree House (although it would be good to compare heights or see a street scape), and so I feel it can be accommodated here without harm to the overall townscape. Maintaining a consistent wall and hedge boundary to the front will help in assimilating this proposed new build.

Given that the proposed new build here will not stand out in townscape terms (noting first my desire to confirm similar overall heights to Lime Tree House), and given the comments about the impact of repositioning the building, given above, I do not think the enlarged elevations or detached garage will have any negative impact upon the setting of the nearby listed buildings.

Subject to confirming comparable heights to Lime Tree House I have no objection to this revised application which I believe will not harm historic Halam and will meet the test of causing no harm to the setting of the listed buildings, as laid out in S66 of the Planning (Listed Building and Conservation Areas) Act 1990."

*Having seen the plans provided detailing the height comparison between the proposed dwelling and Lime Tree House the conservation officer has confirmed that they are happy with the comparable height which is not considered to unduly impact the character and appearance of Halam or the setting of the listed buildings.*

**Representations have been received from 1 local resident/interested party to the scheme and can be summarised as follows:**

- Nature and scale of the new proposed dwelling is significantly different from that approved under 16/01897/FUL but the Design & Access Statement are the same and refer to the previous justification.

- Disingenuous statements made in the D&A statement, previous dwelling was single storey to cater for the applicants' deteriorating health needs but now the proposal is for a two storey 5 bedroom dwelling.
- Proposed dwelling is close to the existing dwelling on the land.
- Overbearing scale and position relative to Barn cottage and the surrounding environment. Proposal will impact the amenity of future residents of Barn Cottage.
- Site levels differ on the site and surrounding land which will impact neighbouring amenity and dominate Barn Cottage.

### Comments of the Business Manager

#### Five Year Land Supply of Housing

The Council's position is that it can demonstrate a 5 year housing supply. Following the allowed appeal at Farnsfield in 2016 where one Inspector concluded we did not have a five year housing supply, in order to address its housing requirement the Council, as it is required to do under the NPPF for both objectively assessed need (OAN) and under the Duty to Cooperate, produced a Strategic Housing Market Assessment (SHMA). The SHMA has produced an OAN for NSDC of 454 dwellings per annum (using 2013 as a base date). Moreover, this Council has now had its Plan Review DPD Examined (EIP). It is acknowledged that the OAN and consequently housing target for the District cannot attract full weight until after examination of the Development Plan. However, the OAN and issues around delivery have moved on considerably, with the EIP Inspector not raising any additional matters. This position has also been confirmed by a recent (August 2017) appeal hearing decision which has accepted that this Council has a 5 year housing land supply against a target of both 454 and 500 dwellings per annum. Even on a 550 OAN the Inspector in that case concluded that any shortfall would most likely be made up by windfall schemes. More recent appeal decisions have also confirmed that this Council has a 5 year land supply.

Given this position the Council considers that limited weight should now be attached to the Farnsfield Inspector's decision from 2016. To the contrary the OAN of 454 remains robust and against this it is considered that there is a 5 year housing land supply. Consequently, the policies of the Development Plan are up-to-date (also having regard to the PAS review of the Core Strategy Policies and in attaching weight to the fact that the Allocation and Development Management DPD Policies were independently examined and found sound post NPPF adoption) for the purpose of decision making.

### Principle of Residential Development

#### *Extant Permission*

I note that in the site history for this application site that there is an extant permission for the erection of a dwelling (16/01897/FUL), this application seeks to amend the level of accommodation proposed within the dwelling, include a garage (which the 2016 approval does not have), re-position the footprint and adjust the red line boundary of the application site to increase the curtilage. The extant permission has a similar and overlapping position on the site to that proposed within this application. I note that a reference has been made in the D&A to revoking this application if consent is granted for the revised location. I note that the 16/01987 application was granted on 21.02.2017 with an 18 month time period for implementation, meaning that the permission expires 21.08.2018, given the positioning of the dwelling within this application overlaps that approved under 16/01987 it is not necessary for the revocation of this permission given both permissions would not be able to be implemented simultaneously.

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running through both plan making and decision taking. This is reflected at the development plan level under Policy DM12 of the Allocations and Development Management 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 residential development to the sub-regional centre, service centres and principal villages, which are well served in terms of infrastructure and services.

The Core Strategy outlines the intended delivery of growth within the District including in terms of housing. Spatial Policy 1 sets out a hierarchy which directs development toward the Sub-regional Centre, Service Centres and Principal Villages before confirming at the bottom of the hierarchy that within 'other villages' in the District, development will be considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas).

The proposal site is located within the built settlement of Halam which is located within the Rural Area and therefore Spatial Policy 3 applies. Spatial Policy 3 of the Adopted Core Strategy states that an application for new housing would be considered against the 5 criteria - Location, Scale, Need, Impact, Character.

I am mindful of the proposed changes to SP3 as part of the on-going plan review, some of which can now be afforded weight in the decision making process. The Amended Core Strategy and evidence base documents were submitted to the Secretary of State on 29th September 2017, with the examination undertaken in February 2018. For the purposes of paragraph 216 of the NPPF (stage of preparation, extent of unresolved objection and degree of consistency with national policy), it is considered that those areas of the emerging SP3 content not identified in the Inspector's post-hearing notes, satisfy the tests to the extent that 1) it is at an advanced stage, with the Examination taken place in February 2018 with only the modifications to be finalised and consulted upon and 2) there are no unresolved objections to aspects of the policy relevant to this proposal. Accordingly for the purposes of this proposal, I consider that weight can be attached to the emerging policy in the overall planning balance.

Both the extant and emerging Core Strategy confirm that the District Council will support and promote local services and facilities in rural communities. Proposals for new development will be considered against the above five outlined criteria. The outlined criteria relate in many respects to matters which will be considered in further detail below.

The assessment of the proposal against the criteria of SP3 in this case is as follows.

#### *Location*

The site is considered to be within the built up part of Halam. Furthermore, although classed as an "other village" Halam has some local facilities including a pub and primary school, village hall, church and two hairdressers. Halam is also in relatively close proximity to Southwell which provides many services and facilities and the Principal Village of Farnsfield with an hourly bus service to these settlements and to Nottingham and Mansfield.

In taking all of the above points into consideration I find that Halam is a sustainable location where a new dwelling could be supported on a locational basis under SP3 and is in line with paragraph 55 of the NPPF as an additional dwelling which would enhance or maintain the vitality of the rural community. As such it is concluded the proposal complies with the locational criterion of Policy SP3.

### *Scale*

The guidance to accompany SP3 referred to above confirms the scale criterion relates to both the amount of development and its physical characteristics, the latter of which is discussed further in the Character section below. One additional dwelling is considered small scale in numerical terms and as such is unlikely to detrimentally affect local infrastructure such as drainage and sewerage systems. It is also considered one additional dwelling is unlikely to materially affect the transport network in terms of increased traffic levels in volume. Given the size of Halam and the fact the proposal relates to a single dwelling the proposal is considered small scale and therefore appropriate for this settlement.

### *Impact/Access*

These are discussed further below. However, for the reasons set out below it is considered the impact of the proposal on neighbouring properties is acceptable, the scheme is visually acceptable and adequate access could be provided. Impact on character is considered further below.

### *Need*

Policy SP3 provides that new housing will be supported where it helps to meet identified local need. In support of the application the Design & Access statement states that "In their retirement, and due to poor health, the Applicants require bedroom accommodation at ground floor level. This cannot be achieved in their longstanding family home (Barn Cottage – west of the application site). The proposal will allow the applicants to move into more suitable accommodation without leaving their local community, by providing a dwelling with all primary accommodation at ground floor level, but with additional bedrooms at first floor level, to enhance the overall standard of accommodation. It is intended that one of the bedroom suites will have the flexibility to provide occasional accommodation for an overnight carer if and as required in the future." I note the concern raised from a local resident that the D&A makes disingenuous statements, stating how the previous dwelling was supposed to be single storey to cater for the applicants' deteriorating health needs but now the proposal is for a two storey 5 bedroom dwelling. Whilst I appreciate these comments I note that the proposed new dwelling is a four bedroom property, an increase in one bedroom from the approved 2016 proposal.

The D&A Statement goes on to state "Not only will the proposal meet the applicants' own current and future accommodation requirements and contribute to addressing the Council's five-year housing land supply, it will also result in the release of a good quality, family-sized home back into the District's rural housing stock. This will offer the opportunity for a new family to move into the village to help sustain and enhance local services and facilities in Halam and surrounding villages, and represents a much more efficient use of the District's rural housing stock in line with the Government's most recent housing agenda and initiatives.

By its very nature (allowing longstanding elderly residents to remain in the village by providing more suitable accommodation), the proposal also aligns with the Halam Housing Needs Survey 2012. In addition, the proposal will also contribute to the Council's annual requirement for self-build dwellings, a sector which the Government is actively seeking to encourage and support. The proposal will also bring local employment opportunities to the area during the period of construction."

In this statement the Agent alludes to the 2012 Halam Housing Needs Survey which relates to the provision of enabling long term residents to remain in the village. The property would also be a self-build project.

I am however mindful of the proposed changes to Policy SP3 as part of the plan review which given its recent examination can be afforded some weight (as set out in the principle of development section above). This states that new housing will be considered where it helps to support community facilities and local services. Supporting text to this revised policy states that this policy requires applicants to demonstrate the services it will support and the housing need within the area.

I consider the proposed dwelling likely to support community services and facilities including the pub and primary school, village hall, church, two hairdressers and the local bus services. I am therefore satisfied in this instance that the proposal would accord with the need element of policy SP3 when attaching weight to the emerging Spatial Policy 3.

#### Impact on Visual Amenity and Character of the Area

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 mirrors this.

The proposal seeks to erect a dwelling adjacent to the side elevation of Lime Tree House (c.6 m). The dwelling would provide accommodation over two floors but would be of a modest height and proportions with a gable to the front and ridge line running through. There is a mix of buildings in the locality and no one defining style of dwelling. It is considered the proposal would be visually acceptable on the site. It is noted the dwelling would fill the majority of the width of the site but the massing of the property would reduce the visual impact, there is sufficient land around the dwelling to provide adequate amenity space and the proposal would not result in a cramped form of development.

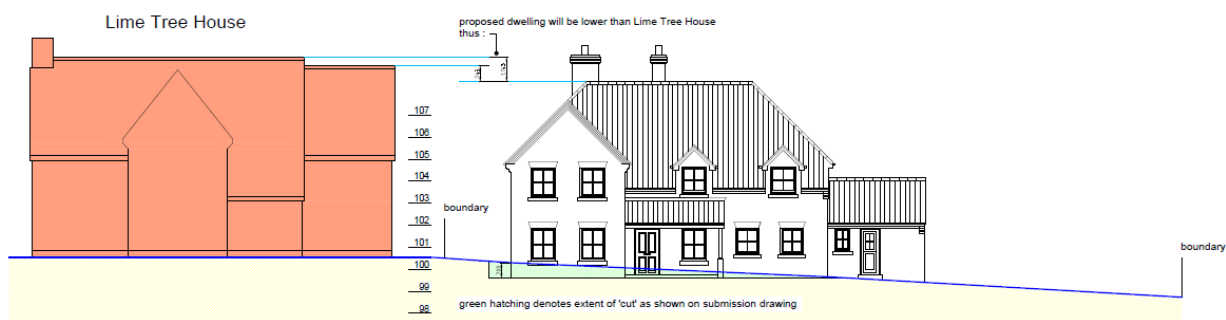
The proposal would be located close to a grade II listed building, Barn Cottage. The grade I listed church is also south of the application site, across the open garden area of Barn Cottage. The proposal has the potential to affect the setting of the listed cottage and potentially also the church.

In relation to the potential impact on the setting of the church the proposed dwelling would be sited some distance from the church (80 m NE). The proposal would not obstruct any of the principal views of the church, and the visual and spatial relationship of the church within the wider street scene would be retained, where it would continue to be seen as a local landmark within the general confines of the village and surrounding area. The proposed new house would not encroach upon the pleasant open areas immediately around the church but would be seen in the context of the general domestic scale development of the wider village. It is not considered the dwelling would be intrusive or out of character and with the distance between would be considered to preserve the setting of the listed church.

To the east of the application site is Barn Cottage, which dates back to the C17. The building is predominantly vernacular in character. While it currently enjoys a very large plot the historic curtilage was much smaller and the surrounding land includes former orchards which have latterly been incorporated into the domestic curtilage of Barn Cottage.

As a vernacular dwelling within the village core it would not be out of character to see other properties within the vicinity of the listed building. The former orchard setting has now been altered and two new houses have already been built adjacent to the application site on Halam Hill. The overall density and scale of the new building reflects that of the surrounding area and the proposed dwelling would preserve the setting of the listed Barn Cottage.

In size, the revised footprint of the new dwelling would still remain similar to its modern neighbours at Lime Tree House and The Bramley so wouldn't be out of character in terms of townscape. In footprint, the proposed detached garage has been reduced to more in line with that at Lime Tree House and would hold a similar position to that at Lime Tree House. Plans submitted also detail the comparative height of the new dwelling with Lime Tree House (see below) showing that in relation to the topography of the area, the proposed dwelling would sit lower than Lime Tree House and is considered to be acceptable in this context.



elevation facing Halam Hill (north east ) at 1:100 showing relationship with adjacent property, 'Lime Tree House'

The Conservation Officer has advised that in terms of impact on the listed building at Barn Cottage (W) "the proposed new building would now encroach into land to its north east which is currently part of the garden area around it. The wing which faces this garden area is mostly modern, with the core of the historic building having aspects to the south east and south west. The garden area around the building is attractive, but its strongest contribution is the area to the south between the historic part of the cottage and the church, which together with the open space between forms a very attractive and in some ways unchanged composition. The view from the later wing to the north east takes in the rear of the adjacent terraced row and has a more suburbanised character than the views to the south.

Given the later age of the wing most affected, the more suburban character of the aspect this wing and the fact that there is still a good degree of 'breathing space' around this wing, I think on balance the revised footprint would retain the significance of the setting of this listed building."

The design of what is submitted now is not dissimilar to the house adjacent at Lime Tree House, and so it is considered that the propose dwelling can be accommodated here without harm to the overall townscape. The Conservation officer has advised that maintaining a consistent wall and hedge boundary to the front will help in assimilating this proposed new build, this can be controlled by a suitably worded landscaping condition.

Given that the proposed new build here will not stand out in townscape terms (noting the desire for similar overall heights to Lime Tree House), and given the comments about the impact of repositioning the building, given above, I am of the view that the enlarged elevations and detached garage in comparison to that approved in 2016 will not have any negative impact upon the setting of the nearby listed buildings. In addition, to the NW of the proposed dwelling is a row of terrace properties on Radley Terrace that have projecting linear form towards the SE in the direction of the application site (20 m separation distance). This row of terraces fronts on to Radley Road/Church Lane where the urban grain is tighter knit than on Halam Hill which is generally characterized by larger dwellings within substantial plots, particularly to the SE. Whilst I appreciate this proposed dwelling would be closer to the Radley Terrace properties, the dwelling would assimilate well within the street scene on Halam Hill. In any case, Radley Terrace presents its rear elevation to the propose dwelling site and is separated by an approx. 2 m leylandii hedgerow that further distinguishes the change in urban form here.

In conclusion I believe the proposed dwelling will not harm historic Halam and will meet the test of causing no harm to the setting of the listed buildings, as laid out in S66 of the Planning (Listed Building and Conservation Areas) Act 1990.

The design of the proposed new house is acceptable in scale and form. It also includes some sympathetic architectural detailing, being a nod to local architectural features. Subject to the use of good quality materials this house is acceptable and can be absorbed into the historic grain of Halam, preserving the setting of the adjacent listed Barn Cottage and nearby Church.

Having regard to Policies DM5, DM9 and CP14 and the NPPF it is considered the proposed dwellings would be visually acceptable at this location in terms of the pattern of development and the visual appearance of the dwellings is also acceptable. There would also be no harm to the setting of the adjacent and nearby listed buildings in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Impact on Residential Amenity

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers.

There are no dwellings to the northern side of Halam Hill. To the east is Lime Tree House which has a side elevation adjacent to the proposed dwelling. Although the side elevation of the proposed dwelling would run along this boundary the dwelling is considered to be of an acceptable height with only one window above first floor level on this elevation to serve an ensuite, of which could be conditioned to be obscurely glazed to maintain privacy. The dwelling would project beyond the front elevation of Lime Tree House by approx. 3 m, but not to the point where there would be an overbearing impact. Furthermore, adequate space would remain between the buildings.

To the south and west the rear boundary of the proposed garden would border the remaining garden to serve Barn Cottage with Sedgebrook House a significant distance away. To the west the dwelling would be separated from Barn Cottage by a significant distance and there would be no windows above ground floor level. Although the site is on higher land it is not considered the proposal would have an undue adverse impact on this property.



Also to the west are the rear elevations of Radley Terrace, a number of properties which would be separated by another part of the remaining rear garden of Barn Cottage. The application site is on higher ground than these properties but the combination of separation distance, the absence of first floor windows in the proposed side elevation and the scale of the property would result in a satisfactory relationship.

The proposed first floor windows are limited to the front and rear elevations to serve a bedroom on each elevation. Although this would increase the amount of overlooking to Lime Tree House the impact would be limited and similar to many other relationships in the locality. No other property would be affected.

Taking into account the above considerations it is considered the proposal would not conflict with the amenity criteria under Policy DM5.

### Highway Safety

Policy DM5 seeks to ensure adequate access and parking is provided for development and Spatial Policy 7 relates to sustainable transport.

A new vehicular access would be created onto Halam Hill and the Highway Authority raise no objection. Adequate visibility splays can be achieved and the level of additional traffic generated would be limited. Off street parking and turning can be achieved to an adequate standard within the site given the proposal includes the provision of a two-bay detached garage. Subject to appropriate conditions, the proposal would not result in any highway safety impact and accords with Spatial Policy 7 and Policy DM5.

### History and S106

Reference 97/50859 approved the erection of a dwelling but was subject to a s.106 agreement. This restricted development within the site to a single dwelling with the adjacent area to remain as undeveloped open space. The site the subject of the current application falls within the area restricting development to a single dwelling; Lime Tree House, an existing dwelling, has already been erected within this site.

From assessing the plan contained within the legal agreement and the proposed site plan it is concluded the proposed dwelling would fall within the area covered by the s.106. Legal opinion has been sought and has confirmed the original plan on the Agreement dated 9<sup>th</sup> September 1998 and the red line to the North West of Lime Tree House does appear to include the approved 16/01987 and current 18/00501 application site. As such the terms of that 1998 Agreement are relevant. The applicant has supplied a legal view through Freeths who are considered correct in concluding that if the Local Planning Authority were to grant permission under the new application, this would not breach the 1998 Agreement. The Council's Legal Officer has reaffirmed their statement made in 2016 that this situation is not at all unusual and in no sense can it be said that the Council has failed. The last three lines ("... and in particular etc.") are bespoke to this Agreement but the rest of it is a standard term in most 106s. Owners of land are allowed to apply after 5 years to vary 106s and can appeal any refusal so it would be totally wrong for the Council to try to stop any future development which is subject to due consideration in the course of a new application.

As such it is not considered the development could be soundly or reasonably refused planning permission on the grounds of the legal agreement.

### Planning Balance and Conclusion

There is an existing extant permission for a dwelling on this site which affords great positive weight to the principle of a new dwelling on this site.

The application has been carefully assessed against Spatial Policy 3 Rural Areas of the Development Plan along with the proposed changes to Policy SP3 as part of the plan review which given its recent examination can be afforded some weight, and the NPPF. The dwelling is considered to be sustainably located, small scale, would not result in negative impacts, including highway safety, subject to conditions, is appropriately designed, scaled and sited so as not to detrimentally impact upon the character and appearance of the area or setting of listed buildings or visual amenities of the streetscene, and would support existing facilities within the village.

Turning to residential amenity, it is considered that the site is capable of accommodating a single dwelling without causing adverse impacts including upon the occupiers of neighbouring properties.

A case for local need has been made as part of this application but in any event this now affords less weight in the planning balance when taking into account the emerging SP3 policy on need where new development is acceptable provided it supports existing facilities within the village.

For the reasons stated above, and given the extant permission on the site which is a fall back position, must be afforded great weight, the principal of development in this location is considered to comply with relevant local and national planning policy and is considered acceptable. I therefore recommend that planning permission be granted subject to appropriate conditions.

### RECOMMENDATION

**That full planning permission is approved subject to the following conditions.**

#### **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

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

- Site Location Plan
- Proposed Dwelling Details – 2018/08/01
- Proposed Block Plan and Site Plan – 2017/08/02

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

No development shall be commenced until details of the external materials to be used in the construction of the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details.

Reason: In the interests of visual amenity.

04

No development shall be commenced until details of the boundary treatments to be used in the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details.

Reason: In the interests of visual and residential amenity.

05

No part of the development hereby permitted shall be brought into use until the access to the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with the approved plan no. 2017/08/02.

Reason: In the interests of highway safety.

06

No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstruction, structures or erections exceeding 0.6m in height.

Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.

07

No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than the parking/turning of vehicles.

Reason: In the interests of highway safety.

08

No development shall be commenced until details of the drainage, to include sustainable surface water drainage, to be used in the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details and shall thereafter be so retained for the lifetime of the development.

Reason: To ensure the drainage is appropriate for the site and in the interests of residential amenity and the environment.

09

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

An implementation and phasing plan;

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.

Reason: In the interests of visual amenity and biodiversity.

10

All hard and soft landscape works shall be carried out in accordance with an approved implementation and phasing plan. The works shall be carried out before any part of the development is occupied or in accordance with any approved phasing programme agreed in writing with the Local Planning Authority as part of condition 9.

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

11

No part of the development shall be commenced until details of the existing and proposed ground and finished floor levels of the site and approved building have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

12

The first floor window opening on the south-east side elevation shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

### **Note to Applicant**

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/cil02](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil02)

02

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) Order 2010 (as amended).

03

As part of the considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that the developer's attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of access and facilities for disabled people together with visitable, accessible and adaptable, and wheelchair user dwellings. Occupants requirements can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors' alike as well as meeting residents' changing needs, both temporary and longer term. Similarly, inclusive access improves general manoeuvrability for all including access for those with push chairs and baby buggies as well as disabled people etc.

It is recommended that disabled persons and wheelchair users' access to, into and around the proposal be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards to ensure that they provide suitable clear unobstructed access to the proposal. Depending upon the site topography and practicality to achieve, step-free access to and into the proposal is important and a suitably surfaced firm obstacle-free level and smooth traffic free accessible route is essential to and into the proposal from facilities such as car parking and from the site boundary. Any loose laid materials such as gravel or similar, can cause difficulty for any wheelchair users, baby buggies or similar and should be avoided. It is recommended that inclusive step free access be considered to garden areas, amenity spaces and external features.

Carefully designed 'step-free' approach, ramps, level flush thresholds, generous doorways, all carefully designed to facilitate easy access and manoeuvre on all floors are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the proposal together with suitable accessible WC and sanitary provision etc. It is recommended that the developer make separate enquiry regarding Building Regulation matters.

04

The development makes it necessary to construct a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact Via, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

A lighting column and a utility pole may require relocating as part of the access works. It should be noted that this will be at the applicant's expense.

Background Papers

Application Case File

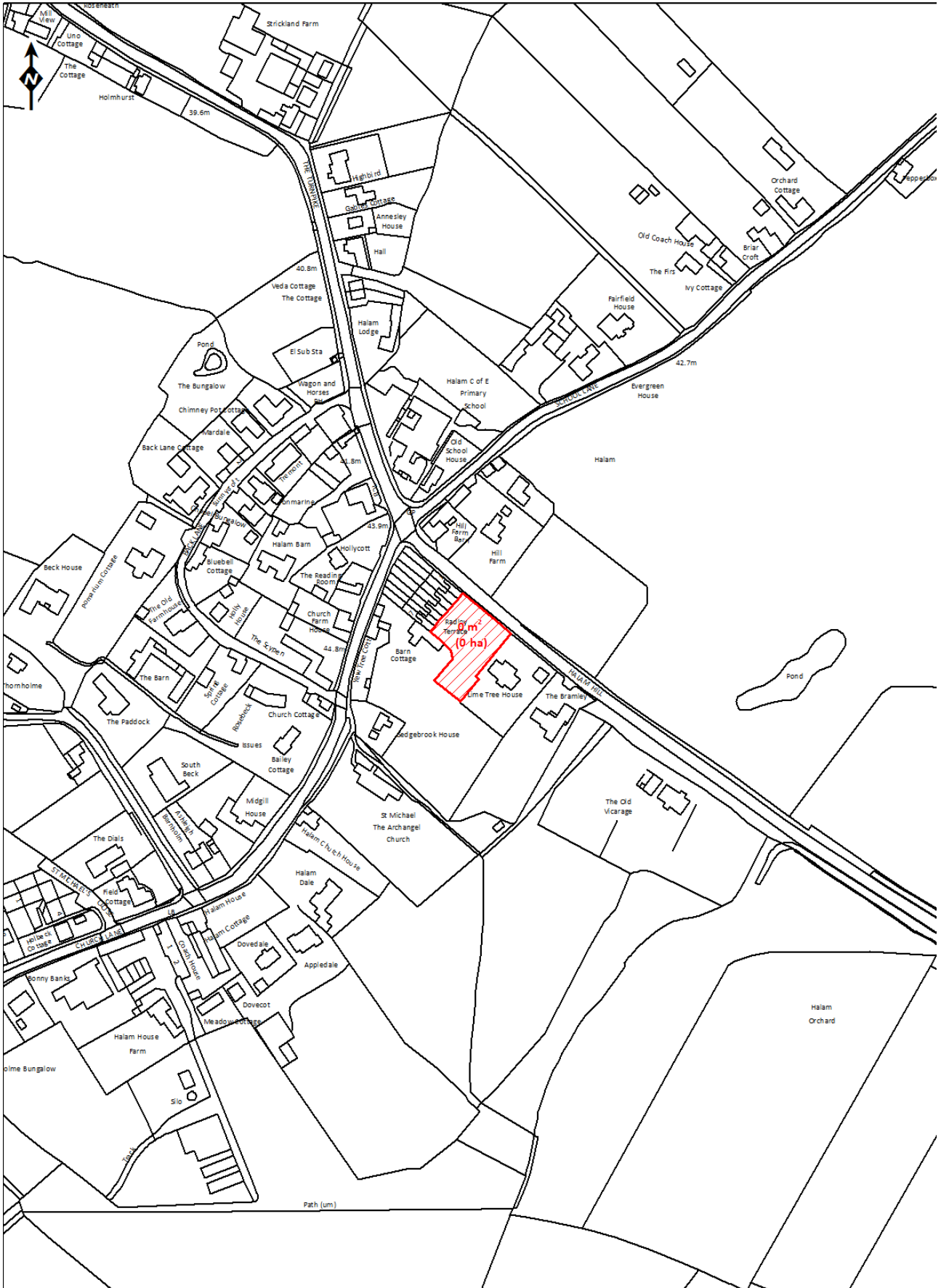
For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth & Regeneration**

Committee Plan - 18/00501/FUL



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## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>18/00591/FUL</b>
<b>Proposal:</b>	<b>Conversion of residential property Use Class (C3 Dwellinghouses) to an 8x bed HMO Use Class Sui Generis (Houses in multiple occupation) &amp; 3 Storey Side Extension &amp; Ground Floor Rear Extension</b>
<b>Location:</b>	<b>7 Bowbridge Road, Newark On Trent, Nottinghamshire, NG24 4BY</b>
<b>Applicant:</b>	<b>Collie Properties Ltd - Rachel Knight</b>
<b>Registered:</b>	<b>3 April 2018</b>
	<b>Target Date: 29 May 2018</b>
	<b>Extension of time: 6 June 2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Newark Town Council object to the application which differs to the professional officer recommendation.**

### The Site

The application site relates to an end terraced dwelling and associated curtilage located on the east side of Bowbridge Road within the urban area of Newark. The adjoining terraced properties are located to the south of the site with further terraced properties located on the opposite side of the road to the west of the site. Woods Court Care Home is located immediately to the north and east of the site.

The site is also located outside of but adjacent to Newark Conservation Area.

Vehicle access and off street parking is available to the side of the dwelling.

### Relevant Planning History

96/50989/FUL New vehicular access to driveway – permission 06.03.1996

### The Proposal

The application seeks full planning permission for the erection of a two storey side extension and the conversion of the existing 3-bed dwelling to an 8 room bedsit house of multiple occupation (HMO). The proposed extension would essentially double the floorspace of the existing dwelling and the extension would have the appearance of an extra terraced dwelling attached to the existing terraced row. Plans indicate that the frontage of the dwelling and ridge height would match the existing dwelling. A total of 8 bedrooms are proposed with communal lounge, dining area, kitchen and bathrooms proposed. A secure cycle park would be provided within an existing outbuilding.

The application is supported by the following document:

- Design and Access Statement



## Departure/Public Advertisement Procedure

A site notice was displayed near to the site on 26/04/2018.

A press notice was published 12/04/2018.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

- Spatial Policy 1 – Settlement Hierarchy
- Spatial Policy 2 – Spatial Distribution of Growth
- Spatial Policy 7 – Sustainable Transport
- Core Policy 3 – Housing Mix, Type and Density
- Core Policy 9 – Sustainable Design
- NAP1 – Newark Urban Area

#### **Allocations & Development Management DPD (adopted July 2013)**

- Policy DM1: Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM5: Design
- Policy DM12: Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- National Planning Practice Guidance PPG
- Newark and Sherwood Amended Core Strategy DPD 2017
- Householder Development SPD 2014

### **Consultations**

**Newark Town Council** – It was decided to OBJECT to this application on the grounds that the development would be over intensive for the site and also the potential traffic impact with the property being in close proximity to the traffic lights. This could cause issues with the increased number of cars having to access/egress the property and also cause an issue with parking. Although some cars could be parked within the boundary of the property, there is the potential that other cars would have to be parked on Bowbridge Road which is already a very congested highway.

**NCC Highways Authority** – This proposal is for the conversion of a residential property, including extensions, to provide an 8 bed house of multiple occupation. At present, vehicles currently park on the driveway adjacent the dwelling. There are parking restrictions along the site frontage (double yellow lines), however, from the adjacent property (No. 9) travelling south along Bowbridge Road there are no restrictions in place and as a result considerable on street parking exists. As such, 4 parking spaces have been provided at the rear of the dwelling.

The existing and proposed site plan (drawing no. 003932) is shown at scale 1:50, however, due to the dimensions on site it is assumed the scale should read 1:100. The construction of a side extension reduces the width of the driveway from 6.4m to 2.9m. This is less than normally required for this number of vehicles. However, having further reviewed the site and its proposed use/occupants, it is considered that in this instance this is not expected to create a significant impact on the public highway.

Therefore, the Highway Authority would not wish to raise objection.

**NSDC Conservation Officer** – 7 Bowbridge Road is situated close to but just outside of the Newark Conservation Area (CA). Newark CA was originally designated in 1968 and encompasses the historic core of the town. The host property is an end terrace to a 19<sup>th</sup> century row with characterful margin light sash windows in the front wall and gable which is visible from within the CA.

Pre-application advice was sought (ref PREAPP/00266/17). The design of the extension in terms of scale and form was given a positive response. However, the Council advised that the new gable wall should ideally reflect the fenestration of the existing building in order to preserve the existing contribution made by the end terrace to the setting of the CA. We are pleased to see that this advice has been followed.

#### Legal and Policy Considerations

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas (paragraph 137).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

## Assessment of Proposal

The proposal seeks permission to extend and alter 7 Bowbridge Road to form 8 bedsits. The extension comprises a two storey addition that mirrors the form and appearance of the existing terrace bays. The general character of the fenestration in the existing gable is carried through into the new gable wall. The new dormer proposed on the rear is not unduly prominent. The proposed materials appear to match in with the existing (precise details should be conditioned in order to ensure that the development takes the form envisaged by the local planning authority).

Conservation therefore has no objection to the proposed development which shall preserve the setting of the CA in accordance with DM9 of the Council's LDF DPD and paragraphs 132 and 137 of the NPPF.

**NSDC Environmental Health (Reactive)** – The proposed HMO would fall within the current mandatory licensing regime. If the scheme were to progress the property would require a license to operate prior to occupation. The property would need to comply with space and amenity standards plus fire safety measures and the applicant must satisfy a 'fit and proper person' test. Initial assessment of the plans would suggest that space and amenity provision/room sizes and facilities would be adequate. Environmental Health would liaise with the applicant to ensure licence condition compliance prior to the issue of a licence.

**NSDC Access Officer** – As part of the consideration of access to and use of the building, with particular reference to access and facilities for all people including disabled people, it is recommended that the developer's attention be drawn to Approved Document M of the Building Regulations which contains useful guidance in this regard.

To this end it is recommended that access to, into and around the proposals be carefully examined from the edge of the site together with provision of suitable accessible facilities and features and that consideration be given their incorporation as far as is reasonably practicable to ensure that the proposals are equally convenient to access and use.

It is recommended that the developer make separate enquiry regarding Building Regulations matters.

### **Neighbours/Interested Parties –**

A total of 6 letters of representation have been received. Main issues raised include:

#### *Character:*

- The scale and size is totally inappropriate for the site;
- The property has significant historical value and is the finest residential property on this part of the road;
- The proposed modifications are unsympathetic.

#### *Amenity:*

- This property is located in a prominent position at the end of Bowbridge Road - is the authority able to review these materials to verify that they do indeed match the existing building and the neighbouring property?
- Impact of kitchen extractor system exiting adjacent the neighbouring property;
- Increase noise levels from increased use of building. Sound insulation should be added to party walls;

- The style of accommodation is similar to a hostel with a high turnover of occupiers. This type of development being within such close proximity of families with young children and two residential care homes on Bowbridge Road would be highly inappropriate due to the potential of antisocial behaviour, particularly if these rooms were not managed by an agency;
- Natural light that is received on the opposite side of Bowbridge Road would be completely blocked out.

#### *Highways:*

- There is insufficient parking at this end of Bowbridge Road. 8 additional people would make this situation worse;
- The possibility of up to 16 people living in a very confined space next to a busy main road would be very detrimental to road safety;
- Parking restrictions towards the crossroads means that there are limited options for the residents of this property to park on the road without inconveniencing neighbours;
- 4 off street parking spaces in insufficient;
- Danger to pedestrians and cyclists.

#### *Other:*

- The building should only be used as stated in the proposal;
- Vent should be clearly marked;
- Height of extension should be marked on the plans;
- Can mains services support the proposed occupancy level?
- Construction noise, working hours, dust, mud, parking and traffic;
- Increased litter;
- Reduced property values;
- An approval would set a precedent for future applications;
- This is simply an attempt to make profit on a property;
- Forthcoming Severn Trent Water works alongside this development will exacerbate disruption to residents.

#### Comments of the Business Manager

##### **The Principle of Development**

The site is located within the Newark Urban Area as set out in the Settlement Hierarchy defined by Spatial Policy 1. New housing and employment growth should be focused in this area as it is considered to be a sustainable location for new development.

As such, a house of multiple occupation including its extension in this location is considered acceptable in principle within the urban area of Newark subject to an assessment against site specific criteria set out below.

##### **Impact upon Visual Amenity including the Character and Appearance of the Conservation Area**

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping.

In relation to the site's location adjacent the Conservation Area, the local planning authority must have regard to the desirability of preserving or enhancing the character and appearance of the area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Core Policy 14 of the Core Strategy and Policy DM9 of the DPD requires continued preservation and enhancement of heritage assets. Local planning authorities need to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas and their setting. The NPPF states 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 part of Bowbridge Road is a predominantly residential area and contains a distinct style of dwellings in the form of terraced dwellings set along a straight building line close to the highway. The existing dwelling is considered to be a positive building contributing to the setting of the Conservation Area.

Whilst the proposal would not be a householder development as it relates to the change of use to a HMO, it is still considered appropriate to assess the proposal against the principles set out within the Householder SPD. Extensions to dwellings should ordinarily be subordinate to the host dwelling. Extensions must also respect the wider street scene and in this case the setting of the Conservation Area. In this case, the submitted plans do not indicate an extension which would be subordinate to the host building. Rather, it comprises a two storey addition that mirrors the form and appearance of the existing terrace bays. Given the uniformity of the dwellings in the street scene, it is considered in this case that the most appropriate form of addition to this building is to replicate the addition of a further terraced dwelling as the submitted plans indicate. This is also in accordance with the advice received from the Conservation Officer.

The existing end gable of the dwelling in particular is considered to be a positive element of the building. As such, it is important that this gable end be reflected in the new extension. The existing fenestration has been replicated in the extension which preserves the existing contribution made by the end terrace to the setting of the Conservation Area. The Applicant has confirmed that they intend to re-use the existing historic fabric including bricks and window lintels and cils where possible. Otherwise, the proposed materials would match the existing dwelling. **It is recommended that precise details be required by planning condition in order to ensure that the development takes the form envisaged by the local planning authority.**

The use of the site as a HMO does have the potential to impact on visual amenity, particularly as the increased number of occupants may necessitate the need for increased bin storage. However, I note that the submitted plans do include the provision of a wheelie bin storage area to the rear of the site in addition to the provision of a cycle storage shed which would not be prominent in the street scene. The loss of the small outbuilding to the rear of the site to accommodate the bin storage area is also considered to be acceptable in addition to the new dormer proposed on the rear which would be not unduly prominent.

The Conservation Officer therefore has no objection to the proposed development which is considered to preserve the character and appearance of the adjacent Conservation Area.

Overall, I agree with the views of the Conservation Officer and I am satisfied that the proposal would not result in a development which would be detrimental to the visual amenity or character of the area including the setting of the Conservation Area in accordance with Core Policy 9 and 14 of the Core Strategy and Policies DM5 and DM9 of the DPD.

### Impact on Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that the vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The site is located in a sustainable location and is walking distance to Newark Town Centre and bus and train links. The future occupiers of the house need not therefore rely on the use of a private car. The Highways Authority note the parking restrictions along Bowbridge Road however, they raise no objection to the proposal on the basis that 4 off-street parking spaces are proposed. It is considered appropriate to impose a condition requiring the provision and retention of these spaces on this basis. The occupants of this type of development are less likely to be car owners and are more likely to be users of public transport particularly when taking into consideration of the location of the development which is within walking distance of Newark Town Centre.

It is not therefore considered that the proposal would result in any significant parking or highway safety issues (above and beyond any existing issues). Overall, the proposed development would not result in any adverse impact upon highway safety in accordance with Spatial Policy 7 and Policy DM5.

### Impact upon Residential Amenity

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers. Indeed 'always seeking to secure a good standard of amenity for existing and future occupants of land and buildings' is one of the 12 core planning principles set out in the NPPF.

Given the end terrace siting of the proposed extension and separation distances, it is considered unlikely that the amenity of Woods Court would be adversely affected by the proposal.

No. 9 Bowbridge Road is the adjoining terraced property to the south. There is potential for increased levels of overlooking towards the rear garden of No.9 by virtue of the introduction of the rear dormer window. However, it is not considered that the increased levels of overlooking would be significantly worse than existing levels of overlooking experienced from this rear garden area. Nor is it considered that the scale of the proposed ground floor rear extension/cycle store would result in any adverse impact upon the neighbour by virtue of any overbearing impact. I note the concerns raised in relation to the extractor fan being located close to the neighbour. This is also a matter controlled by non-planning legislation and the Environmental Health Officer has raised no objection in this regard. In any event, the fan appears domestic in scale and it is considered unlikely that any adverse noise impact would result.

A further impact of this proposal relates to the increased comings and goings resulting from the potential increase in the number of occupiers of the dwelling resulting from the proposed change of use to a HMO. The size of the building means that 8 bedrooms can be provided. The comments of the Environmental Health Officer are set out in the Consultations section above. They have confirmed that a licence would be required to operate the HMO and the property would need to comply with space and amenity standards plus fire safety measures and the applicant must satisfy a 'fit and proper person' test. Subject to compliance with these requirements, it is considered unlikely that the proposed use would adversely affect the amenity of the occupiers of adjacent dwellings by virtue of any increased noise levels and disturbance beyond existing levels.

Overall, the change of use is unlikely to have a detrimental effect on the occupiers of adjacent properties by virtue of the nature of the use proposed.

A communal paving/lawn/amenity space is provided to the rear of the building albeit I consider it likely that the majority of this space would be used as vehicle manoeuvring space. Whilst the amount of space provided is less than what would ordinarily be considered acceptable for a typical dwelling, I am able to attach weight to the fact that this is for a HMO which means that the units are likely to be occupied by individuals rather than families and the site is located in a sustainable position close to alternative public open space provision within the town centre.

Subject to conditions, I am therefore satisfied that the proposal would comply with the objectives of Policy DM5.

### **Other Issues**

Matters arising from the construction period, developer profits, property values, littering and precedent are not considered to be material planning considerations in this instance.

In addition, matters controlled by non-planning legislation e.g. building control and licensing is also not a material planning consideration. The proposals would also be subject to mandatory HMO licensing by this authority and an informative note advising the Applicant of their requirements would be attached to the decision in this regard.

### **Conclusion**

The application relates to the change of use and extension of a dwelling to form a HMO close to the town centre of Newark. The proposed extension replicates the addition of a further terraced dwelling on the end of the row of existing terraces which is considered to be in keeping with the character of the area and the character and appearance of the adjacent Conservation Area. The proposed use is considered to be compatible with the surrounding uses and would not result in any adverse impact upon visual amenity, residential amenity or highway safety.

The proposal is therefore recommended for approval subject to the conditions outlined below.

### **RECOMMENDATION**

**That planning permission is approved subject to the conditions shown below:**

#### **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

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

003931 Proposed First and Attic Floor Plans

003918 Existing Floor Plans  
003934 Existing Elevations  
003932 Existing and Proposed Site Plans  
003930 Proposed Basement and Ground Floor Plans  
003933 Proposed Elevations

Reason: So as to define this permission.

03

No development shall be commenced until details of the re-use of materials and samples of all new materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority. For the avoidance of doubt, historic fabric including bricks, window lintels and cills should be used where possible.

Facing materials  
Bricks  
Roofing tiles

Reason: In the interests of visual amenity and in order to preserve or enhance the character and appearance of the conservation area.

04

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.

Treatment of all window and door heads and cills (including bay window)

Verges and eaves

Reason: In the interests of visual amenity and in order to preserve or enhance the character and appearance of the conservation area.

05

No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than parking/turning of vehicles.

Reason: In the interests of highway safety.

06

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Once approved in writing the development shall be completed in accordance with the approved details prior to first occupation of the building as a HMO.



Reason: In the interests of visual amenity in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (2013).

### **Notes to Applicant**

01

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) Order 2010 (as amended).

02

The applicant is advised that all planning permissions granted on or after 1 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 hereby approved as the development type proposed is zero rated in this location.

03

The Housing Act 2004 introduced a mandatory licensing scheme for larger HMOs to improve controls and conditions within these high risk dwellings. The HMO subject of this application will require a license from the council. As such, I would advise you to contact the Council's Environmental Health team on Tel: 01636 650000 for further advice and to apply for a licence in advance of commencing development.

### Background Papers

Application Case File

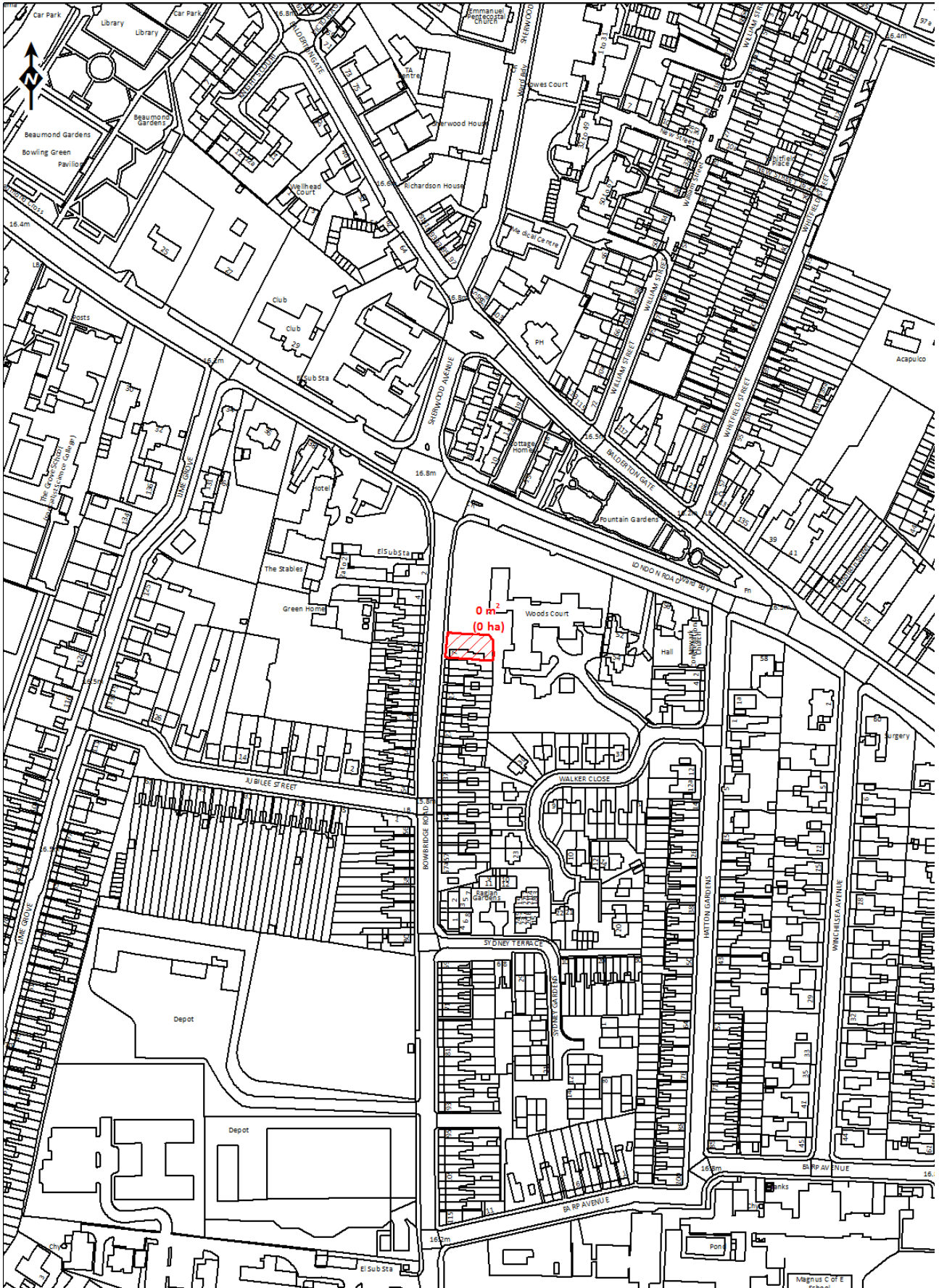
For further information, please contact Helen Marriott on ext 5793.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager - Growth & Regeneration**

Committee Plan - 18/00591/FUL



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## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>18/00669/FUL</b>	
<b>Proposal:</b>	<b>Householder application for a single storey pitched roof extension to the north of Bechers Cottage, conservation roof lights to new and existing roof slopes. (Resubmission of 17/01787/FUL)</b>	
<b>Location:</b>	<b>Bechers Cottage, Bechers Walk, Burgage Lane, Southwell, NG25 0ER</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Illesley</b>	
<b>Registered:</b>	<b>6 April 2018</b>	<b>Target Date: 1 June 2018 Extension: 8 June 2018</b>

**This application is presented to the Planning Committee for determination as it has been referred by Cllr P Rainbow on behalf of Southwell Town Council.**

### The Site

The site is located within the defined built up urban area of Southwell and within Southwell Conservation Area. The application relates to a dwelling which is a single storey converted building in the grounds of the large Grade II listed Hill House. The building is considered to be curtilage listed. The proposal is for a single storey garden room extension to the existing dwelling.

Becher's Cottage is located off Becker's Walk in Southwell and Hill House is accessed from Burgage Lane to the east of the town centre. The east and west boundaries are formed by public footpaths, Shady Lane and Becher's Walk respectively. The character in this area of Southwell is typically private residential and the site lies within the Southwell conservation area. The site is within Flood Zone 1 and at low risk of flooding. The site is adjacent to but not within the Historic Town Centre boundary, as defined by the Southwell Neighbourhood Plan.

### Relevant Planning History

**17/01787/FUL** – Householder application for single Storey pitched roof extension to the north of Bechers Cottage with flat roof and glazed link. – Refused by Planning Committee 18.01.2018 for the following reasons:

01 - In the opinion of the Local Planning Authority, the proposed extension by virtue of its siting, orientation, scale and design would result in harm to the setting of the Grade II Listed Building, Hill House and the character and appearance of the wider Southwell Conservation Area. There is no identified public benefit resulting from the proposed development which would outweigh the perceived harm of the proposal. The proposed development therefore fails to accord with Core Policy 14 of the Core Strategy, Policy DM9 of the DPD, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') and paragraph 134 of the NPPF, a material consideration.

02 - In the opinion of the Local Planning Authority, by virtue of its scale, orientation and siting in close proximity to the shared boundary with the adjacent dwelling to the north, Garden Lodge, the proposed extension would be detrimental to the residential amenity of occupiers of this property by reason of overshadowing and overbearing impact to the small private amenity area and south facing windows.

As such the proposal is contrary to the aims of policies DM5 and DM6 of the Newark and Sherwood Allocations and Development Plan Development Plan Document, which are compliant with the intentions of the NPPF, and which seek to ensure development is not harmful to the amenity of neighbouring properties. (FUL)

**17/02137/LBC** - Single Storey pitched roof extension to the north of Bechers Cottage with flat roof and glazed link. – Refused by Planning Committee 18.01.2018 for the following reason:

In the opinion of the Local Planning Authority, the proposed extension by virtue of its siting, orientation, scale and design would result in harm to the setting of the Grade II Listed Building, Hill House and the character and appearance of the wider Southwell Conservation Area. There is no identified public benefit resulting from the proposed development which would outweigh the perceived harm of the proposal. The proposed development therefore fails to accord with Core Policy 14 of the Core Strategy, Policy DM9 of the DPD, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') and paragraph 134 of the NPPF, a material consideration.

**10/00281/FUL** - Erection of single storey extension, internal and external alterations to outbuilding to form dwelling – Refused April 2010 (Appeal Dismissed)

**10/00282/LBC** – Erection of single storey extension, boundary wall and alterations to fenestration and internal layout – Refused April 2010 (Appeal Dismissed)

**10/01048/FUL** – Conversion and extension of redundant implement store and workshop outbuildings to form single dwelling and erection of boundary wall – Permitted September 2010

**10/01049/LBC** - Internal and external alterations, erection of single storey extension and boundary wall – Permitted September 2010

**18/00670/LBC** - Erection of single storey pitched roof extension to the north of Bechers Cottage, conservation roof lights to new and existing roof slopes (Resubmission of 17/02137/LBC) – pending consideration.

### The Proposal

The proposal seeks full planning permission for the erection of an extension at the northern end of the property set back approx. 2.3 m from the unmarked ownership boundary with the dwelling, Garden Lodge, to the north.

The extension will enlarge the northern half of the property projecting towards the east off the existing bedroom. The gabled projection will be set in approx. 5.4 m from the northern side elevation and project out 7.8 m in length, 4.5 m wide. The western side of the extension will form a garden room and walk in wardrobe for the master bedroom, this will have a ridge height of c.4 m (eaves 2.8m) and the eastern portion of the extension will house a study and a bathroom, this is proposed to have a ridge of 2.8 m (eaves 2.2m) the differing levels are reflective in the change of topographic slope on the site. The two roofs are proposed to be hipped and the store roof to the north is proposed to continue down to 1.5 m eaves height.

2. no conservation style rooflights are proposed to be inserted into the western facing sloop of the existing dwelling. 1 no. conservation style rooflights are proposed to be inserted in the east facing roof slope of the existing bedroom along with a double paned full height window. A small window is also proposed to serve the bathroom on the east facing side elevation of the extension.

Folding doors are proposed on the south elevation along with 2 conservation style rooflights in the southern facing roof slope. One window is proposed to serve the study on the south elevation. There are no windows to the north elevation or roof lights to the north facing roof slope. A set of timber doors are proposed on the north elevation to serve the external store.

The extension is to be constructed in matching clay facing brick and bond and the pitched roofs to be covered with Welsh slate incorporating conservation style rooflights. The windows are proposed to be painted softwood apart from the aluminium sliding door to the garden room and the conservation style rooflights to the slopes.

Floor levels decrease to the east of the site.

Externally a new paved area is to be provided to the south of the extension with level access to the new door openings. To the north a timber post and trellis is proposed to be erected with a section of wall c. 1.62 m high separating the neighbour's store and the application host building.

***Amendments from the 2017 application:*** The form of the building has been altered to reflect the historic character of the outbuildings on the site. The roof forms have been simplified and hipped to reflect the dominant hipped roofs within the surrounding area, conveying the character of Hill House and the outbuildings within the site. The extension has been pulled further south (by c.1.6 m) to separate it from Garden Lodge to the north – the extension is now 2.3 m away from the common boundary at its farthest point and 1.3 m at its closest. The northern boundary is now proposed to be defined with a low dwarf wall as other areas of the Hill House site with trellis fencing and soft landscaping proposed to provide more privacy.

#### Public Advertisement Procedure

14 neighbours have been notified, a site notice has been displayed near to the site and an advert has been placed in the local press.

#### Planning Policy Framework

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

*Southwell Neighbourhood Plan (made 11 October 2016)*

Policy SD1 - Delivering Sustainable Development

Policy DH1 – Sense of Place

*Newark and Sherwood Core Strategy DPD (adopted March 2011)*

Core Policy 9: Sustainable Design

Core Policy 13: Landscape Character

Core Policy 14: Historic Environment

*Allocations & Development Management DPD*

Policy So/PV – Southwell Protected Views

Policy DM5 – Design

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption in Favour of Sustainable Development

## **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- Southwell Conservation Area Appraisal 2005

## **Consultations**

**Southwell Town Council** – “Southwell Town Council considered application 18/00669/FUL Bechers Cottage, Bechers Walk Southwell and agreed unanimously to object to the application and asked that Cllr Penny Rainbow call in this application for the following reasons:

The committee noted that the potential extension had been moved slightly further south and the roofline dropped in certain places. They agreed that the development will still negatively impact on the spaces and relationship between listed buildings, eg: Hill House and the other properties within the area. NP Policy DH3 Historic Environment pg 48

It will have an overbearing and adverse effect on the area within the conservation area.

Previous planning history- similar applications have been through an appeal and objections upheld. Massing has a detrimental effect on this sensitive area.”

**Southwell Civic Society** – “We have examined the new proposals and wish to continue our objection to this application and concur with the comments made by Rachael Skillen Planning.

It’s an inappropriate development in a very sensitive heritage setting of immense historic significance for Southwell. Visitors to the NT Workhouse are likely to be following the trail to the Rev Becher’s house. Nothing should detract from its setting.

The revised proposed extension, from scaling the drawings, is longer and higher than the previous scheme. If constructed it will make the impact even more severe than application 17/01787 on the residents of Garden Lodge.

This property lies in the grounds of a Grade II listed building and as such any development has to respect that building. This has been clearly stated in the decision to refuse application 10/00281.

***Policy C10 of the Newark and Sherwood Local Plan states that planning permission will not be granted for development that adversely affects the architectural or historical interest of listed buildings, Policy C11 states that permission will not be granted for development which adversely affects their setting and Policy C1 states that permission will not be granted for development which adversely affects the character or appearance of conservation areas.***

***Hill House is a Grade II Listed Building, the outbuilding subject of this application is located within its curtilage and is therefore considered as part of the listed building***

***The proposed development, by virtue of its size, scale and orientation, is not subordinate to or respectful of the grain of the existing outbuilding. The prominence of its south elevation detracts from its special architectural interest and it is therefore contrary to Policy C10 of the Local Plan.”***

**Trent Valley Internal Drainage Board** – “The site is outside of the TVIDB district but within the Board’s catchment. There are no Board maintained watercourses in close proximity to the site. Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the LLFRA and the LPA”.

**The Environment Agency** – Do not wish to make any comments.

**NCC Flood Risk – “No objections subject to the following:**

1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.”

**NSDC Conservation Officer – 17.05.18 - “Introduction**

The submitted scheme seeks to address reasons for refusal (ref 17/01787/FUL & 17/02137/LBC) for an extension to Bechers Cottage, a former implement/work store associated with Hill House, now converted to residential use (approval ref 10/01049/LBC).

We provided pre-application advice on this proposal (ref PREAPP/00269/16). The resubmitted scheme broadly complies with advice given during that process.

Heritage Asset(s) Affected

Bechers Cottage is situated within the setting and historic curtilage of Hill House, a fine Grade II listed building (designated Aug 1961). The associated boundary walls and gate piers to Hill House are Grade II listed (designated Feb 1973). The Council has previously considered the historic outbuildings in this part of the site to be curtilage listed in association with Hill House.

Burgage Court to the west is also Grade II listed (designated August 1952).

The building is within Southwell Conservation Area (CA). The CA was designated in 1970, and was last reviewed and amended in 2005. Conservation considers Hill House to be a positive building within the CA that has group value with the associated listed gates and boundary walls.

Legal and Policy Framework

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’) requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. Section 72 of the Act requires the LPA to pay special attention to the desirability of preserving or enhancing the special character and appearance of the CA. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. The courts have said that these statutory requirements operate as ‘the first consideration for a decision maker’. Planning decisions require balanced judgement, but in that exercise, significant weight must be given to the objective of heritage asset conservation.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development affecting the setting of designated heritage assets are proportion, height, massing, bulk, use of materials, use, relationship with adjacent assets, alignment and treatment of setting. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Paragraph 13 also reminds us that the contribution made by setting does not necessarily rely on direct intervisibility or public access.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

Southwell Conservation Area Appraisal (2005) advises that Hill House is an important polite Georgian property within the Burgage area.

#### Significance of Heritage Asset(s)

Hill House is a substantial property of three storeys dating from 1800 with mid-19<sup>th</sup>, late 19<sup>th</sup> and 20<sup>th</sup> century phases. The building is constructed in red brick with stone dressings and slate roofs, most of which are hipped. The windows are typically sashes, and the overall composition is cohesive despite modern sub-division into apartments. The building also has historic interest due to its original occupant being John Thomas Becher, an important proponent of Poor Law reform and an association with the House of Correction on the Burgage.

The Burgage together with the Prebendage has some of the most elegant Georgian buildings in Southwell. Burgage House, The Burgage, Elmfield House, Burgage Manor, Burgage Lodge and Hill House all occupy superb sites around Burgage Green or at the top of Burgage Lane.

Historic maps reveal an area of outbuildings and glass houses in this part of the site. The main original shed is that situated along the boundary, and has been extended/alterred as part of an approved scheme in 2010 (ref 10/01049/LBC). Although now converted, the character of this part of the property, comprising remnants of gardener bothy/implement shed can still be understood.



## Assessment of Proposal

Conservation has no objection to the proposed development.

The applicant has sought to address Committee concerns regarding impact on the setting of the listed Hill House by simplifying the design, including the introduction of a hipped roof. Impact on the residential amenity of the northern property has also been reconsidered, and the extension is now further southwards.

We continue to consider that the proposed extension is modest, and whilst it is acknowledged that it will project from the older linear arrangement of sheds, the addition is not considered to be obtrusive or harmful to the setting of Hill House in this case. The historic context of garden related structures in this part of the site is such that I do not find the proposal to be disharmonious. The design is simple and has a suitable ancillary character. The detailing is also appropriate, and I note the use of traditional elements such as Flemish brick bond, lime mortar and natural Welsh slate.

The proposal will not be prominent from the footpath, and will have little impact when seen in longer views from the south.

## Recommendation/Summary of Opinion

The proposed development causes no harm to the special interest of Hill House, a Grade II listed building. The proposal is considered to cause no harm to the setting of any other listed building, and has no adverse impact on the character and appearance of the Southwell CA. The proposal therefore accords with the objective of preservation required under section 66 and 72 of the Act, and complies with heritage advice contained within the Council's LDF DPDs and section 12 of the NPPF.

### **If approved, the following issues should be conditioned:**

All facing materials (samples of bricks and slate)  
Joinery details (suitably scaled window/door schedule)  
All external accretions and RWGs  
Further details of verges/eaves, rooflights, brick boundary wall with trellis/timber post and 'cold frame' garden store."

**4 Neighbour comments have been received in objection to the proposal** – the comments are summarised as followed:

- Impact upon the character and appearance of Hill House (Grade II listed) and the conservation area
- Impact upon neighbouring amenity through overshadowing
- Impact upon the communal garden area
- Reference to the appeal decision and similarities with the applications
- Proposal is against the view of other occupiers on the site
- Loss of light and loss of view from the footpath
- Inappropriate and out of keeping design

## Comments of the Business Manager

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 11 October 2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

### *Principle of Development*

Householder developments are accepted in principle subject to an assessment of numerous criteria outlined in Policy DM6. These criteria include the provision that the proposal should respect the character of the surrounding area. The overall shape, size and position of an extension must not dominate the existing house or the character of the surrounding area. Policy DM5 accepts development providing that it does not unacceptably reduce amenity in terms of overbearing impacts, loss of light and privacy. These principles will be discussed further below.

Given that the site is located within the Southwell Conservation Area, regard must also be given to the distinctive character of the area and seek to preserve and enhance the conservation area in accordance with Policy DM9 of the DPD and Core Policy 14 of the Core Strategy. The property is also located within the grounds of a Grade II listed building.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. Section 72 of the Planning (Listed Building and Conservation Areas Act) 1990 states, in relation to the general duty as respects conservation areas in exercise of planning functions that, 'special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area'.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF).

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

Paragraph 137 of the National Planning Policy Guidance states that, 'Local planning authorities should look for opportunities for new development within Conservation Areas...to enhance or better reveal their significance.'

### *Impact upon Character of Area*

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive. Core Policy 9 states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

Policy SD1 of the Southwell Neighbourhood Plan states that sustainable development will be supported where they demonstrate account has been taken of the Southwell Design Guide to help that it is appropriate to the location, enhances the natural and built environments. Policy DH1 also reflects this, referring to the Design Guide and the Southwell Conservation Area Appraisal, and stating that standardised design solutions are unlikely to be acceptable. The Town Council comments that the proposal is contrary to Policy DH3 which states that "Development proposals within the Historic Town Centre must not negatively impact on spaces, links or relationships between listed buildings, particularly those associated with the Minster where the aim is to maintain a sense of place within and around its precinct." Whilst the application site is not within the defined Historic Town Centre, its boundary is adjacent to the southern end of the Hill House grounds. The Town Council are objecting to the proposal on the basis that the development will still negatively impact on the spaces and relationship between listed buildings and would have an overbearing and adverse effect on the area within the conservation area.

The Council's conservation officer has reviewed this application and their full comments can be read in the consultation section above, however the comments include "Conservation has no objection to the proposed development. The applicant has sought to address Committee concerns regarding impact on the setting of the listed Hill House by simplifying the design, including the introduction of a hipped roof. Impact on the residential amenity of the northern property has also been reconsidered, and the extension is now further southwards.

Officers continue to consider that the proposed extension is modest, and whilst it is acknowledged that it will project from the older linear arrangement of sheds, the addition is not considered to be obtrusive or harmful to the setting of Hill House in this case. The historic context of garden related structures in this part of the site is such that I do not find the proposal to be disharmonious. The design is simple and has a suitable ancillary character. The detailing is also appropriate, and I note the use of traditional elements such as Flemish brick bond, lime mortar and natural Welsh slate.

The proposal will not be prominent from the footpath, and will have little impact when seen in longer views from the south.

The proposed development causes no harm to the special interest of Hill House, a Grade II listed building. The proposal is considered to cause no harm to the setting of any other listed building, and has no adverse impact on the character and appearance of the Southwell CA. The proposal therefore accords with the objective of preservation required under section 66 and 72 of the Act, and complies with heritage advice contained within the Council's LDF DPDs and section 12 of the NPPF."

I note the comments of the Conservation Officer and I concur with the expressed opinion that the proposed development would not result in any harmful impact to the surrounding listed assets or the character and appearance of the conservation area. Subject to the conditions outlined in the conservation officer's comments, I am satisfied that given the extension has been carefully designed so as to mitigate any harm to the listed building and will not be materially visible from the footpath the proposal will not affect the character and appearance of the Conservation Area.

I note that comments in objection to the proposal have been received detailing that the proposal, by virtue of its size, scale and orientation, is not subordinate to or respectful of the grain of the existing outbuilding. Whilst I acknowledge these comments I do not agree that the proposal is out of scale with the hostdwelling. The proposed extension seeks to increase the footprint of the building by approximately 25 m<sup>2</sup> net additional floor space; the design has been considered so as to reflect a progressive historical development of outbuildings, in achieving this the extension is proposed to have different widths and steps down with the slope of the land. This design reflects the vernacular phases of development as well as reduces the visual impact of the additional structures, including the addition of a 'cold frame' type structure to provide garden storage which is traditional in this context.

In addition, the roof pitches have been designed so that they do not exceed the ridge height of the hostdwelling and the extension has been pulled in further from the northernmost side elevation of the dwelling so as to assimilate it within the existing built form of the property. The roof pitch has also been designed to be hipped in keeping with the wider Hill House site. Whilst I acknowledge that the extension will project approx. 7.8 m in length to the east I am satisfied that given the proportions of the host building, the extension will not be an incongruous addition to the building and respects the character of the dwelling.

The concerns raised by the Town Council regarding the negative impact on the spaces and relationship between listed buildings and an overbearing and adverse effect on the area within the conservation area have been carefully considered and it is concluded that given the scale and form of the proposed addition, the siting and relationship to existing listed buildings, the substantial sized grounds of Hill House, together with the limited impact from footpaths and the wider Conservation Area, that there is no harm in this regard and the proposal broadly accords with Policy DH3, DH1 and SD1 of the Southwell Neighbourhood Plan.

The proposal therefore accords with the objective of preservation set out under sections 66 and 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council's LDF DPDs (DM5, DM9 and CP14) and section 12 of the NPPF.

#### *Impact upon Amenity*

The positive conclusion drawn by the conservation section on the other elements of the proposed development are noted and I am satisfied that these will also aid preservation of the special interest of the application site, as well as its setting and the setting of surrounding listed buildings. However conditions will be placed on this application that require precise details of all facing materials, joinery details, external accretions and RWG and further details of verge/eaves, rooflights, roof glazing and garden store in this instance in order to safeguard the special interest of the hostdwelling and relationship with the listed buildings.

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM6 of the DPD states that development proposals should ensure no unacceptable reduction in amenity upon neighbouring development.

The extension will enlarge the northern half of the property projecting towards the east off the existing bedroom. The gabled projection will be set in approx. 5.4 m from the northern side elevation and project out 7.8 m in length, 4.5 m wide. The western side of the extension will form a garden room and walk in wardrobe for the master bedroom, this will have a ridge height of c.4 m (eaves 2.8m) and the eastern portion of the extension will house a study and a bathroom, this is

proposed to have a ridge of 2.8 m (eaves 2.2m) the differing levels are reflective in the change of topographic slope on the site. The two roofs are proposed to be hipped and the store roof to the north is proposed to continue down to 1.5 m eaves height.

2. no conservation style rooflights are proposed to be inserted into the western facing slope of the existing dwelling. 1 no. conservation style rooflights are proposed to be inserted in the east facing roof slope of the existing bedroom along with a double paned full height window. A small window is also proposed to serve the bathroom on the east facing side elevation of the extension.

Folding doors are proposed on the south elevation along with 2 conservation style rooflights in the southern facing roof slope. One window is proposed to serve the study on the south elevation. There are no windows to the north elevation or roof lights to the North slope. A set of timber doors are proposed on the north elevation to serve the external store.

Externally a new paved area is to be provided to the south of the extension with level access to the new door openings. To the north a timber post and trellis is proposed to be erected with a section of wall c. 1.62 m high separating the neighbours store and the application host building.

The proposed extension would be set approx. 6.6 m from the adjacent building to the north of the application site and does not extend past the existing northernmost projection of the hostdwelling. The gable of the adjacent building is approx. 3.4 m in height and the extension is proposed to be 4 m in maximum ridge set further southwards (1 m lower in ground level), albeit at a perpendicular angle to one another, the presence of screening and fencing already exists to the north of the hostdwelling separating the two properties and this is proposed to remain to mitigate the impact of the proposed extension. Further screening is proposed to be erected at the common boundary with a c.1.62 m dwarf wall and trellis which will also additional privacy to the dwelling.

I am of the view that the extension has been re-designed so as to further minimise the impact on the adjacent properties and whilst I acknowledge the extension follows the boundary line close to the neighbouring dwelling I note that it has been set in approx. 2 m further southwards and the ground level is proposed to be reduced so that the floor levels step down and respond to the lower ground levels to the south of the site. Shadow cast and restriction of light is proposed to be minimal in this instance due to the orientation and sympathetic roof pitch. The proposed elevations plan also demonstrates the limited impact the proposed development would have on the neighbouring property with the sun path marked.

In addition to this I note that there are no windows proposed in the north elevation which could impact the neighbouring dwelling, therefore no privacy issues will occur through overlooking. I note that the property to the North, Garden Lodge, has glazing in its south facing elevation with a large roof light, there are also windows serving this room on the eastern facing elevation. Plan ref. "9213-21-B Proposed Elevations" shows an indicative shadowing relationship with the extension and the property to the north and from this it is clear that even in the lowest sun position, light will still reach the southern elevation and the window of Garden Lodge and as such I am satisfied that the proposed extension will not detrimentally impact the amenity of the neighbouring property through overshadowing.

Whilst I appreciate that there are additional windows proposed to be added to the south, east and western elevations, I note that these are facing in to the property's own private courtyard area or out into the communal garden area. Given that these windows are not to be in the direction of any neighbouring dwelling I am satisfied that there will be no exacerbation of any privacy issue through overlooking.

I also consider that the proposed development would not have a significant impact on neighbouring occupiers in terms of garden activity as the communal use of this general garden area already exists and is part of its character. I find that the proposed extension to the building would not impact on the living conditions of neighbours' in respect of outlook as there is also adequate separation.

Given the extension's dimensions, its hipped roof design and the orientation of the host building I do not feel there would be any significant loss of light to the neighbouring dwelling particularly due to the roof pitch and existing boundary fencing. Overall the proposal is not considered to affect the residential amenity of any neighbouring residents including loss of light, privacy or overbearing impacts, in accordance with Policy DM6.

#### *Impact on Flooding*

Whilst it is acknowledged that the site lies within Flood Zone 1 as defined by the Environment Agency data, Southwell has recently been subject to flooding and as such a householder flood risk form has been submitted as part of the proposal. The site is in an elevated position on Burgage Lane. The new floor levels are proposed to be set lower than the existing, due to the changes in ground level however it is noted that the floor levels are proposed to be 300mm above the modelled flood levels.

I do not consider the proposal, due to the scale and footprint, would cause any detrimental impacts to neighbours or the surrounding area from flooding or surface water run-off from the development. There are ample areas of porous surfacing within the remainder of the site to allow water to permeate and I note that no objections have been received from the LLFA. On this basis it is not necessary, proportionate or reasonable to require anything else of the applicant including the suggested comments of the LLFRA.

#### *Other Considerations*

Comments have been received from neighbouring occupiers and the Town Council which object to the proposal and they have been duly taken on board. The comments raised relate to the impact the proposal will have on the neighbouring listed building and the amenity of the neighbouring dwelling to the north. The comments state that *"The proposed development, by virtue of its size, scale and orientation, is not subordinate to or respectful of the grain of the existing outbuilding. The prominence of its south elevation detracts from its special architectural interest and it is therefore contrary to Policy C10 of the Local Plan."* The impact the proposal will have on the character of the surrounding area can be read in the appraisal section above.

I also note that comments have been made in respect of the previous appeal decisions on the site. An appeal was dismissed in 2010 for an extension to Bechers Cottage as part of a redevelopment scheme (ref 10/00282/FUL). This proposal was materially different from that before us now insofar as the extension was located at the southern end of the property. In that context, the Conservation officer fully agrees with the Inspectorate decision, noting that the extension would have blocked views of the house on approach from the south along the footpath and included partial demolition of the attractive historic boundary wall. The current proposal is set further north and would not impinge on views of the house from the footpath nor result in alteration of the boundary wall and as such is considered to be materially different to the appeal decision and appraised on its own merit.

Comments have been received in objection to the proposal on the ground of loss of light to the occupiers to the north and loss of a view from the footpath and surrounding communal garden area. I have acknowledged and assessed the impact the application will have on neighbouring amenity through overshadowing and overbearing impacts and any resulting potential loss of light to neighbours. However any right to light is a legal matter outside the considerations of the Planning Act.

Similarly, whilst I acknowledge the importance of maintaining views to and from an important listed heritage asset I note that objections have made reference to the right to a view, this is also a legal matter – I have made a detailed assessment on the proposals impact on the character of the surrounding area and the relationship with the listed asset of which can be seen above. The view to and from Hill House is acknowledged to be important, concerns have been raised over the view from the communal rear garden and the impact the extension will have on the view of Hill House from the south – my full assessment can be seen in the appraisal section above however I add to this that the built form of the extension has been positioned towards the north of the hostdwelling, close to the built form of surrounding properties, and whilst I acknowledge that the extension will exceed the existing easternmost built form, I am satisfied that given the domesticated appearance of this area already, with fencing and garden wall detailing, that the addition of this extension will not materially alter the character and appearance of the surrounding area, or the relationship that Hill House has with the site as a whole.

In addition to my assessment on the impact the proposal will have on the surrounding area and listed buildings (see above), I note that there are concerns over ‘loss of a view’ within the communal garden area and from the footpath. Loss of view is not a material planning consideration that can be taken into account in the determination of this application.

Objections have also noted that the proposed extension would be against the view of the other occupiers of the site. Whilst I have a duty to consider the impact the extension will have on the neighbouring amenity of the surrounding occupiers as well as the impact on the setting of this listed building and how it is experienced, views of private individuals are a different matter that again fall outside the planning process. I have assessed the proposal with regards to neighbouring amenity as well as the amenity of future occupiers of the development and the impact on the setting of the listed building in the appraisal section above and note that the impact has been assessed and found to be acceptable in this case.

I acknowledge that letters of objection have made reference to the appeal that was dismissed in 2010 for an extension to Bechers Cottage as part of a redevelopment scheme (ref 10/00282/FUL) noting that the inspector commented on the design of the projecting gable extension as a negative part of the overall scheme. The existing structure of the hostdwelling has a gable roof and the extension has been designed so that the ridge height is lower than the hostdwelling and reduces towards the east. The proposal, whilst considered to be materially different to that in 2010 still proposes to project eastwards with the gable end terminating facing the formal lawn. Whilst I appreciate that the inspector made reference to the extension reducing the simple nature of the existing building, making it more prominent in the arrangement of buildings on the site, I am satisfied that given the proposal now ties the bulk of the extension towards the north of the hostdwelling and the existing buildings on the site, and given its modest size, would not appear incongruous when read with the wider site. Moreover, when seen in views towards the house from the public footpath to the south I am of the view that the projecting hipped roof, positioned towards the north, towards the neighbouring dwelling would not appear out of keeping with the alignment of buildings. Additionally, I am also satisfied that the hipped roof style will now assimilate well with the similar built form on the site.

## *Conclusion*

Given the above, it is considered that when taken as a whole, the proposed development would preserve the special interest of the listed buildings and their setting, and preserve the character and appearance of the Conservation Area which is consistent with S.66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal is also considered to be acceptable in terms of impact on residential amenity and flooding. It is therefore consistent with Policies DH1, DH3 and SD1 of the Southwell Neighbourhood Plan, as well as Core Policies 9 and 14 and Policies DM5 and DM9 of the Council's LDF DPD policy and advice contained within Section 12 of the NPPF. Accordingly, I recommend that planning permission be granted.

## **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions:**

### **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

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

9213-20-B Proposed Floor and Roof Plans

9123-21-B Proposed Elevations

9213-05 Site Location Plan

9123-23-B Proposed Block Plan

unless otherwise agreed in writing by the local planning authority through the submission of a non-material amendment.

Reason: So as to define this permission.

03

Notwithstanding the submitted details, no development shall be commenced until samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Bricks

Roofing tiles

Steel profile and external finish and colour

Reason: In order to preserve the special architectural or historical appearance of the listed buildings and their setting as well as the character and appearance of the conservation area.



04

Notwithstanding the plans specified in condition 2, the specific design and fenestration detailing of the windows are not hereby approved. No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

External windows (including roof windows), doors and their immediate surroundings, including details of glazing and glazing bars.

Treatment of window and door heads and cills;

Verge and Eaves;

Rainwater goods;

All external accretions.

Reason: In order to preserve the special interest of the listed buildings and their setting as well as the character and appearance of the conservation area.

05

No development shall be commenced until a brick work sample panel showing brick work, bond, mortar mix and pointing technique has been provided on site for inspection and approval has been received in writing by the local planning authority. The brick work shall be flush jointed using a lime based mortar mix. Development shall thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the special architectural and historic interest of the listed buildings and their setting as well as the character and appearance of the conservation area.

06

No part of the development shall be commenced until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatment shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the special architectural and historic interest of the listed buildings and their setting as well as the character and appearance of the conservation area.

07

No development shall be commenced until full and precise details of the 'cold frame' garden store shall be submitted to and approved by the local planning authority in writing. Development shall thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the special architectural and historic interest of the listed buildings and their setting as well as the character and appearance of the conservation area.

## Notes to Applicant

01

The Lead Local Flood Risk Authority wish to make the applicant aware of their comments as follows:

- The development should not increase flood risk to existing properties or put the development at risk of flooding.
- Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
- SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
- Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (e.g. culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.

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 on the development hereby approved as the gross internal area of new build is less than 100 square metres.

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) Order 2010 (as amended).

04

For the avoidance of doubt this consent should be read in conjunction with Listed Building Consent ref. 18/00670/LBC.

### Background Papers

#### Application Case File

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth & Regeneration**



## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>18/00670/LBC</b>	
<b>Proposal:</b>	<b>Erection of single storey pitched roof extension to the north of Bechers Cottage, conservation roof lights to new and existing roof slopes (Resubmission of 17/02137/LBC)</b>	
<b>Location:</b>	<b>Bechers Cottage, Bechers Walk, Burgage Lane, Southwell, NG25 0ER</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Illesley</b>	
<b>Registered:</b>	<b>6 April 2018</b>	<b>Target Date: 1 June 2018 Extension: 8 June 2018</b>

**This application is presented to the Planning Committee for determination as it has been referred by Cllr P Rainbow on behalf of Southwell Town Council.**

### The Site

The site is located within the defined built up urban area of Southwell and within Southwell Conservation Area. The application relates to a dwelling which is a single storey converted building in the grounds of the large Grade II listed Hill House. The building is considered to be curtilage listed. The proposal is for a single storey garden room extension to the existing dwelling.

Becher's Cottage is located off Becker's Walk in Southwell and Hill House is accessed from Burgage Lane to the east of the town centre. The east and west boundaries are formed by public footpaths, Shady Lane and Becher's Walk respectively. The character in this area of Southwell is typically private residential and the site lies within the Southwell conservation area. The site is adjacent to but not within the Historic Town Centre boundary, as defined by the Southwell Neighbourhood Plan.

### Relevant Planning History

**17/01787/FUL** – Householder application for single Storey pitched roof extension to the north of Bechers Cottage with flat roof and glazed link. – Refused by Planning Committee 18.01.2018 for the following reasons:

01 - In the opinion of the Local Planning Authority, the proposed extension by virtue of its siting, orientation, scale and design would result in harm to the setting of the Grade II Listed Building, Hill House and the character and appearance of the wider Southwell Conservation Area. There is no identified public benefit resulting from the proposed development which would outweigh the perceived harm of the proposal. The proposed development therefore fails to accord with Core Policy 14 of the Core Strategy, Policy DM9 of the DPD, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') and paragraph 134 of the NPPF, a material consideration.

02 - In the opinion of the Local Planning Authority, by virtue of its scale, orientation and siting in close proximity to the shared boundary with the adjacent dwelling to the north, Garden Lodge, the proposed extension would be detrimental to the residential amenity of occupiers of this property by reason of overshadowing and overbearing impact to the small private amenity area and south facing windows.

As such the proposal is contrary to the aims of policies DM5 and DM6 of the Newark and Sherwood Allocations and Development Plan Development Plan Document, which are compliant with the intentions of the NPPF, and which seek to ensure development is not harmful to the amenity of neighbouring properties. (FUL)

**17/02137/LBC** - Single Storey pitched roof extension to the north of Bechers Cottage with flat roof and glazed link. – Refused by Planning Committee 18.01.2018 for the following reason:

In the opinion of the Local Planning Authority, the proposed extension by virtue of its siting, orientation, scale and design would result in harm to the setting of the Grade II Listed Building, Hill House and the character and appearance of the wider Southwell Conservation Area. There is no identified public benefit resulting from the proposed development which would outweigh the perceived harm of the proposal. The proposed development therefore fails to accord with Core Policy 14 of the Core Strategy, Policy DM9 of the DPD, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') and paragraph 134 of the NPPF, a material consideration.

**10/00281/FUL** - Erection of single storey extension, internal and external alterations to outbuilding to form dwelling – Refused April 2010 (Appeal Dismissed)

**10/00282/LBC** – Erection of single storey extension, boundary wall and alterations to fenestration and internal layout – Refused April 2010 (Appeal Dismissed)

**10/01048/FUL** – Conversion and extension of redundant implement store and workshop outbuildings to form single dwelling and erection of boundary wall – Permitted September 2010

**10/01049/LBC** - Internal and external alterations, erection of single storey extension and boundary wall – Permitted September 2010

**18/00669/FUL** - Householder application for a single storey pitched roof extension to the north of Bechers Cottage, conservation roof lights to new and existing roof slopes. (Resubmission of 17/01787/FUL) – pending consideration.

### The Proposal

The proposal seeks listed building consent for the erection of an extension to the north of the property set back approx. 2.3 m from the unmarked ownership boundary with the dwelling, Garden Lodge, to the north.

The extension will enlarge the northern half of the property projecting towards the east off the existing bedroom. The gabled projection will be set in approx. 5.4 m from the northern side elevation and project out 7.8 m in length, 4.5 m wide. The western side of the extension will form a garden room and walk in wardrobe for the master bedroom, this will have a ridge height of c.4 m (eaves 2.8m) and the eastern portion of the extension will house a study and a bathroom, this is proposed to have a ridge of 2.8 m (eaves 2.2m) the differing levels are reflective in the change of topographic slope on the site. The two roofs are proposed to be hipped and the store roof to the north is proposed to continue down to 1.5 m eaves height.

2. no conservation style rooflights are proposed to be inserted into the western facing sloop of the existing dwelling. 1 no. conservation style rooflights are proposed to be inserted in the east facing roof slope of the existing bedroom along with a double paned full height window. A small window is also proposed to serve the bathroom on the east facing side elevation of the extension.

Folding doors are proposed on the south elevation along with 2 conservation style rooflights in the southern facing roof slope. One window is proposed to serve the study on the south elevation. There are no windows to the north elevation or roof lights to the north facing roof slope. A set of timber doors are proposed on the north elevation to serve the external store.

The extension is to be constructed in matching clay facing brick and bond and the pitched roofs to be covered with Welsh slate incorporating conservation style rooflights. The windows are proposed to be painted softwood apart from the aluminium sliding door to the garden room and the conservation style rooflights to the slopes.

Floor levels decrease to the east of the site.

Externally a new paved area is to be provided to the south of the extension with level access to the new door openings. To the north a timber post and trellis is proposed to be erected with a section of wall c. 1.62 m high separating the neighbours store and the application host building.

***Amendments from the 2017 application:*** The form of the building has been altered to reflect the historic character of the outbuildings on the site. The roof forms have been simplified and hipped to reflect the dominant hipped roofs within the surrounding area, conveying the character of Hill House and the outbuildings within the site. The extension has been pulled further south (by c1.6m) to separate it from Garden Lodge to the north – the extension is now 2.3 m away from the common boundary at its farthest point and 1.3 m at its closest. The northern boundary is now proposed to be defined with a low dwarf wall as other areas of the Hill House site with trellis fencing and soft landscaping proposed to provide more privacy.

#### Departure/Public Advertisement Procedure

14 neighbours have been notified, a site notice has been displayed near to the site and an advert has been placed in the local press.

#### Planning Policy Framework

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of their duty under the legal framework in determining such matters, i.e. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and take into account the following other material considerations:

- *National Planning Policy Framework (NPPF) Adopted March 2012*
- *Planning Policy Guidance (PPG) published April 2014*
- *Historic England's Good Practice Advice Note 2 – Managing Significance in Decision Taking in the Historic Environment*
- *Historic England Advice Note 2 – Making Changes to Heritage Assets*

## Consultations

**Southwell Town Council** – “Southwell Town Council considered application 18/00669/FUL Bechers Cottage, Bechers Walk Southwell and agreed unanimously to object to the application and asked that Cllr Penny Rainbow call in this application for the following reasons:

The committee noted that the potential extension had been moved slightly further south and the roofline dropped in certain places. They agreed that the development will still negatively impact on the spaces and relationship between listed buildings, eg: Hill House and the other properties within the area. NP Policy DH3 Historic Environment pg 48

It will have an overbearing and adverse effect on the area within the conservation area.

Previous planning history- similar applications have been through an appeal and objections upheld.

Massing has a detrimental effect on this sensitive area.”

**Southwell Civic Society** – “We have examined the new proposals and wish to continue our objection to this application and concur with the comments made by Rachael Skillen Planning.

It’s an inappropriate development in a very sensitive heritage setting of immense historic significance for Southwell. Visitors to the NT Workhouse are likely to be following the trail to the Rev Becher’s house. Nothing should detract from its setting.

The revised proposed extension, from scaling the drawings, is longer and higher than the previous scheme. If constructed it will make the impact even more severe than application 17/01787 on the residents of Garden Lodge.

This property lies in the grounds of a Grade II listed building and as such any development has to respect that building. This has been clearly stated in the decision to refuse application 10/00281.

***Policy C10 of the Newark and Sherwood Local Plan states that planning permission will not be granted for development that adversely affects the architectural or historical interest of listed buildings, Policy C11 states that permission will not be granted for development which adversely affects their setting and Policy C1 states that permission will not be granted for development which adversely affects the character or appearance of conservation areas.***

***Hill House is a Grade II Listed Building, the outbuilding subject of this application is located within its curtilage and is therefore considered as part of the listed building***

***The proposed development, by virtue of its size, scale and orientation, is not subordinate to or respectful of the grain of the existing outbuilding. The prominence of its south elevation detracts from its special architectural interest and it is therefore contrary to Policy C10 of the Local Plan.”***

**NSDC Conservation Officer – 17.05.18 - Introduction**

The submitted scheme seeks to address reasons for refusal (ref 17/01787/FUL & 17/02137/LBC) for an extension to Bechers Cottage, a former implement/work store associated with Hill House, now converted to residential use (approval ref 10/01049/LBC).

We provided pre-application advice on this proposal (ref PREAPP/00269/16). The resubmitted scheme broadly complies with advice given during that process.

### Heritage Asset(s) Affected

Bechers Cottage is situated within the setting and historic curtilage of Hill House, a fine Grade II listed building (designated Aug 1961). The associated boundary walls and gate piers to Hill House are Grade II listed (designated Feb 1973). The Council has previously considered the historic outbuildings in this part of the site to be curtilage listed in association with Hill House.

Burgage Court to the west is also Grade II listed (designated August 1952).

The building is within Southwell Conservation Area (CA). The CA was designated in 1970, and was last reviewed and amended in 2005. Conservation considers Hill House to be a positive building within the CA that has group value with the associated listed gates and boundary walls.

### Legal and Policy Framework

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. Section 72 of the Act requires the LPA to pay special attention to the desirability of preserving or enhancing the special character and appearance of the CA. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. The courts have said that these statutory requirements operate as 'the first consideration for a decision maker'. Planning decisions require balanced judgement, but in that exercise, significant weight must be given to the objective of heritage asset conservation.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development affecting the setting of designated heritage assets are proportion, height, massing, bulk, use of materials, use, relationship with adjacent assets, alignment and treatment of setting. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Paragraph 13 also reminds us that the contribution made by setting does not necessarily rely on direct intervisibility or public access.



Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

Southwell Conservation Area Appraisal (2005) advises that Hill House is an important polite Georgian property within the Burgage area.

#### Significance of Heritage Asset(s)

Hill House is a substantial property of three storeys dating from 1800 with mid-19<sup>th</sup>, late 19<sup>th</sup> and 20<sup>th</sup> century phases. The building is constructed in red brick with stone dressings and slate roofs, most of which are hipped. The windows are typically sashes, and the overall composition is cohesive despite modern sub-division into apartments. The building also has historic interest due to its original occupant being John Thomas Becher, an important proponent of Poor Law reform and an association with the House of Correction on the Burgage.

The Burgage together with the Prebendage has some of the most elegant Georgian buildings in Southwell. Burgage House, The Burgage, Elmfield House, Burgage Manor, Burgage Lodge and Hill House all occupy superb sites around Burgage Green or at the top of Burgage Lane.

Historic maps reveal an area of outbuildings and glass houses in this part of the site. The main original shed is that situated along the boundary, and has been extended/alterd as part of an approved scheme in 2010 (ref 10/01049/LBC). Although now converted, the character of this part of the property, comprising remnants of gardener bothy/implement shed can still be understood.

#### Assessment of Proposal

Conservation has no objection to the proposed development.

The applicant has sought to address Committee concerns regarding impact on the setting of the listed Hill House by simplifying the design, including the introduction of a hipped roof. Impact on the residential amenity of the northern property has also been reconsidered, and the extension is now further southwards.

We continue to consider that the proposed extension is modest, and whilst it is acknowledged that it will project from the older linear arrangement of sheds, the addition is not considered to be obtrusive or harmful to the setting of Hill House in this case. The historic context of garden related structures in this part of the site is such that I do not find the proposal to be disharmonious. The design is simple and has a suitable ancillary character. The detailing is also appropriate, and I note the use of traditional elements such as Flemish brick bond, lime mortar and natural Welsh slate.

The proposal will not be prominent from the footpath, and will have little impact when seen in longer views from the south.

## Recommendation/Summary of Opinion

The proposed development causes no harm to the special interest of Hill House, a Grade II listed building. The proposal is considered to cause no harm to the setting of any other listed building, and has no adverse impact on the character and appearance of the Southwell CA. The proposal therefore accords with the objective of preservation required under section 66 and 72 of the Act, and complies with heritage advice contained within the Council's LDF DPDs and section 12 of the NPPF.

### **If approved, the following issues should be conditioned:**

All facing materials (samples of bricks and slate)

Joinery details (suitably scaled window/door schedule)

All external accretions and RWGs

Further details of verges/eaves, rooflights, brick boundary wall with trellis/timber post and 'cold frame' garden store."

**4 Neighbour comments have been received in objection to the proposal** – the comments are summarised as followed:

- Impact upon the character and appearance of Hill House (Grade II listed) and the conservation area
- Impact upon neighbouring amenity through overshadowing
- Impact upon the communal garden area
- Reference to the appeal decision and similarities with the applications
- Proposal is against the view of other occupiers on the site
- Loss of light and loss of view from the footpath
- Inappropriate and out of keeping design

## Comments of the Business Manager

Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works, the local planning authority...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.

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification.

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Comments received from neighbouring occupiers and the Town Council which object to the proposal in terms of impact on the neighbouring Listed Building and the Conservation Area are acknowledged and have been duly taken into account.

The Conservation Officer has reviewed this application and raises no objection, concluding that the proposed development would cause no harm to listed buildings, their setting or the wider Conservation Area. Their full comments can be read in the consultation section above.

I note the comments of the Conservation Section and I concur with the expressed opinion that the proposed development would not result in any detrimental impact to the surrounding listed buildings.

Subject to the conditions outlined in the Conservation Officers comments I am satisfied that given the extension has been carefully designed so as to mitigate any harm to the listed buildings and their setting.

I note that comments in objection to the proposal have been received detailing that the proposal, by virtue of its size, scale and orientation, is not subordinate to or respectful of the grain of the existing building. Whilst I acknowledge these comments it is not considered that the proposal is out of scale with the host dwelling. The proposed extension seeks to increase the footprint of the building by approximately 25 sq.m net additional floor space; the design has been considered so as to reflect a progressive historical development of outbuildings; in achieving this the extension is proposed to have different widths and steps down with the slope of the land. This design reflects the vernacular phases of development as well as reduces the visual impact of the additional structures, including the addition of a 'cold frame' type structure to provide garden storage which is a traditional feature in this context.

In addition, the roof pitches have been designed so that they do not exceed the ridge height of the host dwelling and the extension has been pulled in further from the northernmost side elevation of the dwelling so as to assimilate it within the existing built form of the property. Whilst I acknowledge that the extension will project approx. 7.8 m in length to the east I am satisfied that given the proportions of the host building, the extension by virtue of its design and scale will not be an incongruous addition to the building but is subordinate and respects the character of the host dwelling.

The comments received with regards to impact on views on the heritage assets are noted. Given the position of the extension to the northern end of the host building close to existing built form and that it will not significantly extend any built form further east than currently exists officers are of the view that the proposal would not unduly impact on views to or from the Listed Building.

Furthermore I am satisfied that given the domesticated appearance of the immediately surrounding area already, with fencing and garden wall detailing, that the addition of this extension will not materially alter the character and appearance of the surrounding area, or the relationship that Hill House has with the site as a whole.

The positive conclusion drawn by the Conservation Officer on the other elements of the proposed development are noted and I am satisfied that these will also aid preservation of the special interest of the application site, as well as its setting and the setting of surrounding listed buildings. However conditions will be imposed that require precise details of all facing materials, joinery details, external accretions and RWG and further details of verge/eaves, rooflights, roof glazing and garden store in this instance in order to safeguard the special interest of the host dwelling and relationship with the surrounding listed buildings.

Taking the above into account I am satisfied that the proposal by virtue of its siting, scale, form and materials will not result in harm to the special interest of the Listed Buildings and their setting.

The proposal therefore accords with the objective of preservation set out under sections 16, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage advice contained within section 12 of the NPPF and its accompanying PPG.

### *Other Matters*

I note that comments have been made in respect of the previous appeal decisions on the site. An appeal was dismissed in 2010 for an extension to Bechers Cottage as part of a redevelopment scheme (ref 10/00282/FUL) where the inspector commented on the design of the projecting gable extension as being a negative part of the overall scheme. This proposal was materially different from that before us now insofar as the extension was located at the southern end of the property. In that context, the Conservation Officer fully agrees with the Inspectorate decision, noting that the extension would have blocked views of the house on approach from the south along the footpath and included partial demolition of the attractive historic boundary wall.

The current proposal is set further along and would not impinge on views of the house from the footpath nor result in alteration of the boundary wall and as such is considered to be materially different to the appeal decision and is appraised on its own merit. Whilst considered to be materially different to that in 2010 the current still proposes to project eastwards with the gable end terminating facing the formal lawn. Whilst I appreciate that the inspector made reference to the extension reducing the simple nature of the existing building, making it more prominent in the arrangement of buildings on the site I am satisfied that given the proposal now ties the bulk of the extension towards the north of the host dwelling and the existing buildings on the site, and given its modest size, it would not appear incongruous when read with the wider site. Moreover, when seen in views towards the house from the public footpath to the south I am of the view that the projecting gable, positioned towards the north, close to the neighbouring dwelling would not appear out of keeping with the alignment of buildings. Additionally, I am also satisfied that in this instance, the gabled design of the roof would not appear incongruous with the predominately hipped roofs on the site.

Objections have also noted that the proposed extension would be against the view of the other occupiers of the site. As with any planning application, officers have given due and careful consideration to all representations made and material planning considerations have been appraised within the relevant sections of this report.

### *Conclusion and Planning Balance*

Given the above, it is considered that the proposed addition would preserve the special interest of the host listed building together with the surrounding listed buildings, their significance and setting and therefore cause no harm but would continue to preserve them.

The proposal therefore accords with the objective of preservation set out under section 16, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage advice contained within section 12 of the NPPF and its accompanying PPG.

## **RECOMMENDATION**

**To grant Listed Building Consent subject to the conditions below:**

### Conditions

01

The works hereby permitted shall not begin later than three years from the date of this consent.

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

02

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

9213-20-B Proposed Floor and Roof Plans

9123-21-B Proposed Elevations

9213-05 Site Location Plan

9123-23-B Proposed Block Plan

unless otherwise agreed in writing by the local planning authority.

Reason: So as to define this consent.

03

Notwithstanding the submitted details, no works shall be commenced until samples of the materials identified below have been submitted to and approved in writing by the local planning authority. The works shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Bricks

Roofing tiles

Steel profile and external finish and colour

Reason: In order to preserve the special architectural or historical appearance of the listed buildings and their setting.

04

Notwithstanding the plans specified in condition 2, the specific design and fenestration detailing of the windows are not hereby approved. No works shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. The works shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

External windows (including roof windows), doors and their immediate surroundings, including details of glazing and glazing bars.

Treatment of window and door heads and cills;

Verge and Eaves;

Rainwater goods;  
All external accretions.

Reason: In order to preserve the special interest of the listed buildings and their setting.

05

No works shall be commenced until a brick work sample panel showing brick work, bond, mortar mix and pointing technique has been provided on site for inspection and approval has been received in writing by the local planning authority. The brick work shall be flush jointed using a lime based mortar mix. The works shall thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the special architectural and historic interest of the listed buildings and their setting.

06

No part of the works shall be commenced until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatment shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the special architectural and historic interest of the listed buildings and their setting.

07

No works shall be commenced until full and precise details of the 'cold frame' garden store shall be submitted to and approved by the local planning authority in writing. The works shall thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the special architectural and historic interest of the listed buildings and their setting.

#### Note to Applicant

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) Order 2010 (as amended).

02

For the avoidance of doubt this consent should be read in conjunction with Planning Application 18/00669/FUL.

#### Background Papers

Application Case File

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth & Regeneration**





## PLANNING COMMITTEE – 05 JUNE 2018

<b>Application No:</b>	<b>18/00543/FUL</b>	
<b>Proposal:</b>	<b>Siting of 1 no. lodge (modular building) to form annexe to the main house</b>	
<b>Location:</b>	<b>Primrose Cottage, Mansfield Road, Edingley NG22 8BE</b>	
<b>Applicant:</b>	<b>Mr Adrian Cox And Mrs Shirley Hurst Cox</b>	
<b>Registered:</b>	<b>20 March 2018</b>	<b>Target Date: 15 May 2018</b>
		<b>Extension Agreed until: 8 June 2018</b>

**This application is referred to Planning Committee for determination as the Parish Council have raised an objection contrary to the Officer recommendation.**

### The Site

The proposal site is located in the village of Edingley and is located behind the frontage properties on Mansfield Road. The property and the immediate neighbour at Brook Cottage are accessed from a private driveway running between Lambs Meadow and The Willows and Willows End. The property is a detached dwelling erected in redbrick and is situated centrally within a square garden plot.

### Relevant Planning History

96/50475/FUL - Shower room extension and internal alterations – Permitted 03/05/1996

02/00724/FUL – Proposed Conservatory – Permitted 31/05/2002

02/01623/FUL - Proposed two storey side extension and single storey porch and cloakroom – Permitted 28/10/2002

### The Proposal

The proposal seeks planning consent for the provision of a lodge building to provide an annexe to the main dwelling at Primrose Cottage. The proposed structure would measure approximately 12.2m by 6.1m with heights of 3.3m to the eaves and 4.2m to the ridge. The materials proposed are a smooth painted Pale Grey and a charcoal Grey roof tile.

The application is supported by a Planning Statement which sets out the need for the annexe. This provides a summary of the need for the annexe which includes the provision of 24 hour care of family relatives who suffer from a range of mental and physical health issues.

### Departure/Public Advertisement Procedure

Occupiers of 10 properties have been individually notified by letter.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Core Strategy Adopted March 2011**

Policies relevant to this application:

Spatial Policy 1: Settlement hierarchy

Spatial Policy 2: Spatial distribution of growth

Spatial Policy 3: Rural Areas

Spatial Policy 6: Infrastructure for Growth

Spatial Policy 7: Sustainable transport

Core Policy 9: Sustainable design

Core Policy 10: Climate Change

Core Policy 12: Biodiversity and Green Infrastructure

Core Policy 14: Historic Environment

#### **Allocations and Development Management DPD Adopted July 2013**

Policies relevant to this application:

DM1: Development within settlements central to delivering the spatial strategy

DM5: Design

DM6: Householder Development

DM8: Development within the Open Countryside

Policy DM9: Protecting and Enhancing the Historic Environment

DM12: Presumption in Favour of Sustainable Development

#### **Other Material Considerations**

National Planning Policy Framework 2012

Planning Practice Guidance 2014

Newark and Sherwood Amended Core Strategy DPD 2017

Householder Development Supplementary Planning Document 2014

### **Consultations**

#### **Edingley Parish Council –**

Raise objections to the proposal providing the following comments:

Not in keeping with the countryside. Appears as a separate site and not linked to existing house. Too big; too close to neighbours property with windows overlooking gardens.

#### **Access and Equalities Officer –**

As part of the developer's considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that their attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of visitable, accessible and adaptable, and wheelchair user dwellings. Occupants requirements can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors' alike as well as meeting residents' changing needs, both temporary and longer term. Similarly, inclusive access improves general manoeuvrability for all including access for those with push chairs and baby buggies as well as disabled people etc.

It is recommended that disabled persons and wheelchair users' access to, into and around the proposal be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards to ensure that they provide suitable clear unobstructed 'vehicular free' access to the proposal. In particular, 'step-free' access to and into the proposal is important and an obstacle free suitably surfaced firm level and smooth 'traffic free' accessible route is essential from facilities such as car parking and from the site boundary. Any loose laid materials, such as gravel or similar, can cause difficulty for wheelchair users, baby buggies or similar and should be avoided. It is recommended that inclusive step free access be considered to garden areas, amenity spaces and external features.

Carefully designed 'step-free' approach, ramps, level flush thresholds, generous doorways, all carefully designed to facilitate easy access and manoeuvre are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the proposal together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations matters.

**Representations have been received from three local residents/interested parties. One of these letters confirms no objections to the proposal. Objections raised in the other letters include:**

- the application does not contain sufficient information to fully consider the relationship between the house, annexe and total site area.
- the building is too close to the boundary from a visual aspect and as a lightly framed plywood clad building we are concerned about the fire resistance of the property being so close to a combustible hedge.
- The application indicates that the building does not require removal of any hedges or trees but we are aware that perhaps three trees will require removal.
- The host dwelling has four bedrooms, does this not raise doubts over the validity of this application when three bedrooms are free?
- The external finishes create the appearance of a temporary building, which it is, and is totally out of keeping with the traditional local vernacular of brick and pantile of all the adjoining building.
- The proposal is far too large and overbearing for the site and will overpower the small cottage style frontage that it closely abuts.
- it appears to be more of a commercial enterprise
- the eaves will be above the line of the existing hedge and will create a visual intrusion in our garden and from the windows of our house.
- over intensive development which we cannot reconcile with a garden environment on the edge of open countryside.
- The building will further reduce the amount of sunlight restricting growth in our garden.
- Infringement of privacy and creation a noise a noise problem particularly during summer months.
- the application is only for a temporary style building which will not have the same lifespan as the adjoining house.
- The application duplicates those facilities normally found in a balanced household and must therefore be viewed as a separate detached dwelling
- this proposal will overload the existing drain and cause problems for the other properties on the system.

## Comments of the Business Manager

### Principle of Development

The application seeks to erect an annexe in the rear garden of Holly Cottage for family members to occupy. The Council's SPD for householder development states that 'where an annexe includes all of the primary aspects of accommodation (bedroom/ living room, kitchen and bathroom) and the unit could be, or is being, lived in separately with limited or no relationship to the host dwelling either through a family member or the level of accommodation then it will be considered as a new dwelling and so not householder development. Accordingly full planning permission for a new dwelling would be required with relevant policies of the development plan being applied in its consideration.'

The settlement hierarchy for the district is set out in Spatial Policy 1 whilst Spatial Policy 2 deals with the distribution of growth for the district. This identifies that the focus of growth will be in the Sub Regional Centre, followed by the Service Centres and Principal Villages. At the bottom of the hierarchy are 'other villages' which do not have defined built up areas in terms of village boundaries. Consequently given its location in a rural area, the site falls to be assessed against Spatial Policy 3 (Rural Areas) of the Core Strategy. This provides that local housing need will be addressed by focusing housing in sustainable, accessible villages. It states that 'Beyond Principal Villages, proposals for new development will be considered against the following criteria' then lists location, scale, need, impact and character for consideration. The application site is located within the main built-up area of the village and in light of the proposed amendments to Spatial Policy 3 within the Newark and Sherwood Amended Core Strategy DPD 2017 there is the potential that a new dwelling could be acceptable in principle on this site subject to compliance with the scale, need, impact and character criterion of this policy.

Notwithstanding the SPD guidance the application as made is for residential annexe accommodation and it is the occupation and use of the proposed annexe is intended for family members which require support in their day to day lives. The supporting information indicates that the intention is for the enlarged family to live as a single family unit with the annexe providing sleeping accommodation and additional space for some degree of independent living. The details provided indicate that the application is required to provide accommodation for the applicants Brother, Sister and Husband. Details provided indicate that the prospective occupants are between 73 and 84 years of age and have varying degrees of health and age related restrictions (including Alzheimer's and learning difficulties). In more detail, the supporting statement states that the applicant's sister and brother both have autistic spectrum disorder with a range of mental health conditions resulting in significant difficulties in social skills, repetitive behaviors, speech, and none verbal communication. As such the intention is to allow a degree of independent living whilst providing the necessary support for the three prospective occupants. The statement outlines how the unit (Primrose Cottage) will function and how existing occupants of the main house and future occupants of the annexe will successfully interact whilst maintaining a single planning unit in planning terms. Its states that the annexe is required because Primrose Cottage is unable to provide ground floor washing and sleeping facilities which are a necessity.

Based on the details provided whilst the building proposed has the full suite of facilities to be able to provide an independent dwellinghouse, it is considered that due to the intended occupants respective needs that the proposal is for annexe accommodation and therefore should be considered as such. Furthermore, given the location of the annexe and the siting of the within the garden of the host dwelling with shared access and amenity space, it is not considered that a separate residential dwelling house would be readily assimilated whilst maintaining a single unit and community

space/access. As such, it is considered that both a physical and functional link to Primrose Cottage has been demonstrated and any approval granted should be suitably conditioned to ensure that the annexe remains as such.

#### Impact upon Character of the Area

In accordance with Policy DM5 of the DPD, new development should respect the rich local distinctiveness of the District's landscape and character of built form and this should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. In this regard I consider it is important to retain the character of the landscape and prevent development from encroaching upon its rural characteristics.

The proposal would be located to the rear/ side garden to Primrose Cottage and would be approximately 5m from the conservatory of the host dwelling. The proposed structure would measure approximately 12.2m by 6.1m with heights of 3.3m to the eaves and 4.2m to the ridge. The materials proposed are a smooth painted Pale Grey and a charcoal Grey roof tile.

The proposed annexe being single storey and located to the rear of the property would remain subservient in visual terms to Primrose Cottage. The proposal is considered to be of suitable design for its intended use and the use of muted colouring would serve to ensure that it would not result in an obtrusive or incongruous addition. Furthermore the location of the property to the rear of the frontage properties on Mansfield Road and the mature boundary treatments serve to ensure that the proposal would not be readily seen or result in any appreciable impacts upon the character of the locality.

It is therefore considered that the proposal accords with the requirements of policy DM5 in this respect.

#### Impact on Residential Amenity

Policy DM5 and the NPPF seek to ensure that development does not have an adverse impact upon the amenities of neighbouring properties. The annexe unit is unlikely to result in a material increase in noise or disturbance upon the amenity of neighbouring properties above and beyond levels created by existing residential properties in the vicinity. Therefore the use of the site is not considered to result in any appreciable impacts. The building would be single storey in scale and located against mature hedge boundary treatments. Given the heights of the building, the boundary hedges and fencing and the separation to nearest neighbouring property at Rosebury House of approximately 32m it is not considered that there would be any significant impacts of overlooking or oppression to warrant refusal. The proposal is located in close proximity to the boundary with Rosebury House which sits to the north of the site. Given the limited heights of the proposal it is not considered that there would be such a significant impact of overshadowing to warrant resistance on these grounds. The other neighbouring properties at The Meadows, Fairfield, Beck House, and Brook Cottage are at increasing distances and have large garden areas separating them from the proposal site. Given the distances, juxtaposition, boundary treatments and scale of the proposal it is not considered that there would be significant impacts upon the amenity of these further neighbours.

The proposal is considered to be acceptable in respect of providing impacts upon the neighbouring properties residential amenity. The proposal would be located in close proximity to the host dwelling at approximately 5m separation from the conservatory. It is therefore considered prudent to attach a condition to ensure that the proposed building is used for its intended purpose as annexe accommodation to the dwelling and not as a separate dwellinghouse.

The proposal is considered to be acceptable in this respect with Policy DM5 and the guidance in the NPPF.

### Impact upon Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems and Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

Primrose Cottage has one vehicular access point with parking provision to the front of the dwelling. The Highways Authority have provided standing advice which can be applied to this application. Given the proposal will remain dependent upon the principal dwelling, and taking into consideration the size of the existing parking area, it is unlikely that parking would be an issue. The proposal is therefore considered to accord with Spatial Policy 7 and Policy DM5 in terms of highway considerations.

### Foul and Surface Water Drainage

Objection has been raised on the ability to provide suitable surface water and foul drainage. The site is not within any area of known flood risk and there is nothing within the proposal which would raise concerns for increased risk of flooding. The proposal would seek to drain to the existing soft landscaping within the site. Given the scale of the proposal and the extent of the site it is considered that this surface water drainage method is acceptable. With regards to foul drainage the proposal is for the extension of the property at Primrose Cottage and an existing Main Drains connection is provided. The provision of main drains therefore is a matter between Severn Trent Water Authority and the applicant to address. Drainage issues at adjacent properties have also been raised this is a matter between the relevant properties and the water authority.

### Other Issues

Redline boundary- The application has been amended to indicate the entirety of the site as being within one planning unit.

Loss of trees – From the site visit it is apparent that the trees in question are ornamental garden trees. Given the location of the site it is not considered that there are any notable visual amenity provisions from the trees in question as such it is not considered to be necessary to require a tree survey and that the loss of these unprotected trees would not raise concern.

Fire Safety - Fire Safety has been raised as a concern with the proposal being located near to a hedgerow. The proposed development would need to comply with separate legislation in this regard including building regulation requirements and any necessary fire safety requirements.

Ability to accommodate additional occupation within the existing house – Objections raised in relation to the need to provide additional annexe accommodation with bedrooms remaining unoccupied. In this respect the applicant is not required to demonstrate a need however not withstanding this given the health of the proposed occupants single level accommodation is required.

Loss of views – There is no right to a view obtained over third party land and as such this is not a material consideration for the determination of this application.

## Conclusion

The proposal is for a residential annexe to Primrose Cottage. The proposal is considered to constitute a physically and functionally linked annexe ancillary to the main dwelling. The resultant impacts would not have any significant effect upon the character and form of the locality or the residential amenity of neighbouring properties. As such the proposal is recommended for approval subject to appropriate conditions.

## **RECOMMENDATION**

**That planning permission is approved subject to the conditions and reasons shown below:**

### 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

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

001 Site Location Plan

002 Location Within Plot

004 Orientation Plan

3529 Rev A Sonata II - 2 Bed, ES

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

04

The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling, known as Primrose Cottage, Mansfield Road, NG22 8BE.

Reason: For the avoidance of doubt, to define this permission and to prevent the creation of a separate dwelling.

## Notes to Applicant

01

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 Town and Country Planning (Development Management Procedure) Order 2010 (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 on the development hereby approved as the development type proposed is zero rated in this location.

## Background Papers

Application Case File

For further information, please contact Kevin Robinson on ext. 5400.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth & Regeneration**





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## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>18/00433/FUL</b>	
<b>Proposal:</b>	<b>Conversion of Traditional Agricultural Building to B1 Office Use with Associated Access and Parking</b>	
<b>Location:</b>	<b>Flash Farm, Micklebarrow Hill, Averham NG23 5RS</b>	
<b>Applicant:</b>	<b>Latham Farms Ltd.</b>	
<b>Registered:</b>	<b>28 February 2018</b>	<b>Target Date: 25 April 2018</b>

**This application is referred to the Planning Committee as the recommendation is contrary to the consultation response received from the Highways Authority.**

### The Site

Flash Farm is situated to the west of Averham on the A617 in the open countryside. The farm operation is a dairy farm with the large modern buildings providing accommodation and ancillary storage. The farm complex is comprised of a number of modern agricultural buildings located to the north west of the original farm house which is erected in redbrick under a clay pantile roof. To the north of the farm house is a courtyard of traditional barns and stables arranged in a U-shape again erected in red brick with a clay pantile roof. This courtyard is the subject of the proposal. Access to the site is taken directly from the A617 to the south east of the site utilizing an existing access serving the dwelling. The age and traditional grain of the barns would mean they can be considered as non-designated heritage assets. The site is within Flood Zone 1 and so is at low risk of flooding.

### Relevant Planning History

There is no recorded planning history to the site.

### The Proposal

The proposal seeks planning consent to convert the barns to office use. The range comprises a threshing barn to the western side, a single storey barn section along the northern run and an open sided cart shed forming the eastern arm.

The proposal seeks to provide six offices within the building with four offices to the threshing barn, two to the single story barn section and a further barn to the cart shed.

Unit 1 comprises 64.7 sq m at ground floor level within the threshing barn and adjoining single storey element;

Unit 2 comprises 28.2 sq m at ground floor level within the threshing barn;

Unit 3 comprises 41 sq m at first floor level within threshing barn;

Unit 4 comprises 29.7 sq m at first floor level within the threshing barn;

Unit 5 comprises 46.4 sq m at ground floor level in the northern range;

Unit 6 comprises 68.4 sq m at ground floor level in the northern and eastern ranges.

The proposal provides 14 car parking spaces in the courtyard area and to the east of the building. The offices would share the existing access from the A617 that currently serve the farmhouse. The functional agricultural buildings have a separate access to the west.

The application has been supported by an Ecological and Structural Surveys as well as a Planning, Design and Access Statement.

#### Departure/Public Advertisement Procedure

Given the location of the site, a notice has been erected adjacent to the entrance to the site on the A617.

#### Planning Policy Framework

##### The Development Plan

##### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1: Settlement Hierarchy  
Spatial Policy 3: Rural Areas  
Spatial Policy 7: Sustainable Transport  
Core Policy 6: Shaping our Employment Profile  
Core Policy 9: Sustainable Design  
Core Policy 10: Climate Change  
Core Policy 12 Biodiversity and Green Infrastructure  
Core Policy 13: Landscape Character  
Core Policy 14: Historic Environment

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

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

#### Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Conversion of Traditional Rural Buildings Supplementary Planning Document October 2005
- Publication Amended Core Strategy 2017

#### Consultations

**Averham Parish Council** – support the proposal.

**NSDC Environmental Health Officer** – no objection.

**NSDC Environmental Health Contaminated Land Officer** - This application includes the conversion of farm buildings to commercial (office) use.

Agriculture is a potentially contaminative land-use and such land can possibly be used for a wide variety of potentially contaminative activities including: non-bunded fuel storage, repair and maintenance of agricultural machinery/vehicles, storage of silage and other feed, slurry tanks/lagoons, disposal of animal waste and disposal of asbestos. There is clearly the potential for the site to have been contaminated from this former use.

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.

**NCC Highways Authority** - This application is for the conversion of an agricultural building to 6 office units with associated parking. The location of the application site is such that it is unlikely that the development would be accessed by any other form of transport than the private car. It is considered that the proposal is therefore contrary to the National Planning Policy Framework and to Spatial Policy 7 of the NSDC's Core Strategy.

Therefore, it is recommended that this application be refused for the following reason:  
The proposal does not offer reasonable and practical ways of accessing the site other than by private car, and is therefore contrary to the principles of Spatial Policy 7 of the LDF Core Strategy.

Additional information from the applicants agent was received in respect of the accessibility to the site and a reconsultation with the Highways Authority has resulted in the following response:

Paragraph 2.10 of the Planning Design and Access Statement states that the nearest bus stop is located 1.5km away from the site, however, should this be used there are no footways to accommodate any pedestrians to the site nor any cycle ways. As such, my comments remain.

Note

Should your Council wish to grant approval of this application, the following condition should be imposed:

No part of the development hereby permitted shall be brought into use until the improved access to the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with details to be submitted to and approved in writing by the LPA.

Reason: In the interests of highway safety.

The development makes it necessary to alter a vehicular crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

**No representations have been received from local residents/interested parties.**

## Appraisal

### Principle of Development

Core Strategy Policy SP3 (Rural Areas) provides that the “rural economy will be supported by encouraging...rural diversification”. Core Policy 6 (Shaping our Employment Profile) provides that “the economy of Rural Areas by rural diversification that will encourage tourism, recreation, rural regeneration, and farm diversification, and complement new appropriate agriculture and forestry development. Development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact”. Allocations & Development Management Development Plan Document (ADMDDP) Policy DM8 seeks to build upon this support with detailed policy considerations. DM8 criterion (5) Conversion of existing buildings provides that “In the interests of sustainability, consideration should be given to the conversion of existing buildings before proposing replacement development. Proposals should investigate and assess alternative uses for buildings in accordance with the aims of the Spatial Strategy and present a case for the most beneficial use. Planning permission will only be granted for conversion to residential use where it can be demonstrated that the architectural or historical merit of the buildings warrants their preservation, and they can be converted without significant re-building, alteration or extension. Detailed assessment of proposals will be made against a Supplementary Planning Document”. Policy DM8(6) Rural Diversification provides that “Proposals to diversify the economic activity of rural businesses will be supported where it can be shown that they can contribute to the local economy. Proposals should be complimentary and proportionate to the existing business in their nature and scale and be accommodated in existing buildings wherever possible.”

In addition the NPPF at Paragraph 28 seeks “To support economic growth in rural areas” and notably provides that policies should inter alia support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings; and promote the development and diversification of agricultural and other land-based rural businesses.

The proposal is supported by a structural survey from Fisher German LLP Chartered Surveyors which finds that the building is generally structurally sound and can be converted subject to some minor repair works. Given the building can be converted without substantial rebuilding and has support in policy terms for the reuse of the buildings and the diversification of farming enterprises, it is considered that the proposed conversion to offices is acceptable in principle in accordance with Policies SP3 and DM8 of the Development Plan.

### Impact upon character and appearance

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping.

Core Policy 9 (Sustainable Design) expects new development to demonstrate high standards of design. Policy DM5 goes on to provide policy requirements for proposals. In addition the District Council has produced a Supplementary Planning Document on Conversion of Traditional Rural Buildings.

Paragraph 135 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining applications. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The policy base and guidance seek to retain the original features and form of the building to be converted. The proposals will include the insertion of a new floor in the threshing barn at first floor level. Ideally a full-height element would be retained within the threshing barn, usually adjacent to the full height openings, however this proposal does not currently provide such a feature with the new first floor extending along the full length of the building. However, I am also conscious of the “balanced” judgement that the NPPF requires in the case of non-designated heritage assets. The supplementary guidance advises that in proposing schemes “every effort should be made to ensure that new windows are only inserted in to existing openings”. In this regard the proposal seeks to utilise the existing built form and openings to serve the conversion with only one new opening to the north elevation proposed. The proposal seeks to insert glazing within the larger cart door openings and a combination of glazing and solid treatments to the openings in the stable building. With regards to the roof slopes the guidance provides that “the introduction of flush rooflights and small vents will be acceptable only if they are used with restraint and placed in discrete positions. If the overall effect of a particular proposal destroys the essential character of the building, the conversion will not be allowed”. In this respect the proposal seeks to provide 8 number roof lights all of which are to the threshing barn structure. The roof lights proposed are considered to be of limited size and are separated out along the roof and located low on the slope, therefore minimising their prominence as new insertions. Subject to an appropriate condition to control the roof lights to be flush with the roof slope, under the NPPF a “balanced” judgement must be reached and on balance, although these are not ideal, it is not considered that there would be a significantly detrimental impact upon the character and appearance of the barn.

The details provided are considered to be sympathetic to the original form of the barns and would, subject a suitable condition to require approval of final detailing of joinery works, preserve the interest of the barn as a traditional rural building and non-designated heritage asset.

The main alteration from the existing structure would be undertaken to the cart shed structure to the eastern end of the courtyard. The proposal would seek to provide glazing along its eastern elevation and replace a collapsed section of roof. It is noted that the guidance provides that cart sheds are often the most difficult to convert. However in this instance the proposal has retained the appearance of the cartshed as an open-sided structure through the large glazing and the replacement of the collapsed roof would repair it to its former condition. Given the works to the roof are only very minor in the conversion of the building in this instance it is considered that the proposal would preserve the traditional appearance of the barns.

The proposal is therefore considered to be acceptable in respect of the policies CP9 CP14, DM8 and DM9 and the guidance in the Supplementary Planning Document and the NPPF.

#### Impact on Residential Amenity

Policy DM5 (3) Amenity – requires that proposals be designed and laid out to ensure that suitable separation distances are achieved to ensure no significant impacts of overbearing, loss of light or privacy occur. New developments which cannot be afforded an adequate standard of amenity or creates unacceptable standard of amenity for neighbours will be refused.

In this respect the site is adjacent to the farm house at Flash Farm to the south and the dairy farm operation to the west and northwest. The Council's Environmental Health Officer has been consulted on the proposal and does not raise any concerns for the proposal from the adjacent activities. In this respect it is noted that the building is located within the open countryside and it is apparent that there is a farming operation adjacent to the site. This has the potential to cause noise and odour impacts on the office use. Given the use as office accommodation, it is considered that the expected level of amenity would be lower than it would be if the proposed use were to be residential. Operating hours would be during normal working hours and the office use likely to be rented out. Taking all these factors into account, it is considered that the proposal can be supported in this instance and it is not considered that the location would give rise to unacceptable amenity impacts upon the proposed use.

With regards to the impacts of the proposal upon the amenity of the neighbouring property, it is considered that there would be no appreciable change to impacts of overshadowing or over-bearing impact from the development with only very minor physical alterations proposed. The resultant activity would increase the usage of the site and would increase the number of vehicular movements associated. In this respect the neighbouring house is located adjacent the operational farm and therefore has a degree of activity as it stands. The proposal for office use would result in increased movement and activity during office hours. As the office hours would be through the day it is not considered that there would be any significant impact upon the residential amenity of the existing property through unacceptable levels of noise and disturbance through comings and goings.

The proposal is therefore considered to be acceptable in this respect with the test of policy DM5 of the ADMDPD.

#### Highways and Parking

Spatial Policy 7 (Sustainable Transport) requires that "the Council will work with the County Council and other relevant agencies to reduce the impact of roads and traffic movement, to support the development of opportunities for the use of public transport, increase rural accessibility and to enhance the pedestrian environment."

Policy DM5 (1) Access requires "provision should be made for safe and inclusive access to new development. Where practicable, this should make use of Green Infrastructure and as many alternative modes of transport as possible. And criterion (2) Parking requires "parking provision for vehicles and cycles should be based on the scale and specific location of the development. Development resulting in the loss of parking provision will require justification".

The Highways Authority has raised objections to the ability to access the site by means of transport other than by private transport. The Highways Authority has not raised any objection to the safety of the access and egress to the site or the provision of parking provision. As such these points are considered to be acceptable in respect of policy SP7, DM5 and the guidance in the NPPF. The objection relates solely to the accessibility of the site by means other than private vehicle.

Comments on the Highways Authority response have been sought from the Applicant's Agent with the following response being received:

*“we consider that given the site’s rural setting policies for Countryside, Farm Diversification and Employment should weigh heavily in favour of the planning application. Given the small scale nature of the application it is not considered to generate excessive traffic and it is the re-use of an existing building through farm diversification which is strongly supported within both the adopted Core Strategy and Allocations and Development Management DPD in Spatial Policy 3, Policy DM8 and Core Policy 6.*

*Paragraph 28 of the National Planning Policy Framework (NPPF) 2012 supports a prosperous rural economy by taking a positive approach to sustainable new development through expansion of all types of business and enterprise in rural areas including through conversion of existing buildings and the development and diversification of agricultural and other land based rural businesses.*

*Furthermore, the NPPF (2012) which supersedes the adopted Core Strategy (2011) states at paragraph 29 that ‘the government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas’. Also, Paragraph 32 of the Framework states that ‘development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe’. It also suggests that decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site.*

*Whilst not extensive, there are opportunities to access the site by cycle, foot or bus.*

*In conclusion, we consider that the proposals are not contrary to Policy SP7. It should not be refused on highway grounds as the impacts from the development will not be ‘severe’ and it is a suitable re-use of an existing redundant agricultural building in line with adopted policies, as set out above.”*

It is considered that there is a balancing exercise to be undertaken in this respect with the support for the conversion of rural buildings being weighed against the available options to access the site. In this respect it is considered that the policy support within the NPPF at paragraph 28 to promote the development and diversification of agricultural and other land-based rural businesses and the further explanation at paragraph 29 that whilst transport policies have an important role to play in facilitating sustainable development, “the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas”.

As such it is considered that whilst not readily accessible from multiple modes of transport that on balance, the proposal does comply with the requirements of the development plan in considering highways safety and parking and therefore is considered, subject to the requested condition for the access formation, to be acceptable in highways safety terms, even though not ideal from a transport sustainability viewpoint.

### Ecology

Core Policy 12 (Biodiversity and Green Infrastructure) provides that the District Council will seek to conserve and enhance the biodiversity and geological diversity of the District. ADMDPD policy DM5 (7) Ecology requires 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.”

The commentary at paragraph 7.24 advises “Both National and European legislation require the potential impact on protected species and their habitats to be taken into account in the planning process. Where it is apparent that a site may contain or provide a habitat for protected species, this should form the starting point for the design process which should be informed by accurate and up to date survey information. Wherever possible, the development should be designed to enhance the Green Infrastructure by providing continuity of habitat, or as a last resort, should include on or off site mitigation measures. The Habitats Regulations Assessment has identified areas where the development of allocated sites may affect sites of European importance for nature conservation.”

The application as submitted is supported by an Ecological Assessment undertaken by Turnstone Ecology. The Assessment comprises of a Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) and two bat activity surveys. The Assessment provides that there is evidence of bat activity to the western barns and provides that a European Protected Species Licence would be required from Natural England to undertake any works to the buildings. The Assessment also indicates that the following mitigation measures should be undertaken:

As a minimum the mitigation will include:

- Works to any features suitable for or confirmed to be supporting roosting bats will be carried out under a NE EPS mitigation licence;
- Prior to any work commencing, at least two bat boxes (*e.g.* Schwegler 2FN box) will be positioned on an existing building or tree on site where no work is due to be undertaken and the box will not be impacted by future work;
- A mixture of lifted ridge tiles and lifted roof tiles will be retained and must be left in a condition to be suitable for use by roosting bats;
- Two Schwegler 1FE Access Panels with Back Plates will be built into Building C during the conversion, these will be on various aspects to replicate current features available for use by bats; and
- The roofs of the buildings will be lined with a traditional non-breathable membrane, to ensure that bats that may roost in the roof in the future do not become entangled in the fibres of a breathable membrane.

If, in the unlikely circumstance that a higher level of bat use is confirmed during further surveys (*e.g.* larger numbers of Brown Long-eared Bat), the mitigation will include:

- A loft space (either in Building C or D) will be retained and enhanced purely for the use by roosting bats, which will have the following features;
  - o internal access to the loft through gaps at the wall tops or at the gable end verge if possible; and
  - o crevices will be created inside the roof of the bat loft by fixing sheets of ply-wood (approximately 30x30cm) to the tile battens.

The ecological assessment also takes into consideration the potential for Birds, Great Crested Newts, Badger, and reptiles. The assessment finds that only breeding birds are potentially affected and recommends bird boxes be provided to offset any lost nesting opportunity.

Subject to a condition requiring compliance with the mitigation measures requiring the provision of bird boxes and the bat mitigation measures outlined above are incorporated the application is considered to be acceptable in regards to the ecological interest of the site and protection afforded to protected species in accordance with CP12 and Policies DM5 and DM7 of the DPDs.

### Flood Risk and Water Management

Policy CP9, CP10 and Policy DM5 (9) seeks to protect proposals from flood risk. The site is located within Flood Zone 1 which means it is at low risk of flooding. The proposal would seek to provide parking and turning facilities within the courtyard of the barn complex. This area is currently not surfaced and therefore is permeable. It is considered necessary to attach a condition to require the surface treatment for the parking provision to be made of permeable materials to ensure that there would not be any increase in run off from the site as it currently stands.

### Other Issues:

#### Land contamination

The site was last used for farming activities and therefore has potential for the land to have become contaminated from the storage of chemicals. The Environmental Health Officer has requested a condition for details to establish whether contamination is present and what mitigation measures are required. It is therefore considered appropriate and necessary to attach a condition to require investigation and mitigation measures to ensure that the development is suitably implemented to ensure the land and buildings are safe for human habitation.

### Conclusion

The principle of development is acceptable in converting an existing building which has been demonstrated to be capable of the intended conversion without substantial rebuilding or extension. The re-use of this existing building demonstrates sustainability in terms of materials that have already been constructed on the site. The proposal is considered to protect the character and form of the barn structures taken individually and as a whole their retention and re-use are welcomed as they contribute to the character and appearance of the area and a balanced judgement has been made in line with para 135 of the NPPF. The scheme is considered to be acceptable in amenity terms, parking and highway safety, drainage and contamination terms. Notwithstanding the objection raised by the Highway Authority that has been taken into account and given appropriate weight, it is considered that the benefits of the scheme outweigh the dis-benefit of lack of sustainable transport to serve the development. As such approval is recommended, subject to conditions.

### **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions:**

#### **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

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

Block Plans: Drg No. 115361-005 Dated December 2017

Proposed Floor Plans & Elevations: Drg No. 115361-002 Dated December 2017

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.

Treatment of window and door heads and cills

Verges and eaves

Rainwater goods.

Reason: In the interests of visual amenity and preserving the character of the non-designated heritage assets.

04

No development shall be commenced until samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Bricks

Roofing tiles

Cladding

Reason: In the interests of visual amenity and preserving the character of the non-designated heritage assets.

05

Prior to the commencement of the development hereby approved, a scheme for undertaking the mitigation measures detailed in section 4 of the Turnstone Ecological Assessment dated October 2017 (Rev 01) including timescales for delivery shall be submitted to and approved in writing by the local planning authority.

The mitigation measures shall be fully implemented in accordance with the approved details prior to the office use being first brought into use.

Reason: In the interests of biodiversity.

06

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

#### **Part A: Site Characterisation**

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

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

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

#### **Part B: Submission of Remediation Scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

### **Part C: Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

### **Part D: Reporting of Unexpected Contamination**

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

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

07

Any new hard surfacing to be laid in conjunction with the proposed development within the application site shall be water permeable.

Reason: To ensure that the proposal does not adversely impact upon the surface water drainage of the locality.

08

No part of the development hereby permitted shall be brought into use until the improved access to the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with details to be submitted to and approved in writing by the LPA.

Reason: In the interests of highway safety.

09

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, hedgerow, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. For the avoidance of doubt, new planting should consist of native species only;  
car parking layout and materials;  
other vehicle and pedestrian access and circulation areas.

Reason: In the interests of biodiversity and the visual amenities of the area.

010

The approved landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

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

#### Notes to Applicant

01

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 Town and Country Planning (Development Management Procedure) Order 2010 (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](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.

For development involving demolition, the existing floor space is usually not included in the calculation but CIL is usually only payable on any new floor space created through extensions to the building etc. However, for the existing floor space to not be included in the calculation, the building(s) has to be in lawful use. Part 5, Regulation 40 Paragraph 10 of the CIL regulations states that "a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 36 months ending on the day planning permission first permits the chargeable development." From my knowledge, the buildings on site have been vacant for more than 36 months and therefore may not meet the above criteria. The onus would be on you to demonstrate otherwise if necessary.

03

The development makes it necessary to alter a vehicular crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

04

An advisory booklet is available – “A guide to Developing Land in Nottinghamshire”. This is available from NSDC website using the following link:

<http://www.newark-sherwooddc.gov.uk/landpollution/>

Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

**Natural England**

Block 6 & 7 Government Buildings  
Chalfont Drive  
Nottingham  
NG8 3SN  
Tel: 0115 929 1191  
Fax: 0115 929 4886  
Email: [eastmidlands@naturalengland.org.uk](mailto:eastmidlands@naturalengland.org.uk)

**English Heritage**

Ancient Monuments Inspector  
44 Dergate  
Northampton,  
NN1 1UH  
Tel: 01604 735400  
Fax 01604 735401  
E-mail: [eastmidlands@english-heritage.org.uk](mailto:eastmidlands@english-heritage.org.uk)

**Heritage Planning Specialists**

Nottinghamshire County Council  
Trent Bridge House  
Fox Road  
West Bridgford  
Nottingham  
NG2 6BJ  
**Tel:** +44 (0)115 977 2162  
**Fax:** +44 (0)115 977 2418  
**E-mail:** [heritage@nottscc.gov.uk](mailto:heritage@nottscc.gov.uk)

to prevent damage or harm to the historic environment.

05

In the event that any bat/s are found during demolition, work must stop immediately. If the bat/s does not voluntarily fly out, the aperture is to be carefully covered over to provide protection from the elements whilst leaving a small gap for the bat to escape should it so desire. The Bat Conservation Trust should be contacted immediately on (0845) 1300228 for further advice and

they will provide a licensed bat worker to evaluate the situation and give advice. Failure to comply is an offence under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 which makes it an offence to kill, injure or disturb a bat or to destroy any place used for rest or shelter by a bat (even if bats are not in residence at the time). The Countryside and Rights of Way Act 2000 strengthens the protection afforded to bats by covering 'reckless' damage or disturbance to a bat roost.

### Background Papers

Application Case File

For further information, please contact Kevin Robinson on ext. 5541.

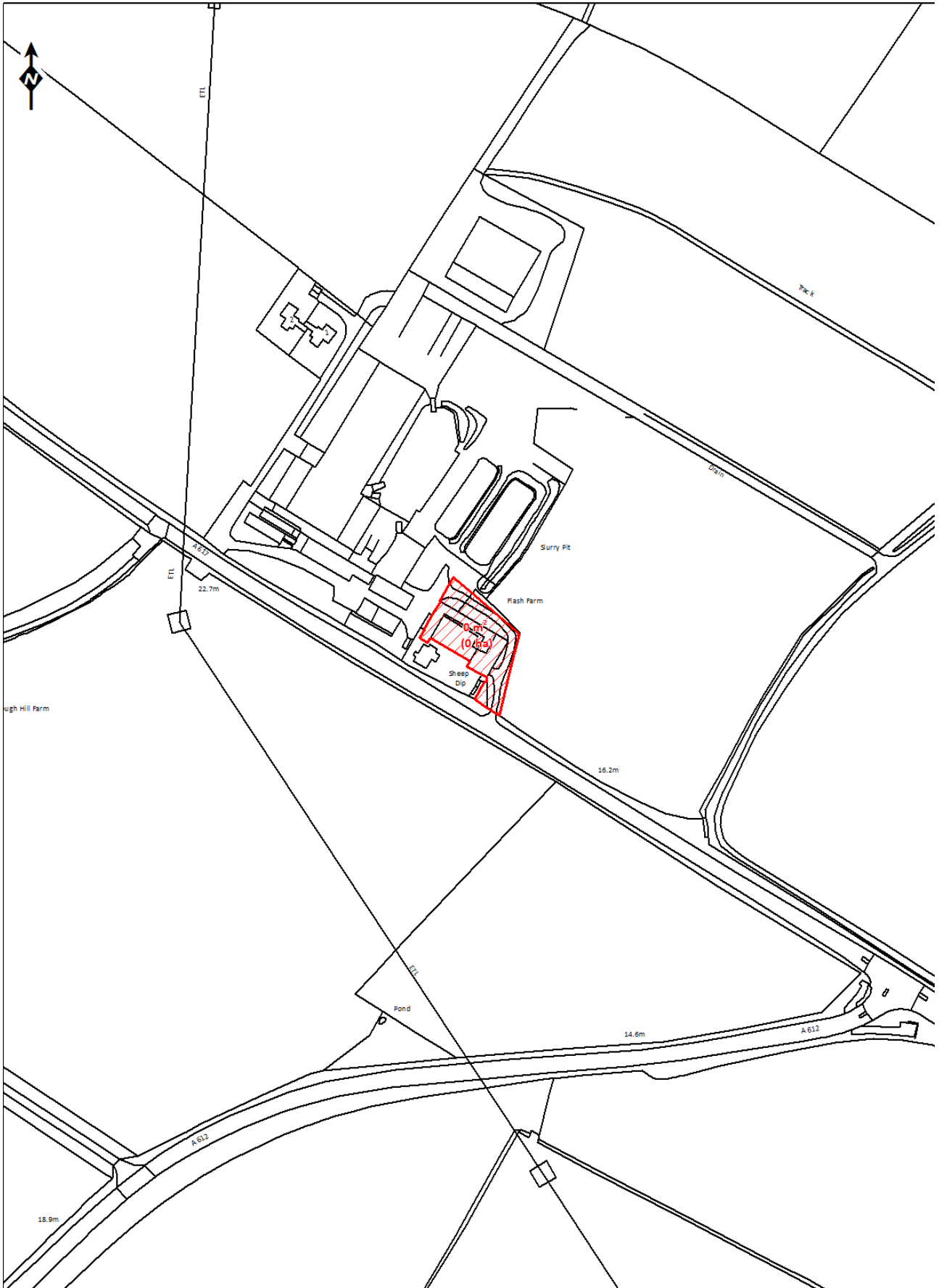
All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth & Regeneration**



Committee Plan - 18/00433/FUL



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## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>18/00636/FUL</b>	
<b>Proposal:</b>	<b>Provision of free standing Classroom, Tool Store, Portaloo and installation of removable training test track.</b>	
<b>Location:</b>	<b>Land at Newark Lorry Park, Great North Road, Newark On Trent, NG24 1BY</b>	
<b>Applicant:</b>	<b>Mr Robert Parkin - Trackwork Ltd</b>	
<b>Registered:</b>	<b>24 March 2018</b>	<b>Target Date: 19 June 2018</b>

**This application is presented to the Planning Committee for determination because Newark and Sherwood District Council own the land.**

### The Site

The 0.31 Ha triangular shaped site forms the north east corner of the existing Newark Lorry Park within the Newark Urban Area.

To the north west is an area of landscaping which separates the lorry park from the A46 bypass which is set higher with the intervening land being embanked with mature trees and vegetation forming a good level of screening. To the south east is the railway line which is bounded by some vegetation and green mesh fencing. Beyond the railway line is Newark Conservation Area and a Grade II Listed Goods Warehouse. To the south is part of the existing lorry park site, beyond which is the rear staff car park for the Council Offices at Castle House (set behind a metal palisade fence).

The access to the site is through the existing Lorry Park. The site currently contains heras fencing and three small shipping containers.

The site lies within Flood Zone 2.

### Relevant Planning History

12/00896/FUL Use of part of lorry park to hold car boot sales every Sunday and Bank Holiday – permission 27.09.2012

01870379 Construction of livestock market car and lorry parks – permission 28.09.1987

### The Proposal

The application seeks full planning permission for the provision of a free standing classroom, tool store, portaloo and removable training test track.

The Applicant (Trackwork Ltd) has stated that the development would be used for training purposes for the locally unemployed. Trackwork Ltd specialise in Rail Engineering Training programmes and is the reason why they have chosen this site adjacent to the operational network. The proposal would be delivered in partnership with the West Nottinghamshire College and the local DWP. They intend to build temporary rail stillage within the compound to enable the Learners to gain specific skills that are required. The test track would measure approximately 25 metres in length.

The free standing classroom would measure 9.8 metres by 3 metres by 2.7 metres high. It would have the appearance of a green shipping container with windows and doors inserted.

The tool store would measure 12.2 metres by 3.7 metres by 2.7 metres high. It would have the appearance of a green shipping container with windows and doors inserted.

The portaloos would measure 1.2 metres by 1.2 metres by 2.3 metres high made from moulded polythylene in grey or white.

Nine car parking spaces are proposed. The application form confirms that there would be thirteen people being trained at the site at any one time and the operational hours would be 08:00 – 16:30 Monday to Friday.

A Flood Risk Assessment and Sequential Test information have been submitted in support of the application.

#### Departure/Public Advertisement Procedure

Occupiers of 39 properties have been individually notified by letter.

A site notice was posted 26.04.2018.

A press notice was published 03.05.2018.

#### Planning Policy Framework

#### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (Adopted March 2011)**

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 14 – Historic Environment  
NAP1 – Newark Urban Area

#### **Allocations and Development Management DPD (Adopted July 2013)**

Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM5 - Design  
Policy DM7 - Biodiversity and Green Infrastructure  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM10 – Pollution and Hazardous Materials  
Policy DM12 - Presumption in Favour of Sustainable Development

## **Other Material Planning Considerations**

National Planning Policy Framework (NPPF) 2012  
National Planning Policy Guidance (NPPG) 2014  
Newark and Sherwood Amended Core Strategy DPD 2017  
Technical Guidance to the National Planning Policy Framework 2012

## **Consultations**

**Newark Town Council:** No Objection was raised to this application at Newark Town Council's Planning Meeting held on 2<sup>nd</sup> May 2018.

**Cadent Gas Plant Protection:** Searches based on your enquiry have identified that there is apparatus in the vicinity of your enquiry which may be affected by the activities specified. Can you please inform Plant Protection, as soon as possible, the decision your authority is likely to make regarding this application.

The apparatus that has been identified as being in the vicinity of your proposed works is:

Low or Medium pressure (below 2 bar) gas pipes and associated equipment. (As a result it is highly likely that there are gas services and associated apparatus in the vicinity)

BEFORE carrying out any work you must:

Carefully read these requirements including the attached guidance documents and maps showing the location of apparatus.

Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.

Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47

Avoiding Danger from Underground Services' and GS6

Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>

In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

**Trent Valley Internal Drainage Board:** The site is within the Trent Valley Internal Drainage Board district. The Board maintained Old Trent Dyke Pt.1, an open watercourse, exists along the boundary of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies. The Board's consent is required to erect any building or structure (including walls and fences), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the top edge of any Board maintained watercourse or the edge of any Board maintained culvert. The Board's consent is required for any works, whether temporary or permanent, in, over or under, any Board maintained watercourse or culvert. The Board's consent is required for any

works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required). The Board's consent is required irrespective of any permission gained under the Town and Country Planning Act 1990. The Board's consent will only be granted where proposals are not detrimental to the flow or stability of the watercourse/culvert or the Board's machinery access to the watercourse/culvert which is required for annual maintenance, periodic improvement and emergency works. The applicant should therefore note that the proposals described within this planning application may need to be altered to comply with the Board's requirements if the Board's consent is refused.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

**Environment Agency:** This proposal falls in Flood Zone 2 and standing advice can be applied.

**Network Rail:** No comments received.

**NCC Highways:** The application site is to be used for Rail Engineering training purposes only. Vehicular access to the site is from the existing access at Great North Road, which also serves Newark livestock market. The site is a considerable distance from the public highway and is not expected to have a significant impact, therefore, there are no highway objections to this application.

**Lead Local Flood Authority:** No comments received.

**NSDC Conservation Officer:**

The Lorry Park abounds Newark Conservation Area (CA). There are a number of designated heritage assets in the wider vicinity.

#### Legal and Policy Considerations

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount consideration, 'the first consideration for a decision maker'.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development within their setting (paragraph 137).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

#### Significance of Heritage Asset(s)

The lorry park is situated on land adjacent to the Cattle Market on Great North Road and is prominent on approach into the historic town. Although not within the boundary, the lorry park is within the setting of Newark CA (the boundary follows the railway line on a northeast tangent). The CA was originally designated in 1968 and focused on the Market Place. In 1974, the CA was extended to include Millgate, Parnhams Island and the traditional residential streets up to Victoria Street. The CA was then extended in four more stages: in 1979 when a more rational boundary to the central area was defined; in 1987 when the majority of Northgate either side of the Trent was included; and in 1992 and 1995 when the London Road suburbs and the Cemetery were added. The land forming the Lorry Park has limited interest in its own right, although does make some modest contribution to the general openness of the CA landscape setting.

The part of the lorry park in which the proposal will be located is directly adjacent to the railway line, close to a Grade II listed former goods warehouse. There are a number of listed buildings in the wider context of the site, including the Grade II listed Castle Station and various other former industrial buildings such as the kiln warehouse which is Grade II\* listed.

The Edwardian tree lined avenue along Great North Road, which was paid for by public subscription in the early 20<sup>th</sup> century, is an important feature of the town entrance, and views of the Castle (Grade I, Scheduled Monument) and St Mary Magdalene (Grade I) are positive. The relationship of the Great North Road as a historic thoroughfare into Newark with surrounding heritage assets, including the 18<sup>th</sup> century Smeaton's Arches (Grade II) and various Civil War earthworks, is an important aspect of the town's setting and significance.

#### Assessment of Proposal

The proposal seeks to erect a free standing class room building with a detached tool store container, W.C. and railway testing line. Heras fencing will enclose the site.

The proposal will have some impact on the setting of the CA and nearby former listed goods shed (now converted to apartments). It is accepted that the existing lorry park and railway line have an industrial character, and in this context, the proposal will not be too incongruous. The structures are relatively modest in scale, and the short railway track blends in with the parallel main line. Nevertheless, the flat roof buildings do not reflect local vernacular buildings, and the development will be slightly at odds with the adjacent historic 19<sup>th</sup> century buildings.

It is acknowledged that the development will provide training opportunities, and thus is likely to be perceived as having public benefit. In addition, mitigation is offered through the green finish of the metal buildings.

Overall, it is felt that the development will not fundamentally harm the historic environment, although if approved, the development should be conditioned so as to remove all related buildings and fences once the permitted use has ceased. This will help preserve the setting of designated heritage assets in this case.

**NSDC Environmental Health Officer (Contaminated Land):**

*Comments received 08.05.2018:*

Given the submission of further information I can confirm that the full contamination condition will not be required for this application. If in the future there is ever going to be any permanent structures/buildings or underground services then this may need to be revisited.

*Comments received 22.05.2018:*

The application site forms part of former railway sidings and there is the potential for contamination to be present from this former use. I would request the use of our full phased contamination condition.

**NSDC Environmental Health Officer (Reactive):** No objection.

**NSDC Access and Equalities Officer:** It is recommended that the developer be advised to give consideration of access to and use of the proposals. In particular, inclusive access to and around the facility together with adequate manoeuvring space should be carefully considered with suitable level and inclusive access to available facilities. It is further recommended that the developer make separate enquiry regarding any Building Regulations matters and be mindful of the provisions of the Equality Act.

**No letters of representation have been received from neighbouring properties.**

**Comments of the Business Manager**

**Principle of Development**

The Core Strategy is explicit in identifying that the Newark Urban Area is the Sub-Regional Centre for the District which will form the focus for further development and growth over the identified plan period. The Allocations and Development Management DPD has qualified the preferred location of part of this growth through the allocation of sites for a number of uses.

Core Policy 6 supports the strengthening and broadening of the economy of Newark and Sherwood District and requires most growth to take place within Newark. The proposed development would provide a training facility for the locally unemployed seeking a career relating to the railway. As such, the proposal would facilitate increased employment levels in accordance with the aims of Core Policy 6 and to the benefit of the local economy.

The principle of development is therefore considered to be acceptable subject to an assessment of the site specific considerations set out below.

#### Impact on Visual Amenity including setting of Listed Buildings and the Character and Appearance of the Conservation Area

Policies CP14 and DM9 require continued preservation and enhancement of heritage assets. The principal act also requires that special regard is given to the preservation of heritage assets. Local planning authorities need to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The NPPF states 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. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

The proposal has the potential to affect the character and appearance of both the adjacent Conservation Area and also the setting of nearby listed buildings including the Grade II Goods Warehouse, Newark Castle Station and other listed warehouses in the vicinity.

The proposed buildings and heras fencing are temporary and industrial in appearance and are not considered to be in keeping with character and appearance of nearby buildings and those of heritage value in particular. Lorries when parked often screen views of the site from the surrounding area. Even when there are no parked lorries, views of the site from the public realm are limited due to the location of the site to the rear of Castle House. There is also a level of screening provided by existing landscaping to the north, east and west of the site which would be unaffected by the proposed development. As such, whilst I do not consider the proposed buildings and fencing in particular to be in keeping with the character of the area, I do not consider that they would be unduly prominent to the detriment of the visual amenity of the surrounding area.

The Conservation Officers' comments are set out in full in the 'Consultations' section above and concludes that the development would not fundamentally harm the historic environment. I concur with this view particularly taking the current industrial nature of the site and adjacent railway line. I also attach weight to the public benefits of the proposal in relation to the training of unemployed people which would facilitate increased employment levels to the benefit of the local economy and community.



On balance, whilst I do not consider the proposal to be in keeping with the area, the harm identified is outweighed by the benefits of the proposal in this instance. Subject to conditions relating to the removal of the buildings on cessation of their use, it is considered that the proposed development would be in accordance with the NPPF, Core Policy 14 of the Core Strategy and Policy DM9 of the Allocations and Development Management Development Plan Document (DPD).

### Contaminated land

Policy DM10 of the DPD states that where a site is highly likely to have been contaminated by a previous use, investigation of this and proposals for any necessary mitigation should form part of the proposal for re-development.

The application site has the potential to be contaminated due to the sites location adjacent to the railway. The Application confirms that the placing of building and track on site would at no time involve the breaking into the ground as all services will be above ground. They have also confirmed that as part of the training programme, learners are taught about the hazards relating to rail infrastructure and this includes contamination. On this basis, the Environmental Health Officer raises no objection to the proposed development. This is in accordance with the requirements of Policy DM10 of the DPD.

### Impact on Flooding

Core Policy 10 (which is in line with the NPPF) states that through its approach to development, the Local Development Framework will seek to, amongst other criteria; locate development in order to avoid both present and future flood risk. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

The site is located within Flood Zone 2 and is therefore a site at risk of flooding (medium probability). In flood vulnerability terms, I consider the proposal to fall into the 'less vulnerable' use category where development is appropriate in Zone 2.

The NPPF sets out policy on flood risk stating that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. It goes on to say that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The Applicant has submitted further information in relation to available alternative sites for the proposed development.

The site needs to be readily accessible from key public transport links available within Newark Town Centre in order to provide convenient access for as many learners in the District as possible. As part of the delivery of the training, direct access to a live railway line is required. Both of these factors significantly limit the number of potential alternative sites available.

I have no evidence to confirm that there is any other suitable land for sale available at the time of writing this report other than a parcel of land located off Cow Lane. However, this site is also located in Flood Zone 2 and is not therefore considered to be sequentially preferable to the application site. In addition, the Applicant has confirmed that this site is less suitable because it is

further away from the railway and less secure. Consideration of alternative sites has therefore revealed that there are no sites suitable or reasonably available for development and it is considered that the proposal passes the sequential test.

It is also necessary to demonstrate that 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. A Flood Risk Assessment has been submitted with the application albeit this does include all of the information required to enable a full assessment of the proposal against Vulnerable Developments Standing Advice. As such, it is considered appropriate to impose a condition in relation to finished floor levels and emergency escape plans. Following a discussion with the Environment Agency, it was agreed that in the absence of knowing the exact flood levels of the site (and given the temporary nature of the buildings proposed), that a pragmatic solution is to impose a planning condition requiring ground floor levels of the buildings to be a minimum of 300 millimetres (mm) above the general ground level of the site.

As such the proposal is considered acceptable in accordance with the aims of Core Policy 9 and Core Policy 10 of the Core Strategy and Policy DM5 of the DPD.

#### Impact on Highways

Policy DM5 seeks to ensure adequate access and parking is provided for development and SP7 relates to sustainable transport. The proposal utilizes an existing access off Great North Road. The Highways Officer raises no objection to the application as it is considered to have a negligible impact on the public highway. As such, the proposal is considered to comply with the highways requirements of Policy DM5.

#### Impact on Neighbouring Amenity

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers. Given the nature of the proposed use along with use of the existing site and surrounding uses, it is not considered that that an unacceptable impact on amenity would result and therefore the proposal accords with Policy DM5 of the DPD.

#### Conclusion

The proposed development would provide a training facility for the locally unemployed and would facilitate increased employment levels in accordance with the aims of Core Policy 6 and to the benefit of the local economy.

In relation to the sites location within Flood Zone 2, the sequential test is considered to be passed and it is not considered that the proposal would result in increased levels of flood risk subject to planning conditions.

On balance, whilst I do not consider the proposed temporary buildings and fencing in particular to be in keeping with the character of the area, I do not consider that they would be unduly prominent and the harm identified is outweighed by the benefits of the proposal in this instance. Furthermore a condition would ensure the removal of the buildings and equipment on cessation of the use of the site.

No other harm has been identified and the proposal would not result in any adverse impact upon neighbouring amenity, highway safety or contaminated land. It is therefore considered that the scheme is acceptable and should be approved subject to conditions.

## **RECOMMENDATION**

**That full planning permission is approved subject to the following 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

The development hereby permitted shall not be carried except in complete accordance with the following plans, reference numbers:

SK001/P2 Newark Site Layout

Portaloo Specifications (Received 18.04.2018)

Typical Classroom Elevations (Received 24.04.2018)

30' x 10' Steel Office Unit

40' x 12' Steel Office Unit

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission and for the avoidance of doubt following the submission of amended plans.

03

A Flood Warning and Evacuation Plan shall be submitted to and agreed in writing with the Local Planning Authority, and implemented prior to first use of the buildings hereby permitted. The development shall be carried out in accordance with this approved plan. The plan should include provisions for signing up to the Environment Agency's Flood Warning Service for early warning of potential flood events, details of how information would be disseminated and how occupants would be evacuated.

Reason: To safeguard against the risk of flooding in accordance with the aims of the NPPF and Core Policy 10 and Policy DM5 of the DPD.

04

The ground floor levels of the buildings hereby permitted shall be a minimum of 300 millimetres (mm) above the general ground level of the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard against the risk of flooding in accordance with the aims of the NPPF and Core Policy 10 and Policy DM5 of the DPD.

05

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity and the setting of heritage assets in accordance with Core Policy 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Management Development Plan Document (DPD).

06

All buildings, test track and ancillary equipment must be removed from site within 6 months of the use of the site ceasing to be operational.

Reason: The application site lies in the setting of a number of heritage assets including a Conservation Area and it is important that once the development has ceased the site is returned to its original state in the interests of visual amenity and the character and appearance of the area in accordance with Core Policy 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Management Development Plan Document (DPD).

### **Notes to Applicant**

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/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 hereby approved as the development type proposed is zero rated in this location.

02

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 Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03

The Board maintained Old Trent Dyke Pt.1, an open watercourse, exists along the boundary of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies. The Board's consent is required to erect any building or structure (including walls and fences), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the top edge of any Board maintained watercourse or the edge of any Board maintained culvert. The Board's consent is required for any works, whether temporary or permanent, in, over or under, any Board maintained watercourse or culvert. The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required). The Board's consent is required irrespective of any permission gained under the Town and Country Planning Act 1990.

04

Searches based on your enquiry have identified that there is apparatus in the vicinity of your enquiry which may be affected by the activities specified

BEFORE carrying out any work you must:

Carefully read the consultation letter received from CADENT ON 1 May 2018 including the attached guidance documents and maps showing the location of apparatus.

Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.

Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47

Avoiding Danger from Underground Services' and GS6

Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>

In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

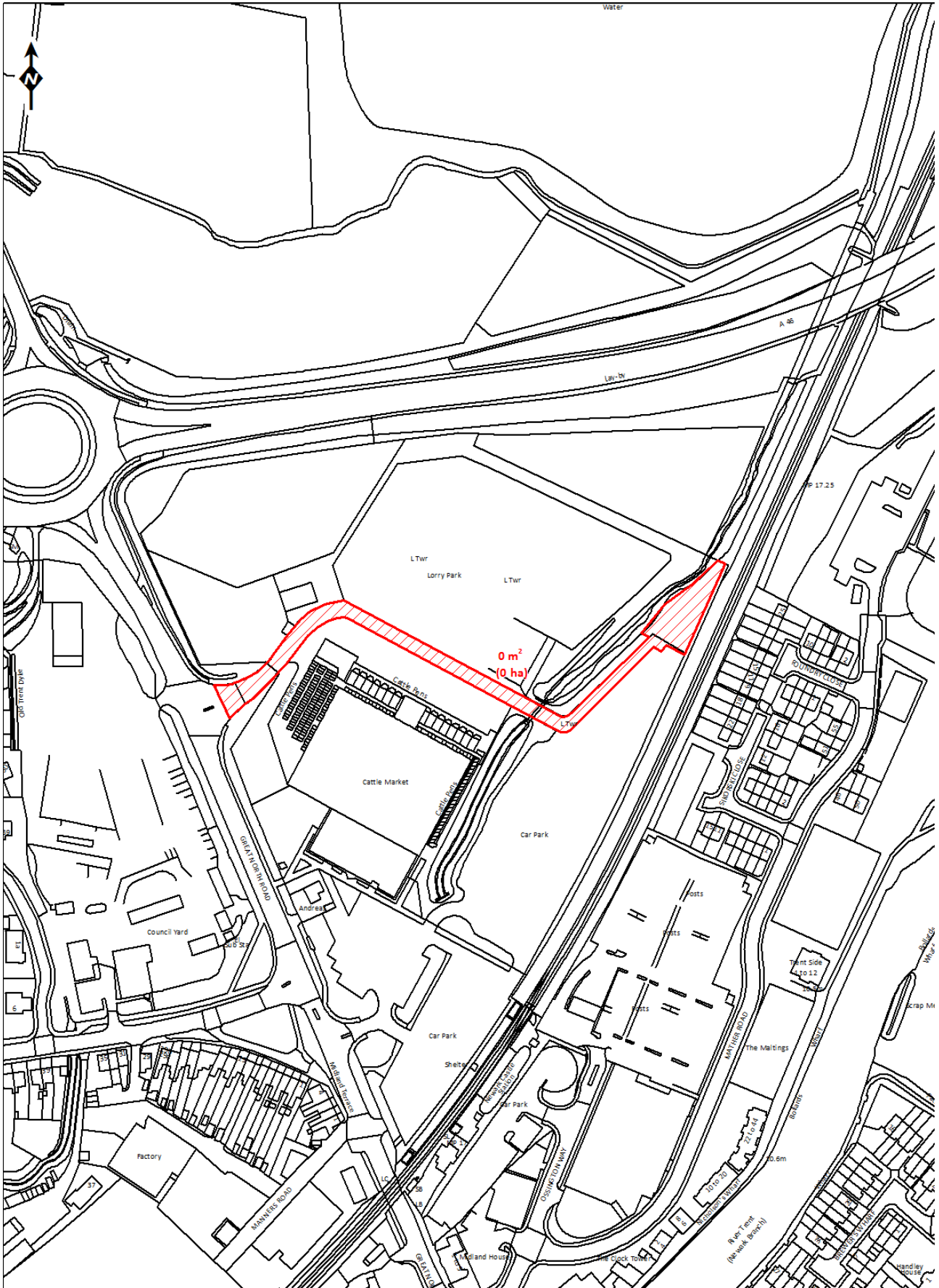
#### Background Papers

Application Case File

For further information, please contact Helen Marriott on ext 5793.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Business Manager - Growth & Regeneration**



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## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>17/01451/FUL</b>
<b>Proposal:</b>	<b>Application for removal/variation of condition 4 attached to planning permission 17/00147/FUL; Works to facilitate the siting of up to 15 additional caravans for holiday use.</b>
<b>Location:</b>	<b>Robin Hood View Caravan Park Middle Plantation, Belle Eau Park, Bilsthorpe</b>
<b>Applicant:</b>	<b>Mr J Kennedy</b>
<b>Registered:</b>	<b>9 August 2017</b>
	<b>Target Date: 5 October 2017</b>
	<b>Extension of time agreed until 10 November 2017</b>

The application is being referred to Committee at the request of Cllr Rainbow. In addition it is noted that the Parish Council objects to the development which differs to the professional officer recommendation.

The application was previously included on the agenda for the November 2017 Planning Committee however was withdrawn from the agenda prior to being considered on the basis that the conditions referred to for the original permission were not those Members imposed.

The application has been submitted as a Section 73 Variation of Condition application in relation to the extant permission reference 17/00147/FUL. The extant permission was presented to members in July 2017 with the following conditions to deal with concerns over occupancy of the site:

- 04 The pitches hereby permitted for use as holiday use shall not be occupied by the same person or persons, nor by the same caravan or motorhome, for a total period exceeding 28 days in any calendar year unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the pitches are not occupied for residential purposes in a location where new residential development would not normally be permitted.

- 05 The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the local planning authority, at any time, and a copy of the register shall be supplied to the local planning authority at the end of each calendar year unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the accommodation is not occupied for residential purposes in a location where new residential development would not normally be permitted.

The wording of these conditions arose from concerns raised by Members by an earlier deferral of the application from the April 2017 Committee Meeting.

Unfortunately however, the conditions that were imposed upon the consent when issued were those originally recommended by Officers through the planning committee report considered on 4 April 2017 that requires:



- 04 The pitches hereby permitted for use of holiday use shall not be occupied by the same person or persons for a total period exceeding 28 days in any calendar year unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: To ensure that the pitches are not occupied for residential purposes in a location where new residential development would not normally be permitted.**

- 05 The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the local planning authority, at any time, and a copy of the register shall be supplied to the local planning authority at the end of each calendar year unless otherwise agreed in writing by the local planning authority.**

**Reason: To ensure that the accommodation is not occupied for residential purposes in a location where new residential development would not normally be permitted.**

**Since the November meeting, the council's legal department has reviewed the consent and does not consider that the additional wording from the committee minutes can be retrospectively imposed upon the existing consent (application ref 17/00147/FUL). The current application is therefore required to be considered on its own merits. With the exception of the 'Other Issues' section which has advanced since November, the report below is unchanged in comparison to that presented to Members in November.**

#### The Site

The site occupies a hill top location within the undulating open countryside and is accessible via a single track private driveway which leads through Belle Eau Park industrial estate. The wider site is generally open in character and contains 2 large agricultural buildings to the south east of the site. Overall the wider existing touring site comprises c2.41 ha. There is a residential dwelling house located to the north-west corner and an amenity building for the caravan site close to the entrance.

The wider site is presently in use as a holiday park for 30 holiday caravans and for the storage of caravans, subject to a planning permission granted in 1997. The site is partly enclosed by an earth bund along the southern boundary of the wider site and the application site.

The site is visible from the main A617 (Kirklington Road) highway due to its elevated position.

The red line of the application site is located to the west of the original caravan park and comprises c0.56 hectares. This was formerly scrubland and is bound by a deciduous hedgerow to the west, mature trees to the north and east (which are still in situ).

The site is within the Open Countryside and is designated as being within the Sherwood Forest Regional Park.

#### Relevant Planning History

**46911253** – Establishment of a holiday caravan park (25 vans)

**FUL/961279 (96/50813/FUL)** – Replacement office with reception and toilet facilities and use of land for touring caravans and storage of caravans, a condition was imposed restricting the siting to 30 holiday caravans.

**10/00261/FUL** - Proposed use of land for the siting of 30 timber cabins (caravans) for tourist use plus reception/site managers accommodation. Refused by LPA but approved by appeal. This was instead of the caravan use (not in addition) but was never implemented. The permission has now time expired.

**17/00147/FUL** - Works to facilitate the siting of up to 15 additional caravans for holiday use (retrospective). This application was approved by Members in July 2017 following deferrals from earlier committee meetings.

**17/01450/DISCON** - Request for confirmation to discharge condition 7 (relating to a methodology for the investigation of any potential contamination of the application site) attached to planning permission 17/00147/FUL 'Works to facilitate the siting of up to 15 additional caravans for holiday use (retrospective)'. *Application approved 2<sup>nd</sup> November 2018.*

### The Proposal

Permission is sought to remove Condition 4 of planning permission 17/00147/FUL. Condition 4 requires;

04

The pitches hereby permitted for use of holiday use shall not be occupied by the same person or persons for a total period exceeding 28 days in any calendar year unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the pitches are not occupied for residential purposes in a location where new residential development would not normally be permitted.

The applicant has commented that they consider that the inclusion of condition 4 is superfluous because the Council's given reason for its imposition is already addressed and safeguarded conditions 5 & 6 which are also imposed on permission 17/00147/FUL. For clarity, conditions 5 and 6 state;

05

The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the local planning authority, at any time, and a copy of the register shall be supplied to the local planning authority at the end of each calendar year unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the accommodation is not occupied for residential purposes in a location where new residential development would not normally be permitted.

06

The development hereby approved does not allow for any pitch or any caravan to be occupied for residential purposes at any time.

Reason: For the avoidance of doubt.

The explanation given for the request to remove condition 4 is that the wider Robin Hood Retreat Caravan Park has historically provided 'seasonal pitches' available to guests and continues to do so. It is considered that the 15 additional caravan pitches approved under permission 17/00147/FUL should not be treated as an exception as there is no planning justification to do so.

Seasonal pitches allow guests to book a caravan pitch for a season and leave their caravans stationed on the pitch during that period, rather than towing their caravans to and from the site for each stay. The booking of a seasonal pitch allows guests to occupy their caravans more flexibly, allowing for more spontaneous holidays, breaks for the entirety of the school holidays or for holidays that may be weather dependant.

#### Departure/Public Advertisement Procedure

Occupiers of nineteen properties have been individually notified by letter.

#### **Planning Policy Framework**

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

*Newark and Sherwood Core Strategy Adopted March 2011*

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 6: Shaping our Employment Profile

Core Policy 7: Tourism Development

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Core Policy 13: Landscape Character

ShAP1: Sherwood Area and Sherwood Forest Regional Park

*Allocations and Development Management DPD Adopted July 2013*

Policy DM5: Design

Policy DM7: Biodiversity and Green Infrastructure

Policy DM8: Development in the Open Countryside

Policy DM12: Presumption in favour of Sustainable Development

*Other Material Planning Considerations*

National Planning Policy Framework 2012

Planning Practice Guidance 2014

Landscape Character Assessment SPD, December 2013

#### Consultations

**Kirklington Parish Council** – objects to the proposal with the following comments:

- Section 4 provides extra restriction and reassurance to prevent the site being used for permanent residence.

- it was stated that section 4 was additional/not required as covered by other sections – if section 4 is viewed as being redundant, there would be no harm in leaving this in place (as it wouldn't make any difference)
- other sites have facilities for storing caravans when not used - providing such storage would still enable visitors to have flexible holidays without having to tow to and from the site (which was a concern stated in the proposals)

Kirklington Parish Council strongly objects to proposals to remove section 4 from the conditions.

**Bilthorpe Parish Council** – No response received.

**CLLr P Rainbow, the Local Ward Member** has formally requested that the Robin Hood caravan park application is 'called in' and go before the planning committee.

**NCC Highways Authority** – This application relates to the removal of condition 4 of application 17/00147/FUL which states that the permitted pitches shall not be occupied by the same person for a period exceeding 28 days in a calendar year.

The removal of this condition is not expected to have an impact on the public highway, therefore, there are no highway objections.

**Trent Valley Internal Drainage Board** – The site is outside of the IDB district but within the boards catchment.

There are no IDB maintained watercourses in close proximity to the site.

**Access and Equalities officer** – No comment.

**No representations have been received from local residents/interested parties.**

## **Appraisal**

### **Preliminary Matters**

The 1997 planning permission for the caravan site (96/1279) appears to relate to the entire site (including this application site) albeit the quantum of pitches was restricted to the amount that was applied for 30, which were laid out elsewhere on the site. The permission that was granted in July 2017, application reference 17/00147/FUL therefore in essence sought retrospective consent to increase the number of caravans from 30 to 45 and the retrospective alterations to the land to accommodate the additional pitches.

In granting that consent there was a desire to control the use of the site to ensure that there was no possibility that the pitches would become permanent/ main residences. Given that the current application has been submitted as a Section 73 application (which essentially would replace the extant permission) it is necessary to reference all material planning considerations. Nevertheless, the fall back position of the extant permission carries significant weight, particularly in matters of principle.

## Principal of Development

Policy DM8 accepts that within the Open Countryside, as in the case of the application site, tourist accommodation will be supported where it is necessary to meet identified tourist needs; it constitutes appropriate rural diversification, including the conversion of existing building, and can support local employment, community services and infrastructure. In addition all proposals need to satisfy other relevant Development Management Policies, take into account of any potential visual impact they create and in particular address the requirements of Landscape Character. This is mirrored by the NPPF which that in order to promote a strong rural economy, plans should support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

Policy DM5 requires parking provision for vehicles and cycles should be based on the scale and specific location of the development. 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 7 states that tourism and visitor based development, including new good quality over-night accommodation will be supported provided that “The extension of existing tourist accommodation is of a scale appropriate to the sites location and where the extension helps to ensure future business viability.”

In assessing the recent application for the extension of the caravan site, 17/01451/FUL, it was accepted that there is a need for an expansion of tourist accommodation and therefore this is not challenged as part of the current application. Allowing the reasonable expansion of an existing rural based tourism development is advocated by the NPPF.

## Impact upon the Character of the Area

Spatial Policy 3: Rural Areas of the Newark and Sherwood Core Strategy and Policy DM8: Development in the Open Countryside of the Newark and Sherwood Allocations and Development Management DPD seek to protect the open countryside from inappropriate development.

Policy DM8 advises that tourist accommodation would be considered as being an appropriate use within the Countryside, taking into account any potential visual impact they create and address the requirements of Landscape Character in accordance with Core Policy 13. This is mirrored by the NPPF which supports rural tourism developments that benefit businesses in rural areas and which respect the character of the Countryside.

I note that the character of the site is currently that of a touring caravan park as accepted by the extant permission and therefore the proposal would not be an alteration to this.

## Design and Layout of the Site

National and Local Policy states that good design is a key aspect of sustainable development. Core Policy 9 and Policy DM5 of the DPD require new development to achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context, complementing the existing built and landscape environments.

In this regard I note that the application does not detail that there will be any alteration from the previous approval. The site license specifies the density and spacing of the numbers of caravans onsite and I therefore consider that these issues will be enforced outside of the remit of the planning application.

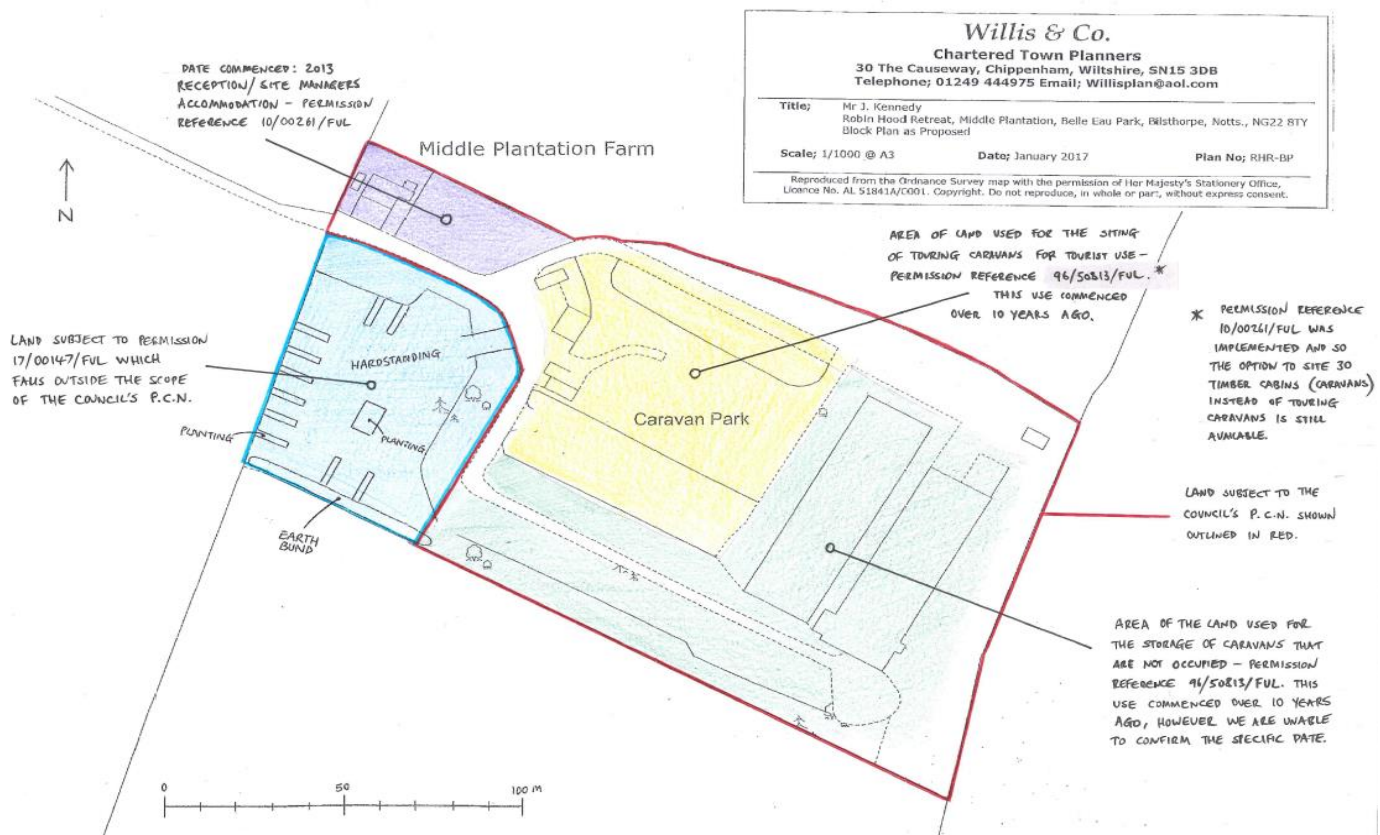
**Other Issues**

*Planning Enforcement Investigation*

In accordance with the resolution of the planning committee held on 4<sup>th</sup> July 2017 a Planning Contravention Notice (PCN) has been issued which seeks to establish specifics on the nature of occupation on the other areas of the site (not the part of the site being considered under this application). In response to the PCN the agent of the applicant provided the plan below which explains the current use of each area of the site. For explanation;

- The area shaded green is described as being used for the storage of caravans that are not occupied.
- The area shaded yellow is being used for the siting of touring caravans for tourist use.
- The property and land shaded purple is a residential dwelling house and associated garden.
- The land shaded blue is the subject of this application.

In addition the agent has replied that since Mr Kennedy purchased the site no caravans or pitches have been occupied as a person’s main residence.



### *Drainage/Flooding*

I am aware that Environmental Health has been investigating alleged continued drainage problems from the existing areas of the site. The outcome of these investigations is in any case not deemed to be of relevance to the consideration of the current proposal relating to occupation conditions.

### *Conditions Restricting Use*

Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue.

The rationale behind the submission of the current S73 application (as outlined in the proposal section above) is noted. However, there remains a concern as was with the previous application that the pitches may be used for permanent occupation, thus there is a clear need to control usage through condition. Officers have carefully considered the wording of the currently imposed conditions and do feel that it would be appropriate that the application be approved (in allowing the removal of Condition 4). However, in doing so a revised condition should be imposed upon the consent which would require the owners/operators to not only maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the application portion of the site, but also their main home addresses, and shall make this information available at all reasonable times to the local planning authority. This condition is compliant within government guidance for practice on planning for tourism. I consider that the imposition of this condition in place of the current condition 5 of planning consent 17/00147/FUL would enable the Council to actively monitor the type of occupation of the pitches to ensure that occupation remains for holiday use only.

### **Conclusion**

The approved use of the site relates to a wider site that is already successfully operating as a touring caravan site. When approval was granted for this in the 1990's the quantum of pitches was restricted by the fact that the applicant applied for 30 pitches and this features in the description of the development at that time.

I have had regard to the arguments presented in this application and the notions in the NPPF which encourage Councils to proactively drive and support sustainable economic development and enterprise in rural areas. I conclude that the removal of Condition 4 of planning permission 17/00147/FUL could maintain the Council's desire for the area of site in question to remain in use for 'holiday' purposes only but would also allow the applicant to operate their business in accordance on a more flexible model. To ensure this, I consider that the imposition of a varied condition (now condition 3) as part of a new decision notice would allow the Council to maintain control over the use of the site for the purposes previously discussed. The conditions below amalgamate the above discussion and for the avoidance of doubt are shown as underlined where changed from the decision notice of the extant application (17/00147/FUL). Members may note that the contamination condition (originally condition 7) and landscaping conditions (originally 1) has been addressed since the approval. Environmental Health Officers were satisfied with the Phase 1 Contamination report submitted (received 31<sup>st</sup> July 2017) which clarifies that there are no significant potential contaminant sources at this particular application site. As such a contamination condition is no longer required. The original condition 2 has been amended to ensure that the implementation of the landscaping is as per the previously agreed details.

I have concluded that there is no other demonstrable harm. Overall it is considered that there are no material considerations why planning permission should not be granted.

## **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions:**

01

The approved soft landscaping as shown on 'Landscaping Scheme Plan (reference: RHR-LSP) received on 7th August 2017' received in connection to the original application reference 17/00147/FUL shall be completed during the first planting season following the approval of details, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. Any hard landscaping shall be carried out to an agreed timescale.

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

02

Within the application site (as identified by the Site Location Plan referenced RHR-LP) there shall be no more than 15 pitches provided and these shall be laid out in accordance with the approved Block Plan, plan reference RHR-BP.

Reason: for the avoidance of doubt and in the interests of sustainability and amenity.

03

The pitches hereby permitted shall:

- i. be occupied for holiday purposes only;
- ii. the pitches shall not be occupied as a person's sole, or main place of residence;
- iii. the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans/log cabins/chalets on the site, and of their main home addresses, and shall make this information available on request to the local planning authority;

Reason: To ensure that the pitches are not occupied for residential purposes in a location where new residential development would not normally be permitted.

## **Notes to Applicant**

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) Order 2010 (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 on the development given that there is no net additional increase of floorspace as a result of the development.

Background Papers

Application Case File

For further information please contact Richard Marshall on ext 5801.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Business Manager – Growth and Regeneration**



## PLANNING COMMITTEE – 5 JUNE 2018

### PROPOSED CHANGES TO THE COUNCIL'S CONSTITUTION

Members will be aware that under the terms of the Council's constitution this Committee is able to delegate any matters within its remit to Officers. The list of matters covered by the Committee and those delegated to Officers is detailed below and includes application of various types. The Government are due to introduce a new application type for 'Permission in Principle' (described by some as an Outline 'lite' planning application). There is no detail as yet on how this additional process will work but in order to ensure that constitutionally such decisions can be made I seek to amend the Scheme of Delegation to include this. I also seek to add matters of clarification for the avoidance of any doubt.

#### Scheme of Delegation

#### **"PLANNING COMMITTEE**

##### Remit

- 1.0 To discharge functions relating to town and country planning and development control, including:
  - 1.1 Power to determine applications for planning permission.
  - 1.2 Power to determine applications to develop land without compliance with conditions previously attached.
  - 1.3 Power to grant planning permission for development already carried out.
  - 1.4 Power to decline to determine any application for planning permission.
  - 1.5 Duties relating to the making of determinations of planning applications.
  - 1.6 Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
  - 1.7 Power to respond to consultation by neighbouring local planning authorities or the Secretary of State.
  - 1.8 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
  - 1.9 Power to determine applications for Non Material Amendments to a planning permission.
  - 1.10 Power to discharge or refuse to discharge planning conditions attached to a planning permission or any other relevant consents.
  - 1.11 Power to enter into agreements regulating development or use of land.
  - 1.12 Power to issue a certificate of existing or proposed lawful use or development, **including those under Listed Building powers.**
  - 1.13 Power to serve a completion notice.
  - 1.14 Power to grant consent for the display of advertisements.
  - 1.15 Power to authorise entry onto land.
  - 1.16 Power to require the discontinuance of a use of land.
  - 1.17 Power to determine whether it is expedient to take enforcement action in instances where there has been a breach of planning control.
  - 1.18 Power to serve a planning contravention notice, breach of condition notice temporary stop notice or a requisition for information or stop notice.
  - 1.19 Power to issue an enforcement notice.
  - 1.20 Power to apply for an injunction restraining a breach of planning control.
  - 1.21 Power to determine applications for hazardous substances consent and related powers.

- 1.22 Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
  - 1.23 Power to require proper maintenance of land.
  - 1.24 Power to determine applications for listed building consent and related powers **granted to local authorities pursuant to the Listed Building and Conservation Areas Act 1990.**
  - 1.25 Power to determine applications for ~~conservation area consent~~ **Permissions In Principle.**
  - 1.26 Duties relating to applications for listed building consent, ~~and~~ **conservation areas, Listed Building Heritage Partnership Agreements, and Local Listed Building Consent Orders consent.**
  - 1.27 Power to serve a building preservation notice and related powers.
  - 1.28 Power to issue enforcement notices and related powers.
  - 1.29 Power to take action under Sections 224 and 225 of the Town and Country Planning Act 1990 - enforcement of control over advertisements, and regulations made under section 220 thereof.
  - 1.30 Powers to acquire a listed building in need of repair and to serve a repair notice.
  - 1.31 Power to apply for an injunction in relation to a listed building.
  - 1.32 Power to execute urgent works **and recover costs by any appropriate means.**
  - 1.33 Rights of way functions for which the Council is responsible.
  - 1.34 Protection and preservation of trees and hedgerows, including as necessary the making, confirmation, modification and revocation of Tree Preservation Orders.
  - 1.35 Power to determine applications for works and felling of trees covered by a Tree Preservation Order.
  - 1.36 Power to determine notifications for works to Trees in Conservation Areas.
  - 1.37 To exercise the Council's powers with regard to the Hedgerows Regulations 1997.
  - 1.38 To exercise the Council's powers with regard to the Community Infrastructure Levy Regulations 2010 (as amended).**
- 2.0 To consider and make recommendations to the Policy & Finance Committee and/or Council on the formulation of the Local Development Framework and other plans, policies, protocols or guidance impacting on functions within the remit of the committee.
  - 3.0 Power to make payments or provide other benefits in cases of maladministration etc. pursuant to Section 92 of the Local Government Act 2000 in respect of matters falling within the remit of this committee.
  - 4.0 To make recommendations to the Policy & Finance Committee and Council on the formulation of the budget insofar as it impacts on the remit of this Committee.

NOTE:

~~Some of the~~ The functions set out above are delegated to officers (~~see Section 6 post~~). ~~However, for the avoidance of doubt,~~ **with the exception of the following functions, which** are expressly reserved to committee for determination and cannot be discharged by an officer:

1. Planning applications which involve a significant departure from the statutory development plan.
2. Applications submitted on behalf of the Council or where the Council has an interest in the development save for any applications submitted on behalf of the Council or where the Council has an interest in the development as part of its HRA housing development programme which shall be determined in accordance with the Planning Committee Scheme of Delegation.

3. Matters of significance to the district or which may potentially give rise to significant financial consequences except in cases of extreme urgency.

The Planning Committee has approved the following Scheme of Delegation. It outlines which applications are normally determined at Planning Committee and which are determined by an Authorised Officer of the Council.

Below are the details of the Scheme of Delegation operated by the Council. The Authorised Officer(s) of the Council may determine the following planning and related applications without reference to Planning Committee:

1. Applications for smaller developments (DCLG Codes 14-27 excluding 17 Gypsy & Traveller Pitches)[previously codes 10-19], and applications for prior notification in relation to agricultural works, telecommunications, tree and hedgerow removal works can be dealt with under delegated powers by the Authorised Officer of the Council having considered comments received in relation to the application.
2. Minor or major applications for residential (including Gypsy and Traveller Pitches), office, industrial, storage, distribution or retail developments (DCLG Codes 1-13 and 17)[previously codes 1-9] can be dealt with as follows:

An application will be reported to Planning Committee when:

- The recommendation is contrary to the response received from the Town or Parish Council, provided such a response is based on material planning considerations\*; or
- The recommendation is contrary to the response received from a statutory consultee; or
- The relevant planning application has been submitted by a community or voluntary organisation, a town or parish council or a social enterprise and could in the opinion of the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee, result in a significant community benefit and would otherwise be recommended by officers for refusal; **or**
- The relevant planning application involves a commercial proposal which could potentially deliver significant employment opportunities (the determination of “significant” to be decided by the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee (significant to be determined according to local circumstances) and the application would otherwise be recommended by officers for refusal.

An application may be determined under delegated powers by an Authorised Officer of the Council when:

- The decision is in accordance with the representations received from all consultees;
- The decision accords with representations from statutory consultees and the Town/Parish Council (provided such a response is based on material planning considerations<sup>1</sup>) but is contrary to representations from non-statutory consultees, such as neighbours;
- The decision is for refusal based on The Environment Agency’s representation whether or not other consultees are supporting the application;
- ~~The Highways Agency~~ **Highways England** direct refusal of an application;
- Representations raise only non-planning matters.

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<sup>1</sup> The determination of what constitutes a material planning consideration should be determined by the Planning Manager, Growth and Regeneration in consultation with the Chairman of Planning Committee.

3. Applications which have been submitted by District Councillors, Senior Officers\* or Officers who may otherwise have a direct involvement in the determination of the application or where Councillors or Officers have a direct interest in the application, will be determined by Planning Committee.

(\*Senior Officers shall be defined as Chief Officers and Deputy Chief Officers as defined by the Local Government and Housing Act 1989 (currently members of the Corporate Management Team and Business Managers)

4. Enforcement Notices (including requisitions for information, stop and temporary stop notices), and Notices under Section 215 of the Town and Country Planning Act 1990 (as amended) relating to untidy land may be served by an Authorised Officer and the matter pursued through to prosecution at magistrates court when:
- consultation has first taken place with the Ward Member(s)
  - Officer/Member can refer the case to Planning Committee to determine enforcement action where significant or controversial\*.
- \*to be agreed by the Authorised Officer in consultation with the Chairman of Planning Committee.

Where an Authorised Officer has delegated powers he or she may refer the matter to Planning Committee for determination rather than exercise that delegated authority themselves particularly where, in their judgement, the specifics of an application warrant determination by the Planning Committee.

Local Members can request that planning applications in their Ward be determined by Planning Committee rather than the Officers acting under delegated powers **in the following circumstances:**

- A) Local Members may request that a planning application in their ward be referred to committee rather than being determined by officers acting under delegated powers provided that:-
- A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.
  - The request sets out clear planning reasons behind the referral request.
  - The recommendation of officers is different to the opinion of the local member having regard to the interests of their ward area.
- B) A Member in a ward immediately adjoining the ward in which the application is situated may request that an application be referred to committee rather than being determined by officers acting under delegated powers provided that:-
- A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.
  - The request sets out clear planning reasons behind the referral request.
  - The recommendation of officers is different to the opinion of the member having regard to the impact of the proposed development on their ward.
  - The relevant ward member(s) has/have been notified prior to the referral request being made.
- C) A Member may request that any application be referred to committee rather than being determined by officers acting under delegated powers where, in their opinion, the application will have a material impact on the whole or part of their ward provided that:-
- A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.

- The request sets out clear planning reasons behind the referral request including a requirement to demonstrate how it is likely to materially impact on the whole or part of the ward area of the member making the referral request.
- The recommendation of officers is different to the opinion of the Member having regard to the impact of the proposed development on their ward and/or the District as a whole or part, having regard to the nature of the development or for the reason that the application will set a precedent for the whole or part of the District.
- The relevant ward member(s) has/have been notified prior to the referral request.
- The Group Leader of the relevant group of the Member making the referral request has agreed to the referral.

All requests for matters to be referred to committee as set out in A, B and C above shall be determined at the discretion of the Authorised Officer ~~in consultation with the Business Manager – Development Control~~ and the Chairman and Vice-Chairman of the Planning Committee.

5. The “Authorised Officer(s)” for the purposes of this part of the Constitution shall be the Chief Officer whose remit for the time being includes responsibility for planning, the relevant Business Manager with responsibility for the discharge of the development control function or an Officer authorised in writing by them to act on their behalf.

#### **Membership**

15 Members. (A link to the current membership of the committee can be found on the Constitution home page).”

#### **RECOMMENDATION**

**That Planning Committee accepts the changes to the Scheme of Delegation as detailed above.**

#### **Background Papers**

Enforcement Case Files.

For further information please contact Matt Lamb on Extension 5842 or [planning@nsdc.info](mailto:planning@nsdc.info)

**Kirsty Cole**

**Acting Chief Executive**

**PLANNING COMMITTEE – 5 JUNE 2018**

**APPEALS DETERMINED (between 24 April 2018 and 22 May 2018)**

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
16/01575/OUTM	Field Reference No 8993 Mansfield Road Farnsfield	Outline Planning Application for up to 20 No. Dwellings	DISMISS	26.04.2018

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
17/00299/OUTM	Land Off Mansfield Road Farnsfield	Outline Application for up to 60 Dwellings	DISMISS	26.04.2018

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
16/01884/FUL	Shannon Falls Tolney Lane Newark On Trent NG24 1DA	Change of use of scrubland for the siting of 8 static mobile homes for gypsy travellers and reduce ground levels to 10.5m AOD	DISMISS	26.04.2018

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
17/00765/FUL	Lant At The Old Farmhouse School Lane Norwell NG23 6JP	Erection of lifetime dwelling, associated amenity area and parking.	DISMISS	16.05.2018

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
17/01129/FUL	The Red Lion Public House High Street South Clifton NG23 7AD	Application to vary condition 10 of planning permission 16/01052/FUL to allow the boundary wall to be raised	APPWIT	30.04.2018



App No.	Address	Proposal	Decision	Decision Date
17/01107/FUL	Woodland View Main Street Thorney NG23 7BS	Re-modelling of dwelling incorporating side extension.	ALLOW	16.05.2018

App No.	Address	Proposal	Decision	Decision Date
17/01193/FUL	Little Hollies The Close Averham NG23 5RP	Demolition of garage and creation of a 5 bedroom house with detached double garage, formation of new driveway for the existing dwelling, Little Hollies.	ALLOW	18.05.2018

### **RECOMMENDATION**

**That the report be noted.**

#### Background Papers

Application Case Files.

For further information please contact our Technical Support Business Unit on 01636 650000 or email [planning@nsdc.info](mailto:planning@nsdc.info) quoting the relevant application number.

Matt Lamb  
Business Manager – Growth & Regeneration



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## Appeal Decision

Site visit made on 10 April 2018

**by Kevin Savage BA MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 May 2018**

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**Appeal Ref: APP/B3030/W/18/3193021**

**Woodland View, Main Street, Thorney NG23 7BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Michael Miles against the decision of Newark & Sherwood District Council.
  - The application Ref 17/01107/FUL, dated 7 June 2017, was refused by notice dated 4 October 2017.
  - The development proposed was originally described as 're-modelling of dwelling.'
- 

### Decision

1. The appeal is allowed and planning permission is granted for re-modelling of dwelling incorporating side extension in accordance with the terms of the application, Ref 17/01107/FUL, dated 7 June 2017, and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plans: A1 Rev A; A2 Rev A; A3 Rev A; A4 Rev A; A5 Rev A; A6; A7; A8; Site Location Plan Scale 1:2500; Site Location Plan Scale 1:1250.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Application for costs

2. An application for costs was made by Mr Michael Miles against Newark & Sherwood District Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. Notwithstanding the description of development set out in the heading above, in my decision I have used the description set out in the Council's decision notice and the appeal form as they more accurately describe the development proposed.
4. The Council in its reason for refusal indicates that the proposal would include a change of use of part of the site which was not applied for. Both main parties

include various submissions in support of their position regarding the lawful use of the land. However, the establishment of the lawful use of this land is not a matter for me to determine in the context of an appeal made under section 78 the Act. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal. The proposal is for the re-modelling of the dwelling on land within the appeal site, and I have dealt with the appeal on the basis of this proposed operational development only.

### **Main Issue**

5. The main issue is the effect of the proposal on the character and appearance of the area.

### **Reasons**

6. The appeal site is located towards the end of a short private lane which includes a handful of large, detached properties of traditional form and materials set within mature grounds. I observed the properties within the lane, including the appeal site, to form part of the built up area of the village, being located close to Main Street which forms the main route through the village of Thorney. However, the form and layout of the dwellings and the presence of greenery within and around the properties gives the lane a tranquil, rural character. To the north and east of the appeal site, beyond an area of woodland, is open countryside.
7. The appeal site itself includes a detached, red brick bungalow of a relatively standard, modern design with two outbuildings set within an extensive site, which includes gravelled parking areas to the front, and an expansive grassed area to the rear. Although occupying a large site, the building is modest in scale in comparison to neighbouring dwellings, which are generally two storeys in height. The size of the dwelling relative to its site also serves to lessen its presence within its surroundings.
8. To one side and to the rear of the site is mature woodland with tall trees forming an imposing backdrop. A tall hedge runs along part of the other side boundary of the site alongside the private lane, before the boundary opens up alongside an access track and fenced section of the public footpath which leads around the rear of the site through the woodland.
9. The proposal would comprise a substantial addition to the side of the bungalow closest to the private lane. The main element would be set at right angles to the existing dwelling. It would have two storeys, with the upper floor contained within the pitched roof space. As a result, the ridge height would be taller than that of the bungalow. This addition would be linked to the existing dwelling by a single storey section which would include the re-located front entrance. The proposed additions would use materials to match the existing dwelling.
10. The proposed addition would be undoubtedly large in scale relative to the size of the existing property. The two main elements of the overall building would be closely positioned however, similar in form and materials and the creation of a more prominent front entrance within the link structure would help tie the two elements together. The proposed extension would present a gable end to the front of the property, which would provide a focal point to the front of the dwelling, and help to create an improved sense of scale and massing. The

design and materials of the extension would complement the existing appearance and create a larger dwelling coherent and balanced in its form. Whilst the overall dwelling proposed would not match the design of neighbouring properties, there is sufficient variety to their designs that the proposal would not be a discordant presence within the immediate surroundings.

11. I have also considered the Council's concern that the size of the extension would lead to confusion as to which element is the original and which the addition. Whilst the desire to preserve the primacy of the existing building is an understandable approach in many cases, I am not persuaded that it must be the case here. The existing building is not of a scale, nor does it exhibit specific architectural qualities, which would indicate that it should be preserved as the primary element of the dwelling. On the contrary, the proposal would improve its proportions and presence on the site and give an overall scale more in line with that of neighbouring properties.
12. I therefore consider that the proposal would successfully integrate and strike a balanced visual relationship with the host dwelling, and respect the character and appearance of the surrounding area through design, proportions and detailing, as required by the Council's Householder Development Supplementary Planning Guidance (SPD) (November 2014), in particular at paragraph 7.4.
13. In respect of the wider visual impact, the enlarged part of the dwelling would be partially visible from the entrance to the private lane through the entrance gate, becoming more obvious on approach to the site. The enlarged dwelling would still appear comfortable in its scale and position on the site. There would remain ample separation distance to the side boundary, and the dwelling would not appear oversized or dominant in views from this side, and would not detract from the appreciation of the private lane or neighbouring properties.
14. The enlarged dwelling would also be seen from the public footpath to the side and rear of the site where the hedgerow ends and clear views are possible across the appeal site. The extension would be prominent in these views; however, this would be a view back towards existing development on the appeal site and beyond, rather than a view over open countryside. The enlarged building would not appear harmful in these views given the overall cohesion of the design and materials, and its comfortable sense of scale within the site.
15. Setting aside the question of the lawful use of the land, at my site visit I saw that the whole of the site to the side and rear of the dwelling appeared similarly grassed. What was clear was that the footprint of the extended dwelling would be primarily to the side of the existing bungalow towards the front portion of the overall site, and would involve a very small part, if any, of the land to the rear of the dwelling. The submitted drawings do not indicate any proposed physical alterations within the appeal site beyond the proposed extension to the dwelling. I also observed that the site does not enjoy an open landscape setting as it is effectively enclosed from the wider countryside by the woodland to the boundary. It is instead experienced as part of the immediate surroundings of the residential properties along the private lane and within the built up area of the village. Given the enclosed nature of this part of the site from the wider countryside, and the limited degree of alteration proposed

within it, I do not consider that the proposal would constitute an inappropriate form of development within the countryside.

16. I therefore find that the proposal would not harm the character and appearance of the area, or the wider countryside, and would accord with Spatial Policy 3 of the Core Strategy Development Plan Document (March 2011)(the Core Strategy), which seeks to protect the countryside by ensuring development does not have a detrimental impact on the character and appearance of the location or its landscape setting, and Core Policy 9 of the Core Strategy which expects new development proposals to demonstrate a high standard of sustainable design. The proposal would also accord with Policies DM5 and DM6 of the Allocations & Development Management Development Plan Document (July 2013), and the requirements of the Council's Householder Development SPD which together set out the criteria for the design of alterations and extensions to dwellings, including that they should respect local distinctiveness and the design, materials and detailing of the host building and surrounding area. The proposal would also reflect the guidance of paragraph 56 of the National Planning Policy Framework (the Framework), which stresses that good design is a key aspect of sustainable development.

### **Other Matters**

17. The Council's committee minutes state a concern that the enlarged dwelling could be divided into two properties. However, any such proposal would require planning permission and I have dealt with the appeal before me on its merits.

### **Conditions**

18. I have considered the list of conditions suggested by the Council, and have regard to the advice set out in both the Planning Practice Guidance and in the Framework in terms of both the need for individual conditions and of appropriate wording.
19. To provide certainty, a condition is required specifying the relevant drawings.
20. It is also necessary to impose a condition requiring external surface materials to match the existing dwelling in order to secure a satisfactory appearance.

### **Conclusion**

21. For the above reasons, the appeal is allowed subject to the conditions specified.

*Kevin Savage*

INSPECTOR



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## Appeal Decision

Site visit made on 3 April 2018

by **Paul Cooper MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 May 2018

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### Appeal Ref: **APP/B3030/W/18/3193373**

### **Little Hollies, The Close, Averham, NG23 5RP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs D Burke against the decision of Newark & Sherwood District Council.
  - The application Ref 17/01193/FUL, dated 10 July 2017, was refused by notice dated 11 December 2017.
  - The development proposed is demolition of garage and creation of five bedroom house with detached double garage, formation of new driveway for the existing dwelling, Little Hollies.
- 

### Decision

1. The appeal is allowed. Planning permission is granted for demolition of garage and creation of five bedroom house with detached double garage, formation of new driveway for the existing dwelling, Little Hollies at Little Hollies, The Close, Averham NG23 5RP in accordance with the terms of the application Ref: 17/01193/FUL dated 10 July 2017 subject to the conditions set out within the attached schedule.

### Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the area and the living conditions of neighbouring residents having regard to the potential effect on light and outlook.

### Reasons

#### Character and appearance

3. The appeal site forms the side garden to 'Little Hollies'. It lies within the built-up area of Averham, within the settlement boundary, is dotted with trees, and is largely overgrown with vegetation. The site currently has an extant planning permission for a three bedroom dwelling that was granted on appeal (APP/B3030/W/16/3158075). The principle of development has been established by the extant consent and with no reason to doubt that this fallback position would otherwise be built, I give it considerable weight.
4. In addressing the matter of character and appearance, there is no overall style of building or layout and the immediate locality has a generally sporadic character and appearance, with various dwelling styles and designs.

5. The dwelling would be orientated with the front toward The Close, and the rear toward Pinfold Lane. An existing garage serving 'Little Hollies' would be removed, which would create a more consistent frontage to The Close than the existing situation.
6. The footprint of the proposed dwelling would still leave sufficient space to the adjacent dwellings, and given the character of The Close in this section, would not cause material harm to the character and appearance of the locality. The dwelling would be sympathetic in terms of design with the locality, utilising a materials palette broadly consistent with surrounding dwellings.
7. For the above reason I find that the proposed dwelling would not appear incongruous or out of place within its surroundings by means of its design or appearance and nor would it be disproportionate in terms of size or massing and as such, would not be in conflict with Policy SP3 of the Newark and Sherwood Core Strategy DPD (the CS) or Policy DM5 of the Newark and Sherwood Allocations & Development Management DPD (the DPD) which, amongst other issues, set out the criteria for new development to meet, including, but not exclusive to scale, character, impact and local distinctiveness.

#### Effect on Living Conditions

8. In terms of the effect on the living conditions of the adjacent property 'Sycamore House' by means of perceived shadowing and the overbearing nature of the proposal, I am mindful of the level of effect that would be caused by the implementation of the extant permission, which both parties have agreed is only slightly smaller than the appeal proposal.
9. The dwelling approved by the extant permission would be located in a manner that would lead to the loss of some morning sunlight for 'Sycamore House' depending on weather conditions and the time of year. The footprint of the appeal property would bring it slightly closer to 'Sycamore House', which is orientated with the front toward Pinfold Lane, rather than The Close. There are side windows to 'Sycamore House' that look toward the appeal site, but on my site visit, I was aware of the presence of an approximately 1.8m high boundary fence, which both protects the privacy of both existing dwellings and restricts the outlook from 'Sycamore House'
10. The main outlook from 'Sycamore House' is to the front and rear, and not sideways toward the side garden of 'Little Hollies'. Given the slight modification of the footprint by the appeal proposal, the outlook from 'Sycamore House' would not be adversely affected by this proposal, when seen against the extant permission.
11. I am of the opinion that the appeal proposal would not affect the living conditions of the occupants of 'Sycamore House', having particular regards to the issues of perceived shadowing and any overbearing effect on the adjacent property by the proposal. As such, the proposal is in accordance with Policy SP3 of the Core Strategy and Policy DM5 of the DMDPD.

#### **Other Matters**

12. I am mindful of the objections raised by local residents with regard to the sizing and location of the appeal proposal, and I have taken this into consideration when assessing the relative merits of the proposal. For the

reasons outlined above I am satisfied that the proposal would not give rise to any such adverse effects.

13. The appeal site lies within the Averham Conservation Area which is characterised by its historic buildings, structures and street pattern. In the same way that I consider that the effect on the character and appearance would be acceptable, I find that the significance of the Conservation Area would be unharmed.

### **Conditions**

14. I have noted the Council have supplied a number of conditions that should be included if the appeal succeeds. However I am mindful of the previous appeal decision for the extant permission, and in this instance will replicate those appeal conditions, appropriately modified for this proposal. In any event, there is some similarity between the existing conditions and the proposals made by the Council.
15. I have included standard conditions in relation to the commencement of development and that the proposal should be constructed in accordance with submitted plans, in the interests of certainty.
16. The majority of the conditions are imposed in order to protect the character and appearance of the area, with the exception of Condition 4, which is required to protect the character of the Conservation Area, Condition 9 which protects the privacy of the adjacent residents, whilst conditions 11 to 14 are included for the benefit of highway safety.
17. Condition 10 for the removal of Permitted Development rights in terms of additional windows for the dwelling is needed, in order to protect the privacy of adjacent dwellings in the longer term. However I have not included the removal of Classes A, C, E and F in relation to extensions, roof alterations, curtilage buildings and hard standings, as exceptional circumstances are required to be demonstrated to impose such conditions, and in this instance, there is no significant reason or particular site circumstance to include the condition.

### **Conclusion**

18. For the reasons given above, I conclude that the appeal should be allowed.

*Paul Cooper*

INSPECTOR



**Schedule of Conditions**  
**Appeal APP/B3030/W/18/3193373**  
**Little Hollies, The Close, Averham**

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) Unless required otherwise by the conditions set out below, the development hereby permitted shall be carried out in accordance with the following approved plans:
  - DB389 – A100 Rev A      Location Plan
  - TCP – 01                      Tree Constraints Plan
  - BSA6x6 – A6x6              Proposed Double Garage
  - DB389 – A104 Rev A      Proposed Site/Block Plan
  - DB389 – A101              Existing Site Plan and Existing Garage Details
  - DB389 – A102 Rev D      Proposed Dwelling Plans and Elevations
  - DB389 – A107 P1          Proposed Street Views
  - DB389 – A107 P2          Proposed Street Views
  - DB389 – A107              Proposed Street View – The Close
- 3) No development shall be commenced until details/samples of the bricks and roofing tiles to be used have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with those approved details.
- 4) No development shall be commenced until a brickwork sample panel showing brickwork, bond, mortar mix and pointing technique has been provided on site for inspection and approval has been received in writing by the Local Planning Authority. All subsequent walling shall match the approved sample panel in terms of detailing.
- 5) No development shall be commenced in respect of rainwater goods and external windows (including roof windows) and doors, and their immediate surroundings including details of glazing and glazing bars and joinery details, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in accordance with the approved details.

- 6) No development shall be commenced until the trees not shown as being removed on drawing No DB389 – A104 Rev A have been protected by the following measures, and shall be retained during construction works, unless agreed in writing by the Local Planning Authority:
  - i. a chestnut pale or similar fence not less than 1.2m high shall be erected at the outer extremity of the tree canopies, or a distance from any tree or hedge in accordance with details to be submitted to and approved in writing by the Local Planning Authority;
  - ii. no development (including the erection of site huts) shall take place within the crown spread of any tree;
  - iii. no materials (including fuel or spoil) shall be stored within the crown spread of any tree;
  - iv. no services shall be routed under the crown spread of any tree;
  - v. no burning of materials shall take place within 10m of the crown spread of any tree.
- 7) No development shall be commenced until details of external hard surfacing materials have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and completed before first occupation of the dwelling hereby permitted.
- 8) The dwelling hereby approved shall not be occupied until the existing garage shown to be removed on drawing No DB389 – A104 Rev A has been demolished in full and all materials removed from the site.
- 9) Prior to the occupation of the dwelling hereby permitted, all window openings shown as being obscurely glazed on the first floor side elevations as indicated on drawing No DB389 – A102 Rev D shall be fitted with obscure glazing to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.8m (1800mm) above the internal floor level of the room in which it is installed, and shall be retained in perpetuity in accordance with this condition thereafter.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no windows, including dormer windows (other than those expressly authorised by this permission) shall be constructed on the first floor side elevations of the dwelling hereby permitted.
- 11) The dwelling hereby permitted shall not be brought into use until the new vehicular verge crossing from Pinfold Lane to serve Little Hollies, as shown on drawing No DB389 – A104 Rev A has been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.
- 12) The dwelling hereby permitted shall not be brought into use until the new pedestrian access to the dwelling has been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.

- 13) The dwelling hereby permitted shall not be brought into use until the existing garage access from The Close shown on drawing No DB389 – A104 – Rev A has been permanently closed and the verge reinstated in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.
- 14) The dwelling hereby permitted shall not be brought into use unless and until the on-site parking area for the proposed dwelling has been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The parking area shall thereafter be retained in perpetuity and kept available for its intended purpose.

**[END OF SCHEDULE]**