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**Monday, 29 October 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, 6 November 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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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.



## 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, 2 October 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 Mrs P Rainbow, Councillor F Taylor, Councillor Mrs L Tift,  
Councillor I Walker, Councillor B Wells and Councillor Mrs Y Woodhead

APOLOGIES FOR Councillor P Duncan  
ABSENCE:

### 90 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor D.R. Payne, I. Walker and B. Wells declared Personal Interests in Agenda Item No. 5 – Kelham Hall Ltd, Kelham Hall, Main Road, Kelham, Nottinghamshire (17/02071/FULM) as they were Members of the Trent Valley Internal Drainage Board.

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

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

### 92 MINUTES OF THE PREVIOUS MEETING

The Committee considered the minutes of the meeting held on 4 September 2018.

AGREED (with 13 votes for and 1 vote against) that the minutes of the meeting held on 4 September 2018 be approved as a correct record and signed by the Chairman.

*(Councillor P. Handley requested that his vote be recorded against the Minutes).*

### 93 ORDER OF BUSINESS

With the agreement of the Committee, the Chairman changed the order of business as follows: Agenda Item No. 8; 10; 12; 11; 14; 15; 5; 6; 7; 13; the agenda resumed its stated order thereafter.

### 94 LAND AT NEW LANE, BLIDWORTH, NG21 0PH (17/02326/FULM)

The Committee considered the report of the Business Manager Growth & Regeneration, following a site inspection, which sought 99 new dwellings with associated access, earthworks and other ancillary and enabling works.

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

The Schedule of Communication asked for the amendment of Condition 21 to read:

Prior to the commencement of any development above slab level the Highway works as shown for indicative purposes only on drawing SK006-2B shall be substantially completed. The works will need to be agreed and implemented to the satisfaction of the Local Planning Authority in consultation with the Highways Authority.

Reason: To provide adequate & safe access to the site.

The implications of the need for the TRO towards the junction in terms of the impact on existing businesses and available parking provision weighs negatively in the overall planning balance.

Councillor Bill Bates representing Blidworth Parish Council spoke against the application in accordance with the views of Blidworth Parish Council as contained within the report.

Members considered the application and it was commented that the report indicated that this site in 2010 was unsuitable for the SHLAA, it was questioned why the site was now suitable. The Lane leading up to the development also raised concern as Blidworth did not have a car park and visitors to the shops parked on this road side which made the Lane very narrow and busy. It was felt that if car parking was restricted within this area the shops would not survive. It was also commented that Cycle Route 6 went up the Lane. It was felt that there were other areas of land within Blidworth that were more suitable, without spoiling a beautiful green area. It was further commented that whilst the acreage of the site may be sufficient to take 99 dwellings, the topography of the site was not adequate. The proposed layout of the bungalows adjacent to the bungalows on Marklew Close was considered inappropriate due to the land levels on the site. The arrangement for car parking on the estate was also considered inappropriate, as residents would park on the road side if their parking space was not next to their property. The public footpath which was reported to be well used had been re-routed and previously led to a recreational area in the village. There were no safety measures for children in that area and no play area on that site. The public transport within Blidworth was a limited service terminating at 6pm. Members further questioned who would maintain the green sink hole/drainage area in the centre of the site and the buffer between the bungalows on Marklew Close.

A Member commented that whilst this site was an allocated site, the principle had been established and accepted through the Core Strategy, the detail before the Committee was not acceptable and was not sustainable.

The Business Manager Growth & Regeneration confirmed that the traffic regulation order was a separate process with Nottinghamshire County Council and in the event that the committee were minded to approve, that process had to be completed before commencement of the development in accordance with a recommended condition.

AGREED (unanimously) that contrary to Officer recommendation full planning permission be refused for the following reasons:

Notwithstanding the site being allocated for development, the proposals advanced represent a heavily compromised scheme, the various elements of which would have an unacceptable cumulative impact, representing an unsustainable form of development which tips a balance determinatively in planning terms.

Those compromises are the lack of ability to meet required developer contributions, detrimental impacts on neighbouring residential amenity (to properties on Marklew Close), a poor layout and design and negative impacts upon the highway network.

In accordance with paragraph 12.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

Councillor	Vote
Mrs K. Arnold	For
R.V. Blaney	For
Mrs A.C. Brooks	For
R.A. Crowe	For
Mrs M. Dobson	For
P. Duncan	Absent
G.P. Handley	For
J. Lee	For
D.R. Payne	For
Mrs P. Rainbow	For
F. Taylor	For
Mrs L.M.J. Tift	For
I. Walker	For
B. Wells	For
Mrs Y. Woodhead	For

95 LAND AT ENFIELD COURT, HARBY, NOTTS (18/01217/OUT)

The Committee considered the report of the Business Manager Growth & Regeneration, following a site inspection, which sought the demolition of the existing barn, erection of 4 No. dwellings and associated carports/garages.

Councillor Mrs C. Nolan, Chairman of Harby Parish Council, spoke in support of the application in accordance with the views of Harby Parish Council as contained within the report.

Members considered the application appropriate and felt that small developments like this were necessary in small villages, to keep villages alive and support local schools. There were ample facilities available and a car sharing scheme run by the villagers.

AGREED (unanimously) that contrary to Officer recommendation full planning permission be granted subject to reasonable conditions delegated to the Business Manager Growth & Regeneration.

In accordance with paragraph 12.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

Councillor	Vote
Mrs K. Arnold	For
R.V. Blaney	For
Mrs A.C. Brooks	For
R.A. Crowe	For
Mrs M. Dobson	For
P. Duncan	Absent
G.P. Handley	For
J. Lee	For
D.R. Payne	For
Mrs P. Rainbow	For
F. Taylor	For
Mrs L.M.J. Tift	For
I. Walker	For
B. Wells	For
Mrs Y. Woodhead	For

96 **3 COUNCIL HOUSES, HIGH STREET, HARBY, NOTTS, NG23 7EB (18/01382/FUL)**

The Committee considered the report of the Business Manager Growth & Regeneration, following a site inspection, which sought full planning approval for the erection of 1 No. market dwelling on land currently used as amenity space for no. 3 Council House. The proposal sought to provide a detached two storey 4 no. bedroom dwelling with a detached double garage with one bay serving the new dwelling and the other for the use of occupiers of no. 3 Council House.

Councillor Mrs C. Nolan, Chairman of Harby Parish Council, spoke in support of the application in accordance with the views of Harby Parish Council as contained within the report.

Members considered the application and it was commented that the design was good and was in character with the neighbouring cottages.

AGREED (unanimously) that contrary to Officer recommendation, full planning permission be granted, subject to reasonable conditions delegated to the Business Manager Growth & Regeneration.

In accordance with paragraph 12.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

Councillor	Vote
Mrs K. Arnold	For
R.V. Blaney	For
Mrs A.C. Brooks	For
R.A. Crowe	For
Mrs M. Dobson	For
P. Duncan	Absent
G.P. Handley	For
J. Lee	For
D.R. Payne	For
Mrs P. Rainbow	For
F. Taylor	For
Mrs L.M.J. Tift	For
I. Walker	For
B. Wells	For
Mrs Y. Woodhead	For

97 BALDERTON WORKING MEN'S CLUB AND INSTITUTE, 69 MAIN STREET, BALDERTON (18/01241/FUL)

The Committee considered the report of the Business Manager Growth & Regeneration, following a site inspection, which sought the retention of the north-western wing and the conversion to a dwelling including external alterations (Unit 4) (Retrospective).

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from a neighbour.

Members considered the application and it was felt that the applicant had disregarded the previous planning permission. Members commented that if consent was granted for this application the previous consent granted would not be able to be completed. The removal of the northern wing had not been undertaken, which would allow amenity space. The conditions did not specify the rendering of the breeze block wall to the rear of the building. Members considered the site to be a mess and sought deferral in order for the Planning Case Officer to discover the legal position regarding non-compliance with the approved plan on the previously approved permission and then potential discussions with the applicant regarding possible reduction of the scheme elsewhere on the site to compensate for the loss of amenity space.

AGREED (unanimously) that the item be deferred in order for the Planning Case Officer to discuss improvements to the site with the developer.

98 CRANE COTTAGE, 38 MAIN STREET, FARNDON, NEWARK ON TRENT, NOTTINGHAMSHIRE, NG24 3SA (18/01508/FUL) AND (18/01509/LBC)

The Committee considered the report of the Business Manager Growth & Regeneration, following a site inspection, which sought full planning permission for the installation of a clock tower at the end of the hipped roof of the single storey garage, the application was a resubmission of an application refused in June 2018. Application 18/01508/FUL and 18/01509/LBC were considered together.

Application 18/01509/LBC sought listed building consent.

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

Councillor N. Mison, local Ward Member for Farndon & Fernwood spoke in support of the application on the grounds of less than substantial harm. The level of support from the local community was high, with 89 letters of support and also the support of Farndon Parish Council. The clock tower would provide a facility to the public. He felt that the local knowledge and support outweighed any harm. The clock tower would be an asset to Farndon and five roads came into one at this point and would become a central feature for the village.

Members considered the application and whilst some Members thought that the clock tower was nice and was an improvement to surrounding aeries and chimneys, other Members considered the clock tower a monstrosity and out of character and the comments of the Conservation Officer should be taken on board. It was further suggested that if the Committee were minded to approve the application the clock should not be illuminated.

AGREED (with 7 votes for and 7 votes against, the Chairman used his casting vote in support of the application ) that: contrary to Officer recommendation, full planning permission and listed building consent be granted, subject to the following:

- (i) the clock shall not being illuminated; and
- (ii) reasonable additional conditions delegated to the Business Manager Growth & Regeneration.

In accordance with paragraph 12.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

Councillor	Vote
Mrs K. Arnold	For
R.V. Blaney	Against
Mrs A.C. Brooks	Against
R.A. Crowe	For
Mrs M. Dobson	Against
P. Duncan	Absent
G.P. Handley	For
J. Lee	For
D.R. Payne	For
Mrs P. Rainbow	Against
F. Taylor	Against
Mrs L.M.J. Tift	Against
I. Walker	For
B. Wells	Against
Mrs Y. Woodhead	For

99     LAND AT REAR 37 EASTHORPE, SOUTHWELL, NG25 0HY (18/01360/FUL)

The Committee considered the report of the Business Manager Growth & Regeneration, which sought the variation of condition 2 attached to planning permission 17/0189/FUL to amend the approved plan so to raise the internal floor level, door and window cill level and installation of external steps.

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

Members considered the application acceptable.

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

100    KELHAM HALL LTD, KELHAM HALL, MAIN ROAD, KELHAM, NOTTINGHAMSHIRE, NG23 5QX (17/02071/FULM)

The Committee considered the report of the Business Manager Growth & Regeneration, which sought temporary (5 year) permission in relation to improved security and campsite operation, comprising:

- Planning Permission for a vehicle security gate to main entrance, estate fencing along driveway and front boundary;
- Change of use of sports field for camping and caravanning operation comprising a maximum of 50 pitches;
- Planning Permission for mains cabinet;
- Retrospective Planning Permission for 8no. electricity distribution boxes;
- Retrospective Planning Permission for WC block;
- Retrospective Planning Permission for family shower block;
- Retrospective Planning Permission for unisex shower block and Elsan Point;
- Retrospective Planning Permission for security cameras mounted on 6.5m poles (3 No. in total).

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from Averham, Kelham & Staythorpe Parish Council.

Members considered the application and the comments of Averham, Kelham & Staythorpe Parish Council regarding the effluent disposal and run off were discussed. Members felt that the report had not addressed this matter adequately. An email from the neighbouring farmer which had been placed on the public planning file had indicated that the effluent treatment plant that had been put in place was for domestic use and effluent was leaking onto the land of the adjacent field. The comments of the Trent Valley Internal Drainage Board were read out which stipulated that there must not be any surface water run-off. A Member suggested that the design should be agreed by the Local Authority and an appropriate condition requiring surface water run-off and effluent disposal be in agreement with the Local Authority,

Lead Local Flood Authority and that the planning permission should not get consent until that was complied with. The time period of five years was also considered too long and it was suggested that be reduced to three years to enable the assessment that the delivery of a high quality hotel and spa was progressing before any agreement to an extension of time.

It was further suggested that the wording within the conditions referring to units be strengthened. Reference to 'units' under condition 1 and other references under conditions 7, 8 and 9, there was no mention of whether they were touring or static. It was suggested that wherever units/camping/caravanning was referred to, should be clarified as touring only and vehicles logged not just people with maximum number of days.

A Member commented that the proposed gates were not in keeping with the Hall.

*(Councillor D.P. Payne, I. Walker and B. Wells declared their Personal Interests during the discussion as they were Members of the Trent Valley Internal Drainage Board).*

AGREED (unanimously) that temporary planning permission be approved subject to the conditions and reasons contained within the report and the following amendments to the conditions:

- (i) Condition to be attached to ensure no further development until a scheme is submitted no later than 3 months from the date of permission confirming arrangements for surface water runoff and effluent disposal to be agreed in consultation with Nottinghamshire County Council (Lead Local Flood Authority) and Trent Valley Internal Drainage Board;
- (ii) Temporary consent for 3 years and not 5 as applied for to enable assessment that the delivery of a high quality hotel and spa is progressing before any agreement to an extension of this period; and
- (iii) References to 'units' in condition 1 and other references under conditions 7, 8 and 9 to be amended to make it clear that these references are to tents or touring caravans used. Condition 7 & 9 should be amended to make it clear that pitches must not be occupied by the same person(s)/tent/touring caravan for a total period exceeding 28 days in any calendar year and that the register in condition 7 should record not only names of person(s) but also details of the tent/touring caravan present.

101 KELHAM HALL LTD, KELHAM HALL, MAIN ROAD, KELHAM, NOTTINGHAMSHIRE, NG23 5QX (17/02075/ADV) AND (18/00947/LBC)

The Committee considered the report of the Business Manager Growth & Regeneration, which sought advertisement consent for new signage (9 No. in total) including illumination as necessary, application 17/02075/ADV.



The Committee also considered application 18/00947/LBC which sought 2 No. signs to be fixed on gateposts (one on each) adjacent to The Lodge at the northern boundary of the Kelham Hall Site.

Members considered the application and sought clarification regarding what the signs would be made of and whether the existing vinyl banner would also be removed which was shown on the Planning Case Officers photographs attached to the timber gates.

The Business Manager Growth and Regeneration confirmed that the signs would be solid aluminium with vinyl covering. Members commented that they required the signs to be solid in every respect. The Business Manager confirmed that this could be actioned by condition and confirmed that the vinyl banner was not part of the application and would be required to be removed.

Members noted in the Planning Officers photographs a Pay and Display machine had been erected without planning permission and asked that a letter be sent to the applicant requesting that a planning application be submitted to regularise this matter.

AGREED (unanimously) that:

- (a) advertisement consent be granted subject to the conditions contained within the report and an additional condition requiring signs being solid in every respect (no loose vinyl); and
- (b) Listed Building Consent be approved subject to the conditions contained within the report.

102 LAND OFF NORTH GATE, NEWARK ON TRENT (18/01137/OUTM)

This item was withdrawn from the agenda.

103 APPEALS LODGED

AGREED that the report be noted.

104 APPEALS DETERMINED

AGREED that the report be noted.

105 EXCLUSION OF THE PRESS AND PUBLIC

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

106 RULE NO. 30 - DURATION OF MEETINGS

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

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

107 HARDYS BUSINESS PARK

The Committee considered the exempt report of the Business Manager – Growth & Regeneration in relation to Hardys Business Park, Hawton Lane, Farndon, NG24 3SD.

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

Meeting closed at 7.25 pm.

Chairman

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

Document is Restricted

## PLANNING COMMITTEE – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/01421/FUL</b>	
<b>Proposal:</b>	<b>Erection of a New Dwelling including the Demolition of the Existing Flat Roofed Garage</b>	
<b>Location:</b>	<b>Wood View , The Close, Averham, NG23 5RP</b>	
<b>Applicant:</b>	<b>Mr Brett Ward</b>	
<b>Registered:</b>	<b>26.07.2018</b>	<b>Target Date: 20.09.2018</b> <b>Extension Agreed to: 07.11.2018</b>

**This application is being referred to the Planning Committee for determination as the Officer recommendation is contrary to that of the Parish Council. Cllr. Blaney has also called the application to the committee on behalf of the Parish Council.**

### The Site

The site is situated to the north-western periphery of the village of Averham off the A617 and 'The Close'. It relates to the approximately 27 m x 11 m western side garden area belonging to the property 'Wood View'. Directly to the west of the application site is 'Pinfold Cottage' which is set back approx. 4 m south of the rear elevation of the proposed dwelling (approx. 26 m back from the front boundary of the plot). To the north is the A617, as such the plot holds a prominent position within the wider area.

Wood View is located in Averham Conservation Area, first designated in 1992. Historic maps from 1884 – 1955 demonstrate the village's development pattern as almost entirely unaltered, and the village today remains a very small settlement, with a number of modern houses enclosing the conservation area. The CA boundary extends to include historic earthwork remains, including a medieval moated site and manor house. The Historic Environment Record identifies additional historic earthwork patterns, including a linear cropmark complex.

The Close is an adopted cul-de-sac which is host to a row of modern C20 two storey houses in a combination of stretcher bond brickwork and rendered facades. Wood View is a positive building when considered within the context of its surroundings, primarily by virtue of its historic value; originally built as a police house.

Wood View, like each of the Type B Police Houses built throughout Nottinghamshire, is a modest two-storey dwelling with a gabled perpendicular end-wing and tiled kneelers that makes a neutral contribution to the character of the Conservation Area. The building has a flat roofed single storey ancillary range that adjoins the principle house.

### Relevant Planning History

There is no relevant planning history for the site. However, recent applications within Averham which are relevant to the decision making on this application are:

**17/02307/FUL** - erection of three bed house at Land at Pinfold Lane, Averham. Approved at Planning Committee in May 2018

**17/01279/FUL** - erection of three bed house at The Old Forge, Staythorpe Road, Averham. Approved at Planning Committee in October 2017

**16/00859/FUL** – Erection of a single dwelling on land at Little Hollies. Three previous applications refused and dismissed at appeal. The 2016 application refused by the Council and subsequently allowed at appeal in January 2017.

### The Proposal

For the avoidance of doubt, throughout the course of this application the proposed dwelling has been revised significantly to overcome the Conservation Officers objection.

The application seeks consent for the erection of a 2 Bedroomed dwelling in the land to the west of Wood View. In order to facilitate the construction of this dwelling the application also seeks consent for the demolition of an existing flat roofed garage which is situated west of the western most side elevation of the hostdwelling, Wood View and set back approx. 20 m back from the boundary with the highway (see picture below, garage with side hung timber doors). The garage is currently in use and has a GIA of 15 m<sup>2</sup>.



The new dwelling is proposed to be set to the western side of the plot of Wood View, with its frontage facing onto the adopted highway of 'The Close'. The property would have an internal floor area of approximately 74.85 m<sup>2</sup> and is proposed to be 1.5 storeys in height.

### **Approximate Proposed Dimensions:**

- a) Front to back dimension – 7.7m in total depth (revised from 11.8m)
- b) Side to side dimension – 7.3 m total width
- c) Height to eaves – 3.4 m (revised from 5m)
- d) Height to ridge – 6.7 m (revised from 7.5m)

Internally the dwelling comprises a kitchen and open plan living room/breakfast area and downstairs wc/cloakroom and utility area at ground floor and two bedrooms and two en-suite bathrooms at first floor.

The dwelling is proposed to be set back approx. 15.5 m within its plot from the boundary to the highway in line with the main body of the neighbouring dwelling 'Wood View'. It is proposed to be positioned approx. 4 m from the SW rear boundary, 1.5 m from the western side boundary and 0.7 m from the eastern common boundary with Wood View.

A separation distance of 1.7 m between elevations (side to side) is proposed between the dwelling and Wood View to the east and 9 m between the middle of the rear elevation and middle of the closest GF window of Pinfold Cottage to the SW.

**Materials:** Oast Russet Sovereign stock facing brickwork and Sandtoft Clay Pantiles roof covering proposed with lead sheet finish to the siders and cheeks of the dormer window and double glazed painted timber windows.

The existing vehicular access onto 'The Close' is proposed to be widened to serve the two dwellings on a 'shared drive' principal, allowing for suitable space for on-site turning and vehicle maneuvering. A rear facing private garden space is proposed along with an open fronted forward facing garden to concur with the street scene along 'The Close'. Pedestrian access will be provided to the two private rear garden areas of both 'Wood View' and the proposed dwelling.

2 parking spaces will be provided and 2 will remain for the hostdwelling, Wood View.

**CIL** – Gross Internal floor space of the new dwelling is proposed to be 74.85 m<sup>2</sup> less the 15.56 m<sup>2</sup> of the existing garage to be demolished results in a net additional floor space of 59.29 m<sup>2</sup>.

Documents deposited with the application:

- Design and Access Statement (24.7.18)
- Amended Proposed Plans – 566-04A (received 28.9.18)
- Photographs of Existing Garage (26.7.18)
- CIL Liability Form (26.7.18)

#### Departure/Public Advertisement Procedure

3 neighbours have been notified by letter, a site notice has been displayed close to the site and a notice has been placed in the local paper.

Following a reconsultation on revised plans earliest decision date - 15 October 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 7 - Sustainable Transport

Core Policy 3 – Housing Mix, Type and Density

Core Policy 9 – Sustainable Design

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

Core Policy 14 - Historic Environment

## **Newark and Sherwood Allocation and Development Management DPD, adopted 2013**

DM5 – Design

DM8 – Development in the Open Countryside

DM9 - Protecting and Enhancing the Historic Environment

DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF) 2018

National Planning Practice Guidance (NPPG) 2014

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**

**Averham Parish Council** – “The AKS Parish Council object to the above planning application for the following reasons. The proposed development would appear to dominate the historic Pinfold Cottage which as a house of some 200 years of age is only 1.5 storeys in height.

The proposed development would overlook the side elevation of historic Pinfold Cottage and its garden which is situated predominantly to the front of the cottage.

The size of the proposed development appears to be out of proportion to the size of the plot available and not in keeping with scale of the other plots along The Close.

Given the close proximity to the existing building the massing created would dominate the street scene along The Close and especially the vista from Pinfold Cottage to the rear. The impact on Pinfold Cottage is greatly increased as it sits approximately 1.5 below the level of the proposed development.

In previous applications in Pinfold Lane and The Close, N&SDC planning officers have described properties between The Close and Pinfold Lane as being large, set in equally proportioned spacious plots and part of the character of that part of the Averham conservation area. The

Parish Council considers that the continued erosion and in-filling of garden plots has a cumulative effect of damaging the very character of the conservation area that is required by policy to be protected.

Planning Guidance notes state Spatial Policy 3 is intended to serve the public interest rather than that of individuals and consequently the proven local need to which it refers must be that of the community rather than the applicant. This application would appear to fall into the latter as it appears to be more of commercial venture for the benefit of the individual as opposed to of benefit to the community.”

**NCC Highways** – “This proposal is for a new dwelling adjacent ‘Wood View’, following demolition of an existing garage. There are two parking spaces proposed per dwelling which is acceptable to the Highway Authority, and the existing access width is to be increased to accommodate both dwellings.

The Highway Authority would not wish to raise objection to this application subject to the following:

1. No part of the development hereby permitted shall be brought into use until the access has been designed and thereafter completed to a standard that provides a minimum width of 5.25m (4.25m with 1m added as the access will be bounded on each side by hedge) for the first 5m rear of the highway boundary.  
Reason: In the interests of highway safety.
2. No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with dwg. no. 566-02. The parking areas shall not be used for any purpose other than the parking of vehicles.  
Reason: To ensure adequate off street parking provision is made to reduce the likelihood of on street parking in the area.

**Note to Applicant:**

Should any works be required to be carried out within the public highway, they should be constructed to the satisfaction of the Highway Authority. You would, therefore, be required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out."

**Trent Valley Internal Drainage Board** – "We refer to the above application and make the following observations: The site is within the TVIDB district. There are no Board maintained watercourses in close proximity to the site. The design, operation and future maintenance of site drainage systems must be agreed with the LLFRA and LPA."

**Louise Jennings – Historic Environment Officer, Archaeology** – "This site lies on the edge of the known extent of the core of the medieval settlement of Averham but immediately to the west of the site there is a large complex of linear features and possible ring ditch.

There is a possibility that these remains could extend into the proposed development site. Given this I recommend that provision should be made to record any potential archaeology on site. Recommendation: Prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction. Initially I envisage that this would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features.

'Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publically accessible.' Policy 199 National Planning Policy Framework (2018)'

A brief will be produced by this department which will lay out the details above, and the specification for the work should be approved by this department prior to the commencement of works. Please ask the developer to contact this office for further details."



**NSDC 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. 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 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 and corridors etc. all carefully designed to facilitate easy access and manoeuvre throughout and 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 dwelling together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations matters.”

**NSDC Conservation Officer** –

***Revised comments received 28.9.18*** - “I am satisfied that the revised details address our concerns. I would anticipate appropriate conditions on all aspects of the construction and detailing/facing materials, with timber joinery and the chimney retained. You may wish to restrict PD rights for alterations to the roof (notably solar panels).”

***Original comments:***

“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 193 of the NPPF, for example, states that: 3. 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 and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance 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.

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.

#### Significance of Heritage Asset(s)

Wood View is located in Averham Conservation Area, first designated in 1992. Historic maps from 1884 – 1955 demonstrate the village's development pattern as almost entirely unaltered, and the village today remains a very small settlement, with a number of modern houses enclosing the conservation area. The CA boundary extends to include historic earthwork remains, including a medieval moated site and manor house. The Historic Environment Record identifies additional historic earthwork patterns, including a linear cropmark complex.

The Close is an adopted cul-de-sac which is host to a row of modern C20 two storey houses in a combination of stretcher bond brickwork and rendered facades. Wood View is a positive building when considered within the context of its surroundings, primarily by virtue of its historic value; originally built as a police house. Police houses were built extensively across Nottinghamshire throughout the inter-war and post war era, with a form identifiable through the two design specifications; 'Type A' and 'Type B'. Wood View falls into the category of a Type B police house (built between 1945-1960) and it is almost identical in profile to the police houses identified in this appraisal within the Bassetlaw area, including police houses at Blyth, Tuxford, Babworth, Elkesley and East Markham.

E.W Roberts was the Nottinghamshire County architect responsible for the majority of the Type B houses and it is considered likely that he was the architect of Woodview in Averham. Roberts was a prolific architect of civic buildings and designed a number of libraries including the neo-Georgian library at West Bridgford. Throughout his tenure as County architect the Corporation built 54 new schools between 1944-1955. He was succeeded in 1955 by Donald Gibson, the dynamic architect responsible for much of Coventry's post war reconstruction.

Woodview, like each of the Type B Police Houses built throughout Nottinghamshire, is a modest two-storey dwelling with a gabled perpendicular end-wing and tiled kneelers that makes a neutral contribution to the character of the Conservation Area. The building has a flat roofed single storey ancillary range that adjoins the principle house.

## Assessment of Proposal

Conservation provided pre-application advice for the application 18/01421/FUL on 4th April 2018 as part of PREAPP/00065/18, in which the following was stated:

‘At present, the row of modern C20 houses make a neutral contribution to the character of the conservation area and are spaced out as detached properties at regular intervals. It is noted on the indicative block plan that the new dwelling has a wide footprint, and as such would be located immediately adjacent to Wood View, which may impact on the uniform alignment of dwellings along The Close.

While conservation does not object to the principle of a new dwelling in this location, a recommendation is made to reconsider the siting of the new property and the possibility of reducing its footprint to ensure it does not disrupt the historic settlement pattern of the village and appear incongruous when viewed from the A617, which is a prominent aspect facing the boundary of the conservation area. ‘

Conservation has scrutinised the submitted plans and it is evident that the above advice has not been adhered to. The footprint of the newly proposed dwelling is overly substantial for its location, immediately adjacent to a non-designated heritage asset (Wood View former Police House) and within a prominent aspect of the Conservation Area. The building would appear incongruous with the surrounding built form, where each property is separated from the other by an adequate curtilage.

Conservation also understands there is a possibility to reduce the scale of the building by reducing it in height. However this would not eliminate the issue of an overly extensive footprint, which is considered to the principle issue of new development in this location.

In this context, it is felt that the proposal to erect a new dwelling would cause harm to the character of the Conservation Area and the character of the adjacent non-designated heritage asset. The proposal therefore is not in accordance with the objective of preservation set out under section 72, part II of the 1990 Listed Building and Conservation Areas Act, and does not comply with heritage policies and advice contained within the Council’s LDF DPDs and Section 16 of the NPPF.”

Comments from one interested party have been received which can be summarised as follows:

- Wood View sits in an elevated position (approx. 1.5 m) higher than Pinfold Cottage, the height of the new dwelling and proximity to Pinfold Cottage will overshadow and be imposing to the existing property.
- Proposed development does not reflect the existing relationships between dwellings along The Close and will disturb the grain of the street.
- A street scene elevation should be provided to indicate the relationship within the wider area.

## Comments of the Business Manager

As submitted initially concerns were raised by Officers regarding the size of the proposed dwelling on this plot in addition to the size of the proposed residential private amenity space, separation distances, particularly between main habitable rooms on Pinfold Cottage given the original two storey height and the design and proportions of the dwelling. The Conservation Officer submitted their comments in objection to the original scheme and following in depth discussions with the agent the dwelling has been revised to reflect the Officers concerns.

As such, I consider that the main issues in assessing the proposal to relate to (1) the principle, (2) conservation/heritage issues, (3) highway matters and (4) the impact on neighbours. Each matter is addressed in turn below:

*Principle (including position on 5 Year Housing Land Supply)*

The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply which has been confirmed by a number of recent appeal decisions including the dismissal of the Farnsfield appeal (at Public Inquiry) by the Secretary of State in April 2018. I do not intend to rehearse this in full other than to say that the policies of the Development Plan are considered up to date for the purposes of decision making and thus carry significant weight in an overall planning balance.

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 site is situated within the parish of Averham, which is defined as an 'other village' and as such is assessed against policy SP3 – Rural Areas. The site is situated to the north-western periphery of the village of Averham off the A617 and 'The Close'. It relates to the approximately 27 m x 11 m western side garden area belonging to the property 'Wood View'. Directly to the west of the application site is 'Pinfold Cottage' which is set back approx. 4 m south of the rear elevation of the proposed dwelling (approx. 26 m back from the front boundary of the plot). To the north is the A617, as such the plot holds a prominent position within the wider area.

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 earlier this year. For the purposes of paragraph 48 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 having 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.

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 five outlined criteria. The outlined criteria relate in many respects to matters which will be considered in further detail below.

It is important to note that three appeals relating to the erection of a dwelling 5 plots east of this application site have been dismissed (Application No 11/00150/FUL Appeal Ref: APP/B3030/A/11/2162334; Application No 12/00705/FUL Appeal Ref: APP/B3030/A/12/2188232; Application No 13/01468/FUL Appeal Ref: APP/B3030/A/13/2220069) in the recent past with one, the most recent, allowed at appeal (Application No 16/00859/FUL Appeal Ref APP/B3030/W/16/3158075). These appeals have narrowed the areas at issue relating to development within this location which will be explored below. Firstly, it has been concluded by the local planning authority in the past and the Inspectorate that in this location the application site lies within the built-up area of Averham, within the settlement boundary and defined conservation area.

#### *Location of the Development and Sustainability*

As stated above, the site is considered to fall within the main built up area of Averham; again, the planning authority has concluded that Averham is a sustainable, accessible village. It has been found that the village has a limited range of local facilities but that bus services provide access to Newark, Southwell and Mansfield which have a wider range of services and employment opportunities.

The Council's previous decisions at "Little Hollies, The Close, Averham NG23 5RP" to the east along with the recent appeal decision both carry significant weight as does the recent application for a new dwelling at Staythorpe Road, Averham (16/00001/FUL). All of which concluded that the location criterion of SP3 had been satisfied.

With regard to the services within the village there is a primary school, local theatre and a church. In terms of access to more sustainable settlements there is a local bus service running approx. every hour which provides access to Newark (approx. 3miles to the west), Southwell and Mansfield which have a wider range of services and employment opportunities. I am not aware that this is significantly different to when the appeal decision at the site was issued and certainly not since December 2017 when the aforementioned application was put before the Planning Committee for a new house on The Close, Averham.

In taking all of the above points into consideration I find that Averham is a sustainable location where a new dwelling could be supported on a locational basis under SP3 and is in line with paragraph 78 of the NPPF as an additional dwelling which would enhance or maintain the vitality of the rural community.

#### *Housing Need*

Any new housing within 'other villages' must meet an identified proven local need in order to be considered acceptable against Spatial Policy 3. Spatial Policy 3 Guidance Note states that proven local need must relate to the needs of the community rather than the applicant. Assessments should be based on factual data such as housing stock figures where the need relates to a type of housing or census data where the needs relate to a particular population group. A justification of need through a 'personal requirement' for a dwelling has been assessed by various Inspectors in the determination of a number of recent appeals and they have found that such a requirement is not considered to be consistent with the NPPF and accordingly the Council is of the same view.

However, I am also 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 reflects the local housing need within the area in terms of both tenure and house types.

The applicant has not provided any supporting statement relating specifically to their personal need for a dwelling in this location but has stated in their D&A statement that *“Averham, whilst a smaller village, has a well-regarded Primary School, Manners Sutton Primary School, with just 39 pupils on the roll. Of this, a significant number of pupils are from outside the village. Supporting new family housing within the village will help to sustain this small village school, encouraging families to live in the village thereby reducing car journeys for pupils attending the school.*

*Without further growth within the village, it is highly likely that the village school will be under threat. The loss of this school, which has a reputation of delivering high quality education, particularly for children with specific needs, would be a significant loss to the Averham community. Consequently, the provision to support such services within the emerging policy SP3 should be supported and new family housing allowed in the village where it is found to have acceptable impacts in all other respects.”*

Although in the past it would have been necessary for the applicant to justify the need for an additional dwelling through a full Housing Needs Survey, additional weight is now being afforded to the emerging Policy SP3 and therefore the written demonstration which evidences what services and facilities the new dwelling would support, in this case the local primary school, in both Averham and/or in surrounding villages as well as showing how it would reflect the local housing need in terms of tenure and house type is sufficient to satisfy the ‘Need’ criteria.

No specific housing needs survey has been advanced as part of this application. However the Newark and Sherwood Housing Needs Survey (Sub Area Report) 2014 by DCA looks at the district’s housing needs in a general sense. Within the Newark Sub Area (within which Averham falls) the majority of housing need (40.2%) in the market sector is for three bedroom dwellings followed closely by two bedroom dwellings (33.7%). As such I consider that the proposal for a 2 bedroom dwelling could be said to meet the housing need within the sub area. I also consider that the proposed dwelling is likely to support community services and facilities within the village including the church, primary school, theatre and the local bus services. Therefore whilst the proposal does not demonstrate a proven local need specific to Averham as required by the current SP3 policy, I do give some weight to the direction of travel in that the emerging SP3 policy places a lesser burden on applicants to prove need.

As such in conclusion I consider the proposed dwelling would support the local community services and facilities including the primary school, church and the local bus services. I am therefore satisfied in this instance that the proposal accords with the need element of policy SP3 when attaching weight to the emerging Spatial Policy 3.

#### *Scale and Impact of Development*

The guidance note to accompany SP3 referred to above 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 of the appraisal. 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. I also consider that one additional dwelling is unlikely to materially affect the transport network in terms of increased traffic levels in volume (this is discussed further in the Highway Safety section of this report). This is in line with the Inspector's previous decision for the site to the east. Given the size of Averham and the fact the proposal relates to a single dwelling the proposal is considered small scale and therefore appropriate for this settlement.

The visual impact of the development is 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 upon Character*

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. The site's location within the Averham conservation area is also important to consider under Core Policy 14 and Policy DM9, as well as Section 72 of the 1990 Act, and the Council's conservation team have been consulted in this regard.

Additionally, paragraphs 185 and 192 of the NPPF seek to promote local distinctiveness and ensure that the overall scale, density and massing (amongst others) relate to neighbouring building and the local area more generally.

Given the site lies within the Averham conservation area comments have been submitted by the Council's conservation officer (for comments in full see above), initially these were submitted in objection to the proposal which sought to erect a larger 3 bedroom dwelling forward of the principal elevation of Wood View. This has been since revised in line with discussions with the Conservation Officer and is now a modest 1 and a half storey cottage style dwelling, gable to the road, with a cat-slide style addition at ground floor and an eaves dormer. The conservation officer has worked with the applicant to come up with an acceptable solution which sees the dwelling set back within the plot so that it does not exceed the main body of the adjacent property and is modest scale at 2 bedrooms.

The proposal amounts to the removal of a detached single storey garage which is a modern C20 construction, while the property currently in situ at Wood View is to remain. The new dwelling would be located to western plot of Wood View with its frontage facing The Close.

At present, the row of modern C20 houses make a neutral contribution to the character of the conservation area and are spaced out as detached properties at regular intervals. It is noted that the new dwelling would be immediately adjacent to Wood View, which Conservation initially considered may impact on the uniform alignment of dwellings along The Close.

Similarly to the Conservation Officer's concerns on this application and within the pre-application, the previous appeal decisions at the site to the east must also be given some weight. Historically, the Council's Conservation Officers have raised concerns that the large plots here contribute attractive greenery and openness to the character and appearance of Averham, and that over intensification of development here, and interruption of the uniform alignment of dwellings would harm these positive elements.

The most relevant application is 12/00705/FUL in which a revised and relatively narrow new house was proposed next to 'Little Hollies' was refused by the LPA on the grounds of local need and impact on the Conservation Area. Subsequently, at appeal, the Inspector considered that while some plot sizes on The Close are large, others are smaller and the buildings to the west of the application site (Little Hollies) actually occupy most of the width of their plot. The Inspector noted that, *'The ... proposal would be about 5.5 metres from both Little Hollies and Sycamore House. This is within the range of separation distances between buildings on the next four plots to the west and could be preserved by a condition. In such circumstances this appeal proposal would not be out of character with the development immediately to its west.'* As such, while the layout plan shows that the resulting grouping of houses would be closer than some of the houses on The Close, it has already been established that this spacing between properties here is varied and the resulting density would not be out of character with those buildings to the west.

Within the revised plans the applicant has considered the comments of the planning and conservation officers in the design of the proposed dwelling which now ensures that the proposal would respect and complement the character and appearance of the Averham Conservation Area. The dwelling has been set back within the plot so that it is in line with the main body of the adjacent dwelling, Wood View, which now respects the character of this property. Similarly the size of the new dwelling has been revised significantly to remedy previous concerns.

The Conservation Officer has advised that they are satisfied that the revised details address their concerns. Subject to appropriate conditions such as all aspects of the construction and detailing/facing materials, with timber joinery and the chimney retained and the restriction of Permitted Development rights for alterations to the roof (notably solar panels). The use of traditional detailing in the proposed design and proportions will result in a dwelling that will assimilate within the area without having an unacceptable impact on the character of the area.

It is considered necessary to attach conditions in line with the Conservation Officer's comments in addition to landscaping details and boundary treatment to ensure that the detailed finish of the dwelling is of high quality.

The new dwelling would not stand out in townscape terms, noting that the height is modest to respect the relationship with the surrounding dwellings and has been positioned maintaining the build line of the surrounding properties. The proposal also incorporates the removal of the single storey detached garage which is not considered to contribute positively to the area. Given the dwellings revised design the proposal is not considered to unduly impact the character and appearance of the area.

The design of the proposed new house is acceptable in scale and form. It also includes some sympathetic architectural detailing and materials. As a result, this house is considered to be acceptable and can be absorbed into the grain of development along The Close, preserving the character and appearance of the conservation area.

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.



## *Neighbour 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. An assessment of amenity impact also relates to both the existing neighbouring occupiers and the occupiers of the proposed dwellings in terms of the amenity provision.

The properties most likely to be impacted by the development are Pinfold Cottage and Wood View; consideration has therefore been given to the impact of the development upon these properties, including the siting of the building and the location of windows to limit any overshadowing, overlooking or overbearing impacts.

The dwelling is proposed to be set back approx. 15.5 m within its plot from the boundary to the highway in line with the main body of the neighbouring dwelling 'Wood View'. It is proposed to be positioned approx. 4 m from the SW rear boundary, 1.5 m from the western side boundary and 0.7 m from the eastern common boundary with Wood View. A separation distance of 1.7 m between elevations (side to side) is proposed between the dwelling and Wood View to the east and 9 m between the middle of the rear elevation and middle of the closest GF window of Pinfold Cottage to the SW.

On the principal elevation (NE) one window and front door with side light proposed at ground floor with one window on the projecting gable at first floor – all windows on this elevation are not considered to result in an unacceptable impact through overlooking given the A617 lies to the NE of the proposed dwelling. Similarly, given the alignment of the property with Wood View the windows in the front elevation are not considered to result in overlooking to this dwelling.

On the western side elevation one dormer window is proposed that is set at eaves level. This window will overlook into the private driveway of Pinfold Cottage which is set further south within its plot. Given this relationship I am satisfied that there would not be an issue of overlooking as a result of this window.

The relationships I consider to warrant the most concern are to the eastern side and the rear. No windows are proposed at first floor on the rear elevation, however one set of patio doors are proposed at ground floor along with a rear entrance door.

On the eastern side, facing towards Wood View two windows are proposed at ground floor serving the kitchen and downstairs W.C. and two rooflights are proposed within the roofslope.

The dwelling has been positioned within its plot so as to satisfy the character impact assessment and as such I acknowledge that the relationship between the dwellings as proposed is close. The separation distances between the new dwelling and the property to the east, Wood View would be 1.7 m. I note that the part of the neighbouring dwelling that is closest to the proposed new dwelling is single storey and flat rooved; however there are three windows that are present in the western facing elevation – on the two storey portion of the dwelling there is one window in this elevation that appears to serve a bathroom. Two of the GF windows are small and obscurely glazed and one, the largest of the three, is a secondary window serving a living room. I am satisfied that, whilst not ideal, given the window that serves the principal habitable room is a secondary window, that there wouldn't be an unacceptable impact through overshadowing, and that, it is the occupiers of this property that are the applicant for the application at hand. In the event of re-sale the future occupiers would be aware of this close relationship prior to purchase and as such, on balance, the impact here is not sufficient to warrant a refusal of this application.

Similarly, with regard to overlooking impact I note that two windows are proposed at ground floor serving the kitchen and downstairs w.c. and two rooflights are proposed within the roof slope – given the fenestration proposed here I do not consider there would be an unacceptable overlooking impact as there would be no direct window to window relationship other than between the obscurely glazed openings.

The other property most likely to be impacted by this new dwelling is Pinfold Cottage to the rear (S). This dwelling is accessed from the west of the application site down a private driveway and the dwelling is set at a perpendicular angle to the application site with its side elevation facing north. The rear garden of Pinfold Cottage therefore lies to the east of the property and directly south of the proposed new dwelling – given this arrangement I am mindful of the impact that the proposed new dwelling would have on the private residential amenity space of Pinfold Cottage and indeed the impact of overlooking/overshadowing/overbearing on main habitable rooms within the neighbouring dwelling. The distance between the proposed rear elevation and the mid-point of the closest window on Pinfold Cottage is 9 m – this room appears to serve a kitchen/dining area. The ridge of the proposed dwelling has been reduced to 6.7 m with eaves height of 3.4 m, given the bulk of the property has been reduced by design and the separation distance I consider the impact through overbearing/overshadowing would be minimal. This is particularly given the positioning of the new dwelling to the NE of the rear elevation and garden of Pinfold Cottage.

No windows are proposed at first floor on the rear elevation, however one set of patio doors are proposed at ground floor along with a rear entrance door. I note that the plans state that the hedgerow that is present along this boundary is to be retained. This hedgerow is approx. 2 m in height and is also bound with an approx. 1.8 m close boarded fence. The boundary treatment here has been conditioned to be confirmed prior to commencement of development in agreement with the applicant as I consider it is important to ensure that a boundary is maintained here to afford a reasonable degree of ground floor screening.

In addition I do not consider that the proposal would significantly impact upon the existing property, Wood View's private amenity area given it will retain approx. 170m<sup>2</sup> private amenity space. The property would also have a reasonable amount of garden area commensurate to the size of the dwelling at approximately 40 m<sup>2</sup> to the rear, which whilst small to the rear, I note that c. 80m<sup>2</sup> of space would exist to the side and front which I feel on balance would overall be sufficient garden area to serve the dwelling.

Taking into account the above considerations it is considered the proposal, on balance, does not conflict with the amenity criteria under Policy DM5.

#### *Highway Matters/Access*

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.

NCC Highways have provided their comments on the submitted scheme as set out above in the consultation section. The existing vehicular access onto 'The Close' is proposed to be widened to serve the two dwellings on a 'shared drive' principal, allowing for suitable space for on-site turning and vehicle maneuvering. 2 no. spaces are proposed to be provided for both the new dwelling and 'Wood View'. There are two parking spaces proposed per dwelling which is acceptable to the Highway Authority, and the existing access width is to be increased to accommodate both

dwelling. The highways authority have advised that subject to a condition regarding the widening of the access to 5.25 m and provision of the parking spaces prior to occupation they raise no objection to the proposed new dwelling.

Adequate visibility splays can be achieved from this existing access point 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 2 parking spaces. Subject to appropriate conditions, the proposal would not result in any highway safety impact and accords with Spatial Policy 7 and Policy DM5.

### *Community Infrastructure Levy*

The site is located within Housing Very High Zone 4 of the approved Charging Schedule for the Council's Community Infrastructure Levy. As such residential development in this area is rated at £100m<sup>2</sup> for CIL purposes. However, Gross Internal floor space of the new dwelling is proposed to be 74.85 m<sup>2</sup>, less the 15.56 m<sup>2</sup> of the existing garage to be demolished results in a net additional floor space of 59.29 m<sup>2</sup>.

### *Conclusion*

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 the CA or visual amenities of the streetscene, and would support existing facilities within the village.

Turning to residential amenity, it has been concluded that this dwelling will not result in an unacceptable impact to neighbouring occupiers through overlooking, overshadowing or overbearing that would be sufficient to warrant a refusal.

A case for local need has not 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 and contributes to the overall housing need tenure type and size required within the district.

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

- Amended Proposed Plans – 566-04A (received 28.9.18)

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 order to preserve or enhance the character and appearance of the conservation area.

**04**

No development shall be commenced until a brick work sample panel showing brick, 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. Development shall thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In order to preserve or enhance the character and appearance of the conservation area.

**05**

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

Extractor vents

Flues

Meter boxes

Soil and vent pipes

Reason: In order to preserve or enhance the character and appearance of the conservation area.

**06**

All rainwater goods shall black in appearance. Guttering shall be half round in profile and fixed by rise and fall brackets with no fascia board fitted unless otherwise agreed in writing with the local planning authority.

Reason: In order to preserve or enhance the character and appearance of the conservation area.

**07**

Notwithstanding the above conditions, the pantiles used in the construction of the development hereby permitted shall be of a non-interlocking variety and be non-weathered finish.

Reason: In order to preserve or enhance the character and appearance of the conservation area.

**08**

Notwithstanding the above conditions, the external windows and doors used in the construction of the development hereby permitted shall be timber and shall be retained for the lifetime of the development unless otherwise agreed in writing within the local planning authority.

Reason: In order to preserve or enhance the character and appearance of the conservation area.

**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 and retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Chimney detail

Reason: In order to preserve or enhance the character and appearance of the conservation area.

**10**

Prior to any groundworks a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) shall be provided in accordance with a written scheme of investigation and shall be submitted to and approved in writing by the local planning authority.

Reason: To enable heritage assets within the site to be recorded prior to their destruction.

**11**

No part of the development shall be brought into use 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 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.

**12**

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.
- existing hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.
- means of enclosure;
- car parking materials;
- hard surfacing materials;

Reason: In the interests of visual amenity and biodiversity.

**13**

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 12.

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

**14**

No part of the development hereby permitted shall be brought into use until the access has been designed and thereafter completed to a standard that provides a minimum width of 5.25m (4.25m with 1m added as the access will be bounded on each side by hedge) for the first 5m rear of the highway boundary.

Reason: In the interests of highway safety.

**15**

No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with dwg. no. 566-04A. The parking areas shall not be used for any purpose other than the parking of vehicles.

Reason: To ensure adequate off street parking provision is made to reduce the likelihood of on street parking in the area.

**16**

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 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 ensure that any proposed further alterations or extensions are sympathetic to the original design and layout in this sensitive location.

### **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/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

#### **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**

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**

Should any works be required to be carried out within the public highway, they should be constructed to the satisfaction of the Highway Authority. You would, therefore, be required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

#### **Background Papers**

##### **Application Case File**

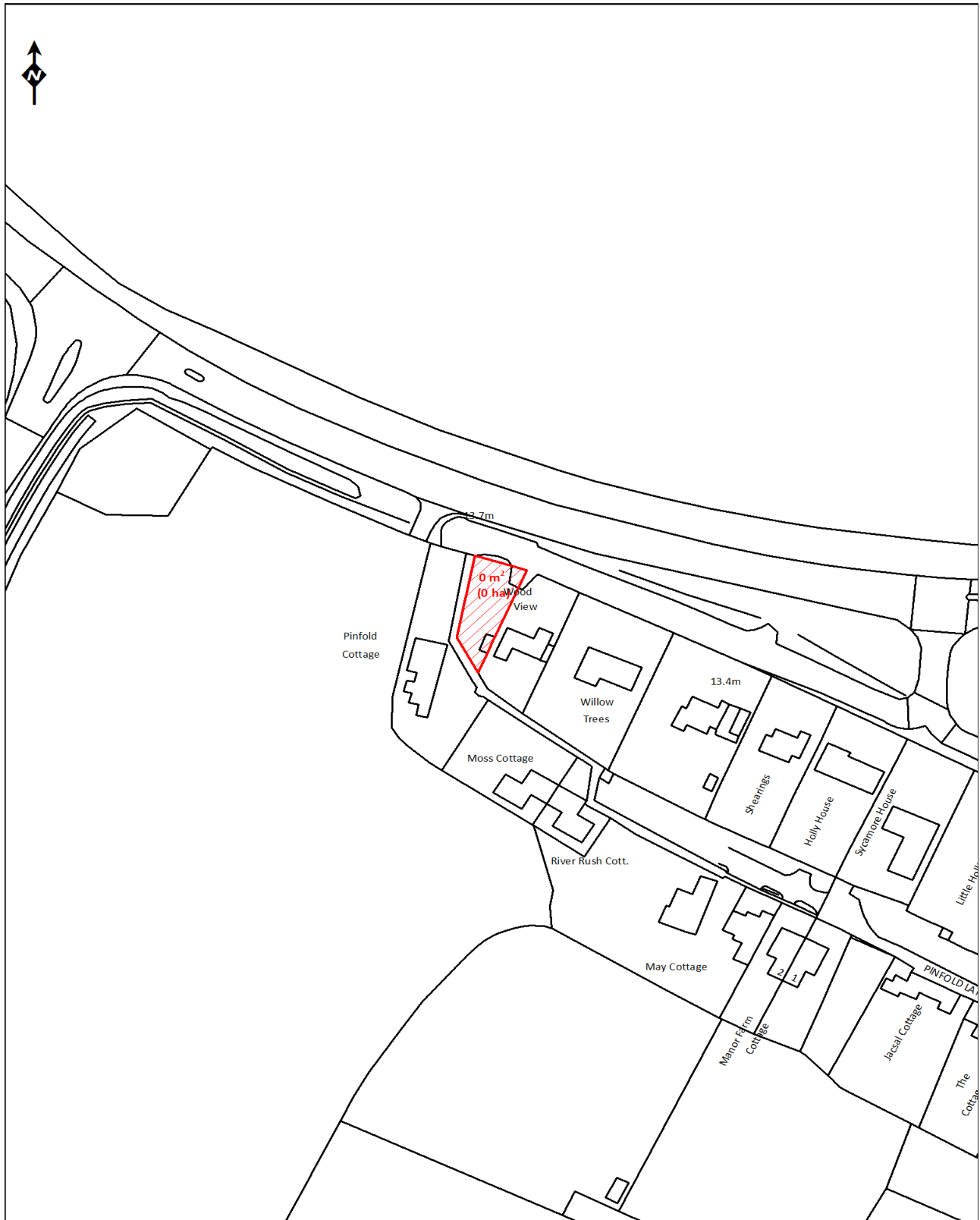
For further information, please contact Honor Whitfield on ext. 5827.

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**





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## PLANNING COMMITTEE – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/01298/FULM</b>		
<b>Proposal:</b>	<b>Variation of conditions 2, 13 and 14 attached to planning permission 15/01537/FULM</b>		
<b>Location:</b>	<b>Nottinghamshire Scouts Adventure, Hoveringham Activity Centre, Thurgarton Lane, Thurgarton NG14 7HL</b>		
<b>Applicant:</b>	<b>Nottinghamshire Scouts - Mr Stephen Day</b>		
<b>Registered:</b>	<b>10.07.2018</b>	<b>Target Date: 09.10.2018</b>	<b>Extension of Time agreed: 09.11.2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Thurgarton and Hovering Parish Councils have objected to the application which differs to the professional officer recommendation.**

### The Site

The application site is situated to the south of Thurgarton and to the north of Hoveringham and comprises a former sand and gravel pit, which was granted consent in February 2016 to be used by the Scout Association as a water sports lake. The conditions relating to this consent have been discharged and the consent implemented. The site is accessed from an access track off Thurgarton/Hoveringham Lane with Thurgarton railway crossing and station situated immediately to the north of the site and the Hanson cement works immediately to the east.

The site comprises a lake, club house (prefabricated porta cabins), boat storage compound and vehicle parking area. The lake is approximately 1.5km in length, 600m in width (at its widest part) and crossed by high voltage overhead electricity pylons at approximately the mid-point.

In accordance with the Environment Agency Flood Zone Mapping; a small proportion of the north western shore line lies within Flood Zone 3, with the lake itself designated as being within Flood Zone 2. The land to the north of the lake, the access track and the grassed area around the lake are all designated as being within Flood Zone 1. The entire site lies close to the boundary but within the Nottinghamshire Green Belt.

The site is not situated within a Conservation Area (CA), with the closest CA being Thurgarton. The southern boundary of the Thurgarton CA is situated approximately 300m to the north of the site. The closest heritage asset to the site is Thurgarton Station which is a Grade II listed property situated approximately 50m to the north of the lake. The closest residential properties to the site are Thurgarton Station, situated approximately 50m to the north, New Farm situated approximately 50m to the east and Rose Cottage situated approximately 130m to the south east.

The site is bound from the roadside by hedging and a 'permissive path' as detailed within the site restoration program runs around the edge of the lake approximately following the line of the drainage ditch. The path is separated from the scout site by post and mesh fencing and lies approximately 80m to the east of the lakeside club house.

## Relevant Planning History

**17/00136/ENF** - Non-compliance with planning conditions - 15/01537/FULM. *The LPA have served a breach of condition notice on the land in respect of conditions 2; 13; 17; and 18. The requirements of the notice are as follows:*

- (1) Reduce the size of the portacabins comply with the approved details, to be 8.3m x 8.3m, and finish in Yorkshire boarding.*
- (2) Reduce the size of the decking to the size as detailed, 3m deep by 10m wide.*
- (3) Completely remove from the site the 2 additional metal storage containers (not shown on the plan received 26/8/15) and a timber shed that have been placed within the boat storage compound, as identified on the amended site plan, submitted on 8 February 2018 as part of planning application reference 17/01882/FULM.*
- (4) Reduce the height of the compound fencing and gates to 1.8m in height.*
- (5) Any trees/shrubs which have died, been removed or have become seriously damaged or diseased, shall be replaced in the current or next planting season with others of similar size and species in accordance with the details approved and contained on site layout plan 2016 received 01/08/16.*

*The notice was dated **9 March 2018** with the following compliance periods:*

- (1) 6 months after this notice takes effect.*
- (2) 6 months after this notice takes effect.*
- (3) 3 months after this notice takes effect.*
- (4) 6 months after this notice takes effect.*
- (5) 3 months after this notice takes effect.*

*It is worthy of note that there is no right of appeal against a breach of condition notice. Full compliance was required by 9<sup>th</sup> September 2018. Officers have not commenced further enforcement proceedings on the basis of the currently pending application but it remains the ability of the LPA to prosecute against the breach of condition notice should the notice not be complied with in a timely manner after determination.*

**17/01882/FULM** - Application for variation of conditions 2 and 13 of planning permission 15/01537/FULM (Change of Use of the Railway Lake to Watersport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank) to allow the portacabin to be 9.6m x 9m, with rear decking area of 4.7m x 11.8m and painted Forest Green rather than clad. In addition retention of 2.35m high compound fence, 2.53m high compound gates and 4 metal storage containers and a timber shed within the compound area. (Retrospective)

*Application refused following a Member resolution at the Committee Meeting of 6 March 2018 (contrary to Officers recommendation to approve). The application was refused for the following reason:*

*The clubhouse and associated boat storage compound (including the boundary fence and the two additional storage containers and timber shed) given their design, materials and scale as built result in an industrial appearance which is considered to result in an unacceptable degree of visual harm to the rural character of the surrounding area. In addition the resultant development is considered to be incongruous in this setting and would detract from the openness of the*

*designated Green Belt and conflicts with the purposes of including land within it. The proposal therefore fails to accord with Spatial Policy 4B, Core Policy 9 and Core Policy 13 of the Core Strategy (2011) and Policy DM5 of the Allocations and Development Management DPD (2013). The proposal represents inappropriate development within the Green Belt which is by definition harmful as outlined by the NPPF. No very special circumstances have been presented which would outweigh this identified harm.*

**17/00711/DISCON** - Request for confirmation of discharge of conditions 7 and 9 attached to planning permission 15/01537/FULM; Change of Use of the Railway Lake to Watersport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank. *All conditions discharged June 2017.*

**16/01253/DISCON** - Request for confirmation to discharge conditions 4, 5, 17 and 19 attached to planning permission 15/01537/FULM Change of Use of the Railway Lake to Watersport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank. *All conditions discharged September 2016.*

**15/01537/FULM** - Change of Use of the Railway Lake to Watersport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank. *Approved February 2016.*

**15/00506/FULM** - Change of Use of Railway Lake to Watersport and Scouting Use. *Withdrawn July 2015.*

**11/00212/CMA** - Variation of conditions 22 and 24 of planning permission 3/08/0226/CMA to extend the timescale for the completion of restoration works and tree planting. *Approved 2011.*

**93/50782/CMA** – Extract sand and gravel and re-phase infill by pulverized ash. *Approved 1996.*

**93830713** – Extraction of sand & gravel, construction of road tunnel and conveyor. *Approved 1984.*

### The Proposal

The application has been submitted as a variation of condition application to the extant permission reference 15/01537/FULM. For the avoidance of doubt, the current application has been revised during its lifetime owing to concerns raised by Officers. The original application form referred to the amendment of conditions 17 and 18. It was suggested that the need to revise condition 17 was on the basis of the height of the currently unauthorised fences and gates. For the avoidance of doubt, Officers do not consider that the height of the gates and fences was governed by condition 17 (landscaping details) as they were actually confirmed by a 'Statement of Clarification' to the original permission which stated that:

*'We intend to create a boat park for the storage of water craft, this will be separately fenced to form a secure compound. This will be provided by 1.8m high security fencing.'*

An email has been received during the life of the application dated 30 August 2018 which states:

- 1. The compound fencing will be replaced with profiled green fencing panels as per the attached details, the overall height of the finished fencing will be 1.8m all in RAL 6005. We will be retaining the existing posts and cutting these down to 1.8m and painting them RAL 6005.*
- 2. The existing gates will be replaced with new gates 1.8m high clad in the same profiles green panels as above, the existing gate posts will be retained, cut down to 1.8m and again painted RAL 6005.*

On this basis, Officers consider that there would be no amendments to the agreed details for condition 17 and therefore this has been removed from the description of development. The changes to the fencing and gates outlined above could be secured through prosecution of the breach of condition notice referred to above if required.

Condition 18 states that:

*018*

*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 current or 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 visual amenity and biodiversity.*

As this allows the caveat for re-planting within a period of five years if specimens die, Officers would concur with the supporting letter of the current application that there has not been a formal breach of this condition. The reference to amending condition 18 has therefore been removed.

For the avoidance of doubt, a full period of consultation has been undertaken in respect to the confirmation during the life of the application that the existing unauthorized fences and gates are no longer sought for variation.

The conditions therefore sought for variation are 2, 13 and 14.

*02*

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

- Site Location Plan Received 26/8/15*
- Site Plan Received 26/8/15*
- Updated Entrance Plan Rev 1 Received 30/9/15*
- Portacabin Proposed Floor Plans & Elevations Received 26/8/15*
- Annotated Site Photo Detailing Proposed Site Entrance Received 26/8/15*

*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.*

The rationale for the amendment of this condition is that the development has not been built in accordance with the approved plans. The application therefore seeks to amend the plan references to include an updated block plan which demonstrates the following:

- Increase in portacabin clubhouse footprint from 8.3m x 8.3m to 9m x 9.6m (17m<sup>2</sup> increase in footprint)
- Increase in the footprint of the lakeside decking area from 3m x 10m to 4.7m x 11.8m (55m<sup>2</sup> increase in footprint)
- Retention of 4 metal storage containers and a timber shed within the boat storage compound

13

*The development hereby permitted shall be constructed entirely of the material details submitted as part of the planning application, stated in Section 11 of the application form and on the approved plans unless otherwise agreed in writing by the local planning authority.*

*Reason: In the interests of visual amenity.*

The plans as approved demonstrated the club house in Yorkshire Boarding which this current application seeks to employ (noting that as existing the club house has an unauthorized Forest Green finish). However, the current application also seeks to amend the material finish of the unauthorized timber shed and fence surrounding the compound by painting them with a RAL colour 6005 Moss Green.

014

*The activities hereby approved shall only be undertaken during the following times; weekday evenings 1700 - 2100, up to 3 days a week and weekends 0900 - 1600 during the months of April to September inclusive.*

*Reason: So as to not cause an unacceptable impact upon local or residential amenities.*

The application seeks vary this condition to allow for use for up to 6 weekends during the closed season for training purposes with maximum usage of 25 persons on the water at any one time.

#### Departure/Public Advertisement Procedure

Occupiers of 85 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.

#### Planning Policy Framework

#### The Development Plan

#### **Thurgarton Neighbourhood Plan made October 2017**

- Policy 1: New Development
- Policy 3: Transport Impact of Development
- Policy 4: Local Employment

- Policy 5: Community Facilities
- Policy 6: Historic and Natural Environment

### **Newark and Sherwood Core Strategy Adopted March 2011**

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of Growth
- Spatial Policy 3 - Rural Areas
- 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 9 - Sustainable Design
- Core Policy 10 - Climate Change
- Core Policy 11 - Rural Accessibility
- Core Policy 12 - Biodiversity and Green Infrastructure
- Core Policy 13 - Landscape Character
- Core Policy 14 – Historic Environment

### **Allocations and Development Management DPD Adopted July 2013**

- Policy DM5 - Design
- Policy DM7 – Biodiversity and Green Infrastructure
- Policy DM9 – Protecting & Enhancing the Historic Environment
- Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework 2018

Planning Practice Guidance 2014

### **Consultations**

**Hoveringham Parish Council (joint response with Thurgarton Parish Council)**– This document sets out the combined response of Hoveringham and Thurgarton Parish Councils to the application made by Stephen Day on behalf of Nottinghamshire Scouts to vary planning conditions 2, 13, 14, 17 and 18 of Permission 15/01537/FULM.

The application is opposed by both Parish Councils.

We refer the Planning Department to the decision of the Planning Committee, dated 8<sup>th</sup> March 2018, in relation to Application No. 17/01882/FULM, made by the same Applicant, seeking to vary conditions 2 and 13 of Permission 15/01537/FULM, which was refused by the full Planning Committee of Newark and Sherwood District Council. At the Planning Committee meeting a direction for enforcement of the original planning conditions was issued. We ask that that now be proceeded with to ensure that the original planning conditions are complied with. It will be noted that this application seeks, again, to vary planning conditions 2 and 13 in ways which are unacceptable to the Parish Councils and which we would suggest have already been rejected by the N&SDC Planning Committee.

There is a substantial history to this development by Nottinghamshire Scouts. That history is marked by a lack of consideration for the views of local residents and poor communication on the part of the Scouts representatives. We are astonished to read in the Scouts submission in support of this application that they have consulted with our Parish Councils and the Local Borough Counsellor and that they believe a consensus has been reached. The Scouts representatives attended one meeting of each Parish Council, at which they were asked to produce a range of possible options for this site and, particularly, costings for replacement of the unsightly fence. No further contact transpired prior to this Application being made. The statement that there is consensus is untrue and misleading and, regrettably, it is consistent with a history of misleading statements made on behalf of Nottinghamshire Scouts in support of the various applications for planning permission for this development.

We warned at the outset of this development that the Application was couched in vague terms, lacked a Design & Access Statement, was unlikely to accurately reflect the development which was actually intended and would lead on to likely breach and enforcement, with all the difficulties that entailed. It is a matter of utmost regret that these matters have, as we predicted, come to pass. That regret is deepened by the nature of the organisation. In short terms, we expected better from the Scout Movement.

We refer to the original Planning Application, reference 15/01537/FULM and to the detailed submissions made by Hoveringham Parish Council, and which were adopted by Thurgarton Parish Council. We ask the Committee to note that, at that time, both Parish Councils identified the following concerns:

- (ii) A failure on the part of the Nottinghamshire Scouts to engage with the local community or to take account of the views of local village residents;
- (iii) The vague and misleading way in which it was felt the application had been presented;
- (iii) The real risk, identified by both Parish Councils, that there would be a risk of breach of planning condition and difficulty in relation to enforcement;
- (iv) The significant loss or impairment of a local amenity in the form of the Railway Lake which, prior to this planning permission, was preserved as an area of quiet water and local natural beauty.

Those objections were only withdrawn by the Parish Council following late discussion with the Scouts representatives and in reliance upon further agreed conditions which it was agreed would be attached to the planning permission. It is important to understand that the objections of the Councils would have been maintained had there not been significant faith placed in the Scout representatives' promises to comply with the terms and conditions of the planning permission granted and the agreed conditions.

In essence, those conditions had as their underlying aim a desire to preserve, so far as possible, the rural aspect of this corner of the Railway Lake and to ensure that, whilst the Scouts aims could be met, the natural beauty of the area was not unnecessarily compromised. It was understood that the development carried consequences, but it was important that the development was limited in the size of the buildings and that hard landscaping was to be softened so far as possible by the provision of matters such as cladding and screening.



The conduct of the Scouts, and particularly the wholesale disregard of the terms and conditions of the planning permission leading to this application, fundamentally undermines the faith placed in the Scout Association by the Parish Councils and by local residents to comply with the conditions of the planning permission and to endeavour to ensure, so far as possible, that the site retained a rural aspect and feel.

It is our view that, because of these breaches of the original planning permission, the development presents with an 'industrial' appearance which wholly compromises the area at the corner of this lake. The size of the buildings and, particularly, the so called "security fence" now erected are serious breaches which fundamentally alter the appearance of the area. The fence is particularly bad.

In reaching this conclusion, we have consulted with all local residents, by invitation to PC Meetings, but we have been particularly concerned by the expressed views of those householders whose properties neighbour this corner of the Railway Lake or who have an aspect towards it. It is not unfair to say that they have been universally appalled by this development and by the behaviour of the Scouts representatives in relation to it. They are not reassured by any of the proposals in this Application. Furthermore, in the course of our consultations, whilst we have received many negative views about the Scout site, not one local resident has spoken in favour of it.

These concerns were voiced to the Scouts representatives at a Parish Council meeting held in June when, in our opinion, those representatives could have had no doubt as to the local anger at the Scouts' behaviour and as to the opposition of local residents. At the conclusion of the meeting we invited the Scouts representatives to return to us with further proposals and, in particular, to investigate alternatives to the fence and costings in relation to it. It is extremely disappointing that this invitation has not been taken up and that, in disregard of the views expressed directly to the representatives, the Application has been made without there being any further consultation.

The Application and Submission which accompanies it are opposed root and branch. We are tired of this disregard of the views of local people, whom we represent. This will be the third time, now, that we have had to address the Planning Committee because of the behaviour of the representatives of the Scout Association. It is a waste of our time and our resources, which are limited, and those of the Planning Committee, for this issue to be continually revisited because of what is, in reality, a comprehensive disregard of planning law and planning requirements. Quite simply the conditions which were imposed have been ignored.

We doubt that, if the Scouts were a commercial organisation in charge of this development, the application would even be considered.

We invite the Planning Department to note that neither Mr Day nor the Nottinghamshire Scouts made any Application to vary these planning conditions before they proceeded to breach them. Neither, having done so, did they act themselves to remedy the situation by making a prompt retrospective application. The Nottinghamshire Scouts did not alert the Planning Department to the breaches of their own accord. It was only as a result of the intervention of local villagers that the breaches were identified and, even then, the Application which has followed could scarcely be described as prompt.

We make the following comments as to the breaches of condition and as to proposals in the Application:

- (i) The size of the portacabin, the size of the decking, the unilateral building of 2 additional storage containers and the timber shed are major breaches of the original Planning Permission which confirm exactly what the Parish Councils said at the time – that this was a more developed and advanced building operation than the Scouts had revealed and that the original application could not be correct in the limited nature of the building it anticipated;
- (ii) The ugly nature of these containers and of the shed is not materially diminished by painting them green;
- (iii) We note that the Scouts will now clad the building in Yorkshire boarding (notwithstanding the assertion in their original Application, dated 16 October 2017, that this was impossible). The cladding of the building in Yorkshire boarding does present as a better alternative to painting the portacabin, but does not, of itself, address the fact that the building is too large and the decking exceeds the size for which permission was granted;
- (iv) It is now proposed that the use of the lake, which already brings substantial numbers to the village, be extended for 6 further weekends out of season bringing more disruption to our respective villages and extending the period of use into the closed season;
- (v) The proposals in relation to the gates and the fence are wholly unacceptable;
- (vi) The fence is a significant and ugly eyesore. Permission was granted for fencing to 1.8 metres, and it exceeds this by 73 centimetres, well over half a metre. It was not necessary for industrial fencing to be used and painting it does not offset its ugly and industrial appearance;
- (vii) We are unconvinced as to the risk posed by theft. No evidence is produced from the nearby Nottinghamshire County Sailing Club to indicate the risk is real and the stealing of boats would require an organised operation (such that the difference in height of the fence is unlikely to have any material effect). In our view the original limit on the height of the fence was realistic and sensible;
- (viii) We disagree that the height of the fencing cannot be reduced. The industrial fencing should be removed and replaced with fencing of the correct height. We would much prefer this to be more visually appealing, whether by its own nature or through additional and immediately effective screening, until the proposed planting has become established;
- (ix) It was a requirement of the original planning permission that the compound and its fence be screened by tree planting. We acknowledge that this requires time. We are appalled to read that 30% of these trees have failed. The screening of the compound was one of the most important aspects of the agreement reached to withdraw objection to the original Planning Permission and we believe maintaining and preserving the planting should have been a priority. We would like reassurance that a full and proper planting programme will now be responsibly followed by the Applicant and that planting will be adequately tended and maintained. Whilst it may be that some of the trees planted are flourishing, the screening effect which was desired is a long way from being achieved.

We do not consider that these objections are capable of simple remedy. This is a wholesale and flagrant breach of the Planning Permission and we invite the planning department to reject the Application.

**Thurgarton Parish Council** - Thurgarton Parish Council voted unanimously to object to this variation to planning permission on the following grounds:-

Thurgarton and Hoveringham Parish Councils had 4 separate meetings with Notts. Scouts in June 2018, all with an agenda to ensure that the variation to planning application would include vital feedback from the consultation with the local community. At the end of these meetings both Parish Councils committed to providing Notts. Scouts with a joint statement. We are disappointed

in the extreme therefore that Notts. Scouts have completed their variation planning application without including the feedback from the consultation with the local community, which would have been included in the joint statement, this is in direct contradiction with the last paragraph of the introduction section. I now understand that Notts. Scouts were working to a deadline, however the deadline date was not made clear to either Hoveringham or Thurgarton PC s at the meetings attended. If a deadline date had been identified then a joint response would have been sent to the Notts Scouts in good time. As a consequence of this, we are now having to object to a number of items contained within the this variation to planning permission:-

#### *Condition 2*

- There was general consensus for allowing the variation of the size of the portacabin (assuming that this was clad in Yorkshire Boarding as originally agreed) and the size of the decking
- There was general consensus for allowing the variation of 2 additional storage containers and the timber shed as long as they looked appropriate for the local environment see detail in Condition 17 below.

#### *Condition 14*

- There was general consensus for allowing the variation of the use of the lake for up to 6 weekends during the closed season, for training purposes, max of 25 persons on the water at any one time.

#### *Condition 17*

- This is where the additional feedback from the communities has been omitted. It is essential that the galvanised palisade fencing, which we have described as industrial, is either removed or camouflaged in such a way that the compound melds into the look and feel of the local countryside. It was not thought that simply painting the fencing a different colour would be sufficient to achieve this objective. Other suggestions included using camouflage netting or covering with willow fencing rolls. It was clear that we would not be able to come up with a solution without trying them out visually. However, it was deemed essential that the galvanised palisade fencing, which is in no way suitable for this compound, should be camouflaged for a period of 5 years or until the planting provides suitable screening for the compound.
- Assuming that suitable camouflage can be found, and agreed to by the local community, then there was general consensus to reducing the height of the gates

#### *Condition 18*

- We would ask that whatever can be done to encourage the maturity of the screening, should be done.

The conclusion to the application states '*We now believe that we have the support of both parishes*' this is clearly not correct.

In addition, we had been discussing the car parking spaces and had asked that Notts. Scouts quantify the number of car parking spaces that were being provided at the Activity Centre

**NCC Highways Authority** – This submission to vary conditions does not affect the highway–related conditions attached to the planning permission 15/01537/FULM. Therefore, no objections are raised.

**Nottinghamshire Wildlife Trust** - We note from the documents submitted with the above planning application that Nottingham Scouts wish to undertake sailing on 6 weekends during the closed season (October-March) on the Railway Lake. We are concerned about the disturbance to wildfowl that additional sailing will create. The UK is an extremely important destination for a significant number and variety of wildfowl that spend the winter in the UK due to our milder climate. Former mineral extraction sites such as this provide an important refuge for them. We acknowledge that this is a relatively small number of weekends when the length of the closed season is considered but critically, disturbed birds have fewer places to disperse to in this part of the Trent Valley due to sailing throughout the winter by Nottingham Sailing Club, fishing on Gonalston Lane pit and the pit at Coneygre Farm being subject to disturbance. We do not object to this proposal but we would wish to see the six weekends being the limit of sailing during the closed season. We would also like you to ensure that the additional weekends are strictly for training purposes only in order to keep disturbance to wildfowl to a minimum.

**Representations have been received from 7 local residents/interested parties which can be summarised as follows:**

- The planning rules have been blatantly flaunted
- Just because the use is for the Scouts, it should not be a free reign to disregard the planning regulations
- The footpath has always been an unofficial path used by dog walkers
- The original application should have been complied with
- The Enforcement Officer should ensure the original conditions of 15/01537/FULM are enforced
- The industrial look of the compound is unsightly and entirely inappropriate
- The painting of the fence at its current height will make little difference to the visual impact and may make matters worse depending on the season
- The comments in the application are misleading in respect to the account of the Parish meeting
- The consultation process has not included close properties
- The current proposal would still leave the fences 55cm higher than the planning consent
- The permissive path was not provided by the applicant as suggested
- Locals have not been supportive as suggested
- The Scouts have not maintained the land as per their tenancy
- One of the compounds is being stored for a third party
- There is no requirement for a container to store grounds maintenance gear
- The cladding is a requirement of the original permission
- The value of the equipment in the storage compound is over estimated
- The enforcement notice issued in March 2018 should stand and be enforced against
- The site looks like an industrial complex
- The current level of usage should not be increased
- The number of children attending in activity weekends regularly exceeds 100 and causes noise
- The wildlife will be driven away from the lake and woodland
- Support the comments of the Parish Councils

## Comments of the Business Manager

### *Relevant Background*

As is detailed by both the planning history and consultee and representations sections above, the development on site has not been built in accordance with the plans and application details to the extant permission reference 15/01537/FULM. The applicant has already made an attempt to regularise this through a variation of condition application reference 17/01882/FULM. This application was refused by the local planning authority in March 2018 and enforcement action undertaken in the form of a breach of condition notice. Given the lack of ability to appeal a breach of condition notice, the current application is inferred as a second attempt to regularise some of the development on site. The current application differs from the previously refused section 73 application in the following respects:

- The club house is confirmed as being Yorkshire Clad – as outlined in the proposal section above, this is a requirement of the original permission in any case and therefore is not necessarily required to be considered a variation of condition.
- There is confirmation that the fences and gates would be reduced in height to 1.8 – again, as outlined in the proposal section above, this is a requirement of the original permission in any case and therefore is not necessarily required to be considered a variation of condition.
- The timber shed and the fencing surrounding the compound would be painted in RAL colour 6005 Moss Green (colour confirmed by email dated 30 August 2018).
- Permission is now sought to increase the usage of the lake for up to 6 weekends in the ‘closed’ season between September and April to allow for training.

The changes in comparison to the original permission are therefore the final two bullet points above as well as:

- Increase in portacabin clubhouse footprint from 8.3m x 8.3m to 9m x 9.6m (17m<sup>2</sup> increase in footprint)
- Increase in the footprint of the lakeside decking area from 3m x 10m to 4.7m x 11.8m (55m<sup>2</sup> increase in footprint)
- Retention of 4 metal storage containers and a timber shed within the boat storage compound

### *Principle of Development*

An application under Section 73 (variation of condition) is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This Section provides a different procedure for such applications for planning permission and requires the decision maker to consider only the question of the conditions subject to which planning permission was granted. As such, the principle of the approved water sports lake cannot be revisited as part of this application.

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 Thurgarton 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 Thurgarton. 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.

Policy 1 of the Neighbourhood Plan refers to development in the Green Belt directing assessment towards National Green Belt policy. This is also the case with Spatial Policy 4B.

It is notable that the National position has changed since the original approval (and indeed the previous Section 73 application) through the publication of the 2018 NPPF. Notwithstanding this the overall stance of the document in respect to Protecting Green Belt land is largely unchanged.

#### *Impact on the Openness of the Green Belt and Character of the Surrounding Area*

The site lies on the eastern edge of the Nottinghamshire Derby Green Belt. Paragraph 143 of the NPPF states that, *'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'* Paragraph 145 goes on to confirm that some new buildings may be considered as an exception to inappropriate development including *'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;'*.

It is fully acknowledged that the principle of the development has been accepted by the authority through the approval of the extant permission. However, what is equally clear is the LPA's position in respect to the development as built on site in an unauthorized manner. In refusing the previous Section 73 application and serving a breach of condition notice, the LPA has already determined that:

*The clubhouse and associated boat storage compound (including the boundary fence and the two additional storage containers and timber shed) given their design, materials and scale as built result in an industrial appearance which is considered to result in an unacceptable degree of visual harm to the rural character of the surrounding area. In addition the resultant development is considered to be incongruous in this setting and would detract from the openness of the designated Green Belt and conflicts with the purposes of including land within it.*

The current application submission originally outlined that the gates would be reduced in height from 2.53m to 2.35m but that the overall height of the fence would be retained as built (2.35m). Officers strongly resisted this position and advised of a likely recommendation of refusal partially on this basis. Subsequently, the applicant has now confirmed by email that the unauthorized fences would be reduced in height to their approved 1.8m.

In the context of Green Belt discussion and in the interests of preserving openness, the main changes sought from the extant permission now relate to the size of the portacabin and decking and the retention of the storage containers and timber shed within the boat storage compound.

Members will be aware that, in respect to the previous Section 73 application, Officers were minded to recommend approval. Members however overturned this decision and instructed the enforcement proceedings which have since occurred. To be clear, the decision of the LPA on the last Section 73 application is a material consideration and it is for this reason that Officers were clear to the applicant that, on the basis of the original submission (i.e. not reducing the height of the gates), the proposal would be insufficient to overcome the Green Belt harm which the LPA have identified.

However, in the context of the gates and fence reduced to the approved 1.8m height, and indeed noting the intentions for material finish of the fence; gates; and porta cabin, Officers are again faced with a judgement as to the Green Belt harm which would arise.

The reason for refusal for the previous Section 73 application refers to the cumulative impact on openness which arose from numerous elements of unauthorised development. Officers have considered the current application on its own merits taking the previous decision of the LPA as a material consideration. However, in this instance, the statement of the previous Officer report is still considered relevant:

*Dealing firstly with the portacabin clubhouse; the increase in scale of the building and associated decking area is not considered to be overly discernible from that previously approved. The decking area is predominantly only visible across the lake to the west and as shown on the supporting photos does not appear overly prominent or out of scale with the clubhouse. As such is not considered the revisions in the scale of the clubhouse and decking significantly impact upon the openness of the Green Belt nor character of the area.*

A similar judgement would be reached in respect of the two additional storage containers and the timber shed (all retrospective). The applicant has stated that these are required to provide the grounds maintenance to the permissive path which exists within the site.

It is fully appreciated that this view was disagreed with by Members but this was also in the context of a revised finish of the porta cabin building. To reiterate, the applicant has now confirmed that the porta cabin would be finished in Yorkshire clad as outlined by the extant permission. It is also a material change since Members last consideration that the applicant no longer seeks to increase the height of the fence and gates which surround the storage compound (a matter which could be secured through enforcement proceedings noting the currently unauthorised structures). On the basis of these factors, Officers are of the view that the current application tips the balance towards acceptability in terms of harm to Green Belt openness. It is therefore no longer considered reasonable to resist the application in respect to a conflict with National Green Belt policy which is referred to by the associated local policies of the Core Strategy and the Neighbourhood Plan.

#### *Impact on Ecology (including planting)*

The current application is also materially different in comparison to the previously refused Section 73 in that it now seeks to revise condition 14 to allow for the lake to be used for training purposes for up to 6 weeks between September and April. This element of the proposal has been specifically commented on by the comments of Nottinghamshire Wildlife Trust as listed in full above. Whilst not forming an objection, the comments do raise concern to the potential disturbance to wildfowl that the additional sailing would create. Officers consider that 6 weekends over a 6 month period would be marginal in respect to ecology impacts particularly given that the

proposed increased usage would be for up to 25 persons on the lake at any one time rather than the rest of the year where the extant permission allows for up to 75 persons. Officers concur with NWT that 6 weeks in the winter season should be the upper limit, but clearly if this application were to be otherwise approved then any usage increase 6 weeks between September and April would require the submission of a separate planning application which would subsequently be considered on its own merits.

To reiterate, the current application confirms that additional planting to replace those species which have failed (as required by condition 18) will be planted during the winter in accordance with the condition.

### *Overall Balance and Conclusion*

The application represents a second attempt by the applicant to amend conditions imposed on an existing permission. The first attempt was refused by the authority in March 2018 owing to the industrial appearance of the proposals which create a visual harm detracting from the openness of the Green Belt. Following this refusal, the LPA has served a breach of condition notice which requires compliance with the original conditions of the application.

The amendments in comparison to the previously considered scheme which have been confirmed during the life of the current application (notably largely simply showing compliance with the approved details in respect to the height of the fence and gates and the finish of the clubhouse), are considered to tip the balance such that the proposal would no longer amount to a harm to the Green Belt openness. The changes to condition 14 in respect to the usage of the lake have also not amounted to the identification of further ecology harm which would warrant a refusal. On this basis, Officers recommendation is one of approval based on the revised conditions below which would take account of where conditions have been previously discharged. Equally the numbering of the conditions would be amended given that development has already commenced. Where changes are made these are indicated by underlined text. To clarify, any unauthorised development not sought to be regularised through the current submission would continue to be pursued by the LPA through separate enforcement proceedings which have already commenced.

### **RECOMMENDATION**

That full planning permission is granted, subject to the following conditions:

#### **Conditions**

01

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

- Site Layout Plan received 08/02/18
- Site Location Plan Received 28/11/17
- Updated Entrance Plan Rev 1 Received 30/9/15
- Annotated Site Photo Detailing Proposed Site Entrance Received 26/8/15
- Amended Fencing Details and associated covering email received 30/8/18
- Block Plan received 4/9/18



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.

02

Notwithstanding the planning permission hereby granted, the lake known as Railway Lake shall not be used by any motorised pleasure craft, with the exception of motorised safety craft, of which up to 4 may be present on the water at any one given time.

Reason: In the interests of amenity

03

Development shall be undertaken in accordance with the walkover survey undertaken by BJ Collins approved by correspondence dated 15 June 2017 under discharge of condition application ref: 17/00711/DISCON.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

04

The culvert required to implement the access shall be constructed in accordance with Bridge section drawing dated 24/3/16 as approved correspondence dated 15<sup>th</sup> June 2017 under discharge of condition application ref: 17/00711/DISCON.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

05

The development hereby permitted shall be undertaken in full accordance with the Recommendations and Precautionary Working Practices as set out in sections 5.1.2, 5.2.2, 5.4.2 and 5.5 of the Protected species survey dated July 2015 (prepared by Scarborough Nixon) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

06

Development shall be undertaken in accordance with the Railway Lake Management Plan 2017 – 2022 Rev 1 received 7/6/17 as approved correspondence dated 15 June 2017 under discharge of condition application ref: 17/00711/DISCON.

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.

07

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed 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.

08

Development shall be undertaken in accordance with the detailed contained within the Railway Lake Management Plan 2017 2022 Rev 1 received 7/6/17 and as detailed on the Environmental Impact Map as approved correspondence dated 15<sup>th</sup> June 2017 under discharge of condition application ref: 17/00711/DISCON.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

09

The access shall be located in accordance with the submitted 'annotated site photo' and constructed in accordance with the submitted 'Station Road Access Design Rev.1' drawing offering 6m wide entrance, 10m radii and visibility splays of 2.4m x 185m to the north and 2.4m x 125m to the south. No other part of the development shall be commenced until the access has been provided.

Reason: In the interests of highway safety and to provide adequate access for construction vehicles.

10

No part of the development hereby permitted shall be commenced until the new access mouth (up to the edge of the gravel driveway) has been constructed with a hard bound surface.

Reason: To reduce the risk of deleterious material being deposited on the public highway (loose gravel etc.)

11

The lake known as Railway Lake shall not be floodlit or illuminated in any way, unless express planning permission has first been granted by the local planning authority.

Reason: In the interest of the character of the surrounding area.

12

Within three months of the decision for the development hereby granted, the material finishes as agreed shall be carried out in full on site and retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority. For the avoidance of doubt, the porta cabin shall be finished in a Yorkshire Board cladding (as demonstrated by the supporting statement received 9<sup>th</sup> July 2018) and the fences; gates; storage containers; and timber shed shall be finished in a moss green paint finish (RAL 6005) as confirmed by email dates 30<sup>th</sup> August 2018.

Reason: In the interests of visual amenity.

13

The activities hereby approved shall only be undertaken during the following times; weekday evenings 1700 – 2100, up to 3 days a week and weekends 0900 – 1600 during the months of April to September inclusive with the exception of the usage of the lake for up to 6 weekends between October and March inclusive for training purposes.

Reason: So as to not cause an unacceptable impact upon local or residential amenities.

14

A log of all boat usage shall be maintained at the lake. The log shall record the time, date and number of boats on the water. The log shall be kept up to date and made available to an authorised officer of the Local Planning Authority within 2 working days of a written request for inspection.

Reason: To allow the Local Planning Authority to monitor and confirm all such movements, including in the event of any complaint concerning regattas being received by the Local Planning Authority.

15

Between April and September inclusive no more than 75 persons shall be undertaking water based activities at any given time. On the six weekends of usage between October and March inclusive no more than 25 persons shall be undertaking water based activities at any given time.

Reason: So as to not cause an unacceptable impact upon local or residential amenities

16

Landscape planting shall be undertaken in accordance with site layout plan 2016 received 1/8/16 as approved correspondence dated 15<sup>th</sup> June 2017 under discharge of condition application ref: 17/00711/DISCON and as detailed on site layout plan received 15/1/18.

Reason: In the interests of visual amenity and biodiversity.

17

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 current or 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 visual amenity and biodiversity.

18

Parking on site shall be as detailed on site layout plan 2016 received 1/8/16 as approved correspondence dated 15<sup>th</sup> June 2017 under discharge of condition application ref: 17/00711/DISCON.

Reason: In the interests of the character and appearance of the area

### **Notes to Applicant**

01

In order to carry out the new access works, you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an

agreement under Section 278 of the Act. Alternatively, works may be carried out on your behalf by Nottinghamshire County Council at an agreed cost without a need to enter into Agreement. Please contact [david.albans@nottscc.gov.uk](mailto:david.albans@nottscc.gov.uk) for details.

02

Safety literature as regards level crossings should be made available to users of the site.

03

Further to the comments received from Network Rail on 09/09/15 the applicant is advised to contact the asset protection team to discuss the proposed delivery route to site of any required abnormal loads. The asset protection team can be contacted on tel 01904 389678 or email [tony.rivero3@networkrail.co.uk](mailto:tony.rivero3@networkrail.co.uk)

04

Nesting birds are protected by the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take any wild bird; take, damage or destroy its nest whilst in use or being built; and/or take or destroy its eggs. Normally it is good practice to avoid work potentially affecting nesting birds during the period 1 March to 31 August in any year, although birds can nest either side of this period.

05

The comments received from Trent Valley Internal Drainage Board dated 12/10/15 should be noted. For clarity, any works within 9m of any watercourse controlled by the board, works to increase the flow of water to any watercourse or erection of a dam, weir or other obstruction to the flow or erection or alteration of any culvert would require the board's prior written consent.

06

The applicant shall inform users of the site of the most appropriate route for accessing the site; via Station Road accessed from the A612, to reduce the thoroughfare of traffic through the villages of Hoveringham & Thurgarton.

07

The applicant and the local parish councils shall undertake quarterly meetings to discuss activities and operations on the lake, in the interests of maintaining good working relationships.

08

The applicant is advised that all planning permissions granted on or after the 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.

#### Background Papers

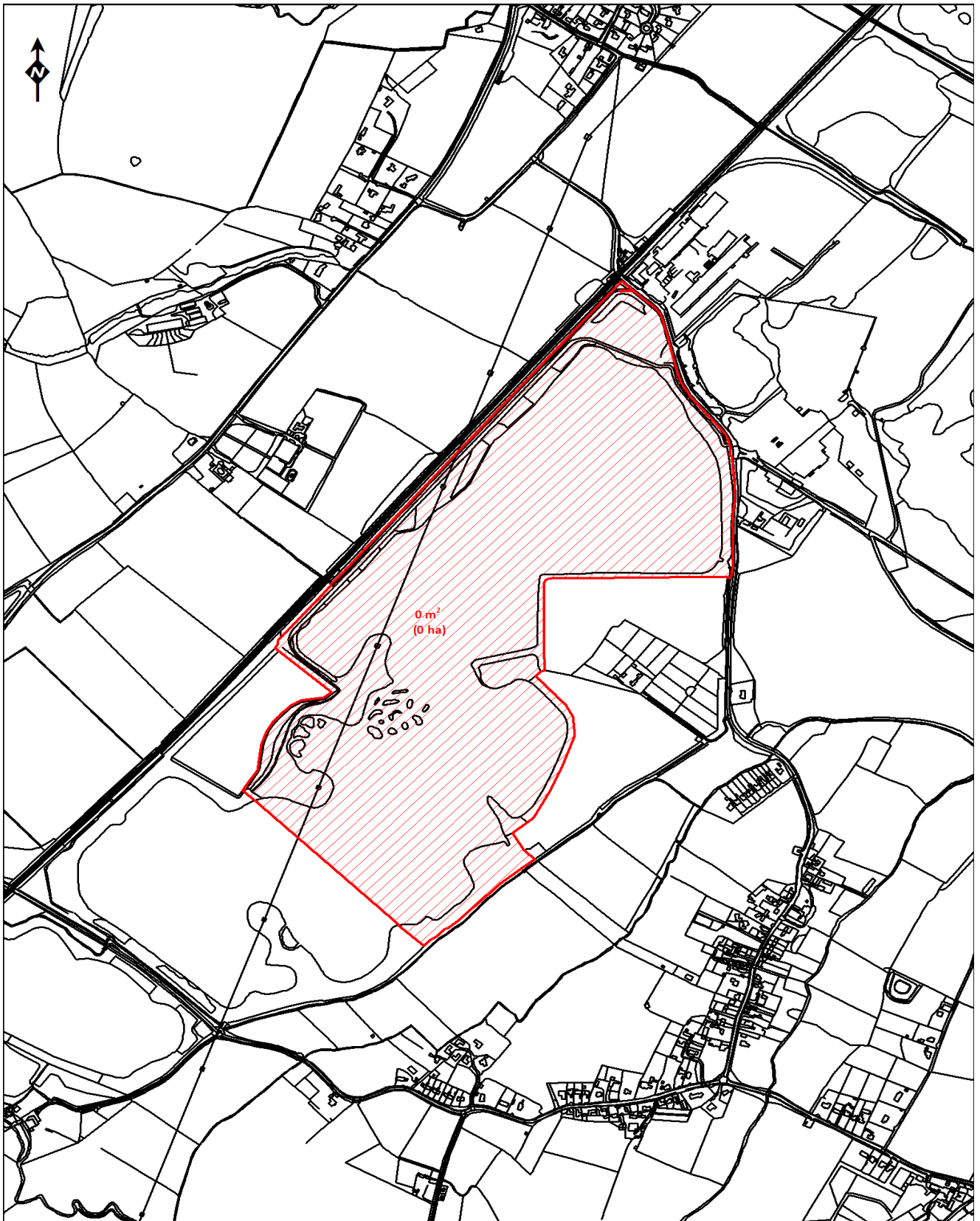
Application Case File

For further information, please contact Laura Gardner on 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**



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## PLANNING COMMITTEE – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/00629/OUT</b>		
<b>Proposal:</b>	<b>Outline application for residential development for 09 dwellings including the re-building of Rose Cottage (Access for consideration at outline)</b>		
<b>Location:</b>	<b>Rose Cottage, Farnsfield Road, Bilsthorpe, NG22 8SJ</b>		
<b>Applicant:</b>	<b>Mr Darrell Hyde</b>		
<b>Registered:</b>	<b>11.04.2018</b>	<b>Target Date: 11.07.2018</b>	<b>Extension of Time Agreed: In Principle</b>

**This application is being referred to the Planning Committee in line with the adopted scheme of delegation as the officer recommendation differs from the views of Bilsthorpe Parish Council.**

### The Site

The site is an area of approximately 0.4 hectares containing an existing domestic dwelling with associated garden land and some outbuildings located within the defined built up area of Bilsthorpe as defined within the Allocations and Development Management DPD.

The site is undulating with land rising from Farnsfield Road and contains Rose cottage, a two storey detached dwelling within the centre of the site, adjacent to Moor Cottage to the east. There are outbuildings comprising of a brick dilapidated former cottage to the south (abandoned), former greenhouses and a Nissan hut also to the south of the site.

To the west of the site, fronting Farnsfield Road is Windy Willows, a single storey dwelling with no accommodation in the roof and a 1.8m high timber fence to its eastern boundary. The surrounding application site is largely defined by a substantial hedgerow.

There is an existing vehicular access to the north of the site (in between Windy Willows and Holly Cottage) which serves Windy Willows, Rose Cottage and Moor Cottage.

The site is designated as being within Flood Zone 1 in accordance with Environment Agency mapping and is detailed as being prone to surface water flooding. There is a public Right of Way located to the south of the site.

### Relevant Planning History

**911051** - Residential development – Refused 10.06.1994

*Relevant application on neighbouring site (within Applicant's ownership):*

**18/01707/FUL** - Erection of two-storey rear extension and detached garage to front of property, Change of use by extending rear boundary line of property. *Pending Consideration.*

## The Proposal

The proposal seeks planning permission for the demolition of Rose Cottage and associated outbuildings and the construction of 8 new properties and the rebuilding of Rose Cottage.

The application is in outline form with only access for consideration and all other matters are reserved however an indicative layout has been submitted with a Design and Access statement showing the proposed mix of dwellings to be:

- 3no. 3 bedroomed detached dwellings (No.3, 4 and 9);
- 2no. 3 bedroomed single storey dwellings (no.1 and 2);
- 4no. 3 bedroomed semi-detached dwellings (no. 5, 6, 7, 8).

The proposal will also include/retain the access which serves Moor Cottage and Windy Willows and access to the Paddock to the south of the site.

The application has been amended to reduce the number of dwellings from the original submission of 13 dwellings (12 new plus Rose Cottage), to 11 dwellings (10 plus Rose Cottage), to now 8 (9 including Rose Cottage) dwellings as outlined above. Amendments have been sought to the access of the site which is now an outline matter and not a reserved matter. The appearance, layout, landscaping and scale of the dwellings are not the subject of this application and are all Reserved Matters.

Documents/plans considered as part of the application

- DRWG no. SK(08)01 Rev B Existing site plan and location plan;
- DRWG no. SK(08)03 Rev H Proposed site plan;
- Design and Access Statement Rev D;
- Ecology survey (BJ Collins July 2018);

## Departure/Public Advertisement Procedure

Occupiers of 28 properties have been individually notified by letter, a notice has been displayed at the site and 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 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
- Core Policy 13: Landscape Character



## **Allocations & Development Management DPD**

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

Policy DM3 – Developer Contributions and Planning Obligations

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Policy DM12 – Presumption in Favour of Sustainable Development

## **Other Material Planning Considerations**

- National Planning Policy Framework 2018
- Planning Practice Guidance 2014
- Developer Contributions and Planning Obligations SPD 2013

## **Consultations**

### **Bilsthorpe Parish Council – *Additional comments 11 July 2018:***

They voted to still object and the comments below to still stand, they would also like to raise concerns over privacy. Residents have highlighted to the council that they are concerned about privacy and would like to support this. Window to window and also into neighbours gardens, what will the distance be if the application I approved please?

### ***Original Comments 25 May 2018:***

The parish council discussed the above application on Monday, 21 May at their council meeting and they voted to object to the application.

The reasons for the objection are:

- The access is too narrow and a lot of the dwellings will have 2 cars, there is no visitor parking on the plan and they will likely have to park on the road.
- The water drainage is already an issue and with the proposed dwellings this is only going to make the problem worse not rectify.
- The road (Farnsfield) has already had accidents and is dangerous, this is again only going to increase the vehicles and additional to this there are no public footpaths on Farnsfield road.

There were some questions raised as well:

- How will the one way system be managed and ensured it is kept to a one way when the road is not adopted?
- Will there be a conservation report?

**Via East Midlands Rights of Way Officer** - No public rights of way are recorded over the proposed development site. This does not preclude unrecorded public rights being proven to exist at a later date.

Bilsthorpe Public Footpath No. 4 abuts the Southern boundary of the proposed development site. If planning permission is granted then the applicants should ensure that the Footpath remains unobstructed and fully available for use throughout the construction phase and that the development does not impact upon the Footpath at any time.

The hedgerow that forms the Southern boundary to the site is the responsibility of the current landowner. If the application is successful then the future maintenance responsibility of the hedgerow should be clarified in the sale of any plots to ensure that the Footpath does not become obstructed by overhanging vegetation.

**NSDC Access and Equality Officer** – Observations relating to inclusive access provision and the requirements under Part M of Building Regulations.

**NSDC Contaminated Land** - Photographs of the application site show a large greenhouse, barn, former Nissen type hut and an area where it would appear that there have been fires. There is clearly the potential for contamination to be present from this former use. I would therefore recommend the use of our full phased contamination condition.

**LCC Archaeology/Historic Environment Officer** - No archaeological input is required into this application.

**Severn Trent Water** – The Company's observations regarding sewerage are as follows:

#### Condition

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 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 as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

#### Suggested Informative

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

#### **Nottinghamshire County Council Highways** –*Additional comments 5 October 2018:*

The amended layout now shows the access at the north of the application site as reduced in width to 4.7m. Taking into account that only vehicles from Windy Willows, adjacent the access, are to exit from this point the layout is acceptable to the Highway Authority. Details of improvements at the access and egress points have not yet been submitted.

Therefore, there are no highway objections to this proposal subject to the following:

1. No development shall be occupied on any part of the application site unless or until the new access into the site, egress point, and new footway to the north of the site, on Farnsfield Road, have been provided, as shown for indicative purposes only on dwg. SK(08)03 Rev. G to the satisfaction of the Local Planning Authority. **Reason:** In the interests of highway safety.

*Additional Comments 29 August 2018:*

The proposed layout is generally acceptable. The access at the north of the application site is to be one way only from a point approximately 10m rear of the highway boundary, which will enable suitable access and egress for the residents of Windy Willows. The access road is to remain private.

A footway is to be provided to link up with the existing footway at the bus stop on Farnsfield Road, a distance of approx. 25m. Details of improvements at the access and egress points have not been submitted.

Therefore, there are no highway objections to this proposal subject to the following:

1. No development shall be occupied on any part of the application site unless or until the new access into the site and new footway to the north of the site have been provided, as shown for indicative purposes only on dwg. SK(08)03 Rev. E to the satisfaction of the Local Planning Authority. **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 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 highway safety.
3. The formal written approval of the Local Planning Authority is required prior to commencement of any development with regard to parking and turning facilities, gradients, access surfacing/improvements, lighting and drainage. All details submitted to the Local Planning Authority for approval shall be implemented as approved. **Reason:** In the interests of highway safety.

**Note to Applicant**

In order to carry out the offsite works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore, land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact David Albans (0115) 804 0015 for details.

*Additional Comments 11 July 2018:*

I remain uncertain about the safety of the access particularly with regard to access to/from Windy Willows. There is insufficient width here to let two cars pass one another prior to the one-way system starting.

In addition the fire engine swept path drawing does not appear to use a full sized vehicle and I am still concerned that the narrow access through the site might inhibit cars being able to turn in/out of their driveways. I realise that this is an outline application, so wonder if I should be so concerned? The question though is: can the amount of development proposed be accommodated on the site available?

*Additional Comments 1 June 2018:*

Further to comments dated 29 May 2018, it is noted from the Design and Access statement that the access will be 3.7m wide (minimum). Can this be confirmed and can swept path drawings be presented to demonstrate that a fire engine could negotiate this length of the access successfully given its alignment. Vehicle swept path drawings would also help in being able to assess the issues raised in previous comments.

Consideration needs to be given to the provision and safety of pedestrians using the access, which may include children and wheelchair users. Not only is sufficient access width required but also appropriate surface treatment. For an access of this nature, further consideration should also be given to lighting and drainage issues.

Further details should also be submitted about the boundary treatment of each plot and access arrangement since individual drives will need sufficient visibility splays to enter the one-way access road.

If the one way is to operate successfully, suitable signage will be required and it may be possible/desirable to introduce a Traffic Regulation Order so that it is enforceable by the Police. Costs of this would have to be met by the developer.

A view on whether this authority will object or not to this proposal will depend on if, and how, the issues raised here and earlier can be addressed. At the moment insufficient information is available. It is noted that this is an outline application with all matters reserved but it remains unclear if the number of dwellings proposed can be safely and adequately accessed

*Additional Comments 29 May 2018:*

Revised Site Plan

This proposal is for the construction of a total of 10 dwellings following demolition of Rose Cottage. The layout as shown on drawing SK(08)04 Rev. C provides a one way access driveway at the north west of the site, with the exit at the south west corner.

The driveway will also serve the existing dwellings Moor Cottage and Windy Willows. From the site layout plan submitted, the driveway width narrows significantly to approx. 3m adjacent Moor Cottage which may result in a vehicle having difficulty emerging/turning into the one way driveway from this point in one manoeuvre. It is also not demonstrated how a vehicle would satisfactorily exit from Windy Willows at the north west of the site along the proposed one way route. It is noted that 'access to paddocks' is included to the south east of the site and as such, the plan should demonstrate that a vehicle and horse box are able to easily and safely turn from the access onto the one way driveway.

Could the applicant take these points into consideration and submit an amended plan, including vehicle swept path to demonstrate how they are to be addressed.

**Environment Agency** - The site falls in Flood Zone 1 and the LLFA should be consulted regarding surface water disposal.

**Nottinghamshire Ramblers** - We note the proposed application that a Right of Way, namely Bilsthorpe FP No.4. We have no objection to the application providing the integrity of FP No.4 is maintained both during and after completion of the development.

**Cadent Gas** – No comments received

**NSDC Community Sports Development** – No comments received

**10 letters of representation have been received on the scheme from the initial submission and these can be summarised below:**

- The proposal would substantially increase the risk of accidents on this road due to the egress from the unofficial gateway at field access;
- We have two way access written in to our deeds and we would find it difficult to exit our property by turning right;
- The proposed exit to the south is a dangerous bend;
- No way the one way system can be enforced;
- Once occupied the residents will use whichever exit/entrance is convenient;
- The site of the bin store causes concern as the bin lorry is already outside for a few minutes holding up the traffic. A collection point at the south of the site would be better as there is a lay-by;
- From the proposed plan all the buildings are angled to be looking directly at Windy Willows, which would cause serious overlooking;
- No need to demolish Rose Cottage, it is not derelict and could be modernized. We should preserve Bilsthorpe village's old buildings;
- There is a colony of bats living in the old stable;
- Who will be responsible for the maintenance of the drive;
- The rebuilt Rose Cottage looks like they will be looking down on to our kitchen and also in to the annexe. What will the boundary treatment be?;
- There are no pavements available for access to a bus stop for travelling to Newark;
- No consideration for the increased road usage on Farnsfield Road;
- The rear garden depths are substandard with some properties only sited 7-8 metres away from neighbouring boundaries, and the design will undoubtedly result in privacy issues;
- Rose cottage should be orientated 90 degrees to minimize overlooking and overshadowing and have a hipped roof;
- Plots 10 and 11 should be single storey;
- Asbestos is on the site and historically a business was run from the site which may have involved the use of vehicles potentially causing contamination from fuel/oil;
- No objection in principle but feel it is overdeveloped;
- The area is generally cottages, bungalows and detached houses where 80% of residents are retired or semi-retired, semi-detached properties would change that;
- Increase in noise;
- A short footpath is now shown on the northern access;

- Object to the rebuilding of Rose Cottage as it appears to double the size of the existing property;
- Recent works have raised the ground levels and building a dwelling on this would impose on Meadow Grove properties;
- No consideration has been given as to how a fire appliance would access the rear of properties on Meadow Grove as there is no access from the front;
- The access at 4.7m is still 1m more than he possesses. Without a strip of land from Windy Willows he cannot achieve the width he desires;
- The siting of Rose Cottage has been amended slightly but there is still room to manoeuvre regarding its position and size. It could be moved further forward away from properties on Meadow Grove and relocation of the garage to the other side;
- Plot 9 does not look like a 3 bedroomed dwelling and has the footprint of a 4/5 bedroomed property;
- It should be single storey only with no alterations allowed to the roof.

### Comments of the Business Manager

#### Principle of Development

Spatial Policy 1 (Settlement Hierarchy) and 2 (Spatial Distribution of Growth) of the Council's Core Strategy, set out the settlements where the Council will focus growth throughout the District. Bilsthorpe is identified as a Principal Village where new development is considered appropriate due to the level of existing facilities within the settlement and the servicing of public transport provision. As the site is located within the main built up area I consider the proposal for new residential development to be acceptable in principle. Nonetheless the proposal should take in to consideration other material planning considerations which are outlined in the report below.

#### Demolition of Rose Cottage

Rose cottage is an unlisted rendered dwelling, not located within a conservation area. It was typically constructed in the C20 with later flat roof and 'conservatory' style additions. The building has no architectural or historical merit and I consider its demolition would be acceptable. I note the concerns received over its loss and the suggestion to it being renovated, however the loss of the building would not amount to harm. The benefits of the demolition to enable the site to be more developable outweigh, in my opinion, the retention of the building. The other outbuildings on the site are also not considered to be of any historical or architectural merit and I consider their demolition to be acceptable.

#### Land Ownership

A number of comments have been received with regards to issues of land ownership at the access point, namely in response to the access width adjacent to Windy Willows. This has resulted in several amended plans being submitted to try to rectify the situation. The applicant is now of the firm opinion that the latest submission (Rev H) is correct and the land he has applied for is within his legal ownership. The agent and Highways officers have met on site, along with the local resident, to discuss the details of the access width and no details are before the Council to dispute the latest plan. The agent has however, served a 'without prejudice' notice on the local resident concerning the land and I believe this is satisfactory.

I am satisfied that due process and consideration has been undertaken with regards to this matter and should it come to light following the determination of this application that ownership is outside of the applicant, it would fall outside of the remit of the planning process. I consider that the applicant has done what they can to ensure the application submission is correct with the information available. As such I am satisfied that determination of the application can be made.

#### 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. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision and seeks to ensure no detrimental impact upon highway safety.

Access is now a matter which is to be considered as part of this application and not at reserved matters stage. The access has been the subject of many revisions to the scheme and now Nottinghamshire County Council Highways are satisfied that the access and egress at the site is acceptable and would not cause harm to highway safety. A number of residents have raised comments/concern over the one way system and how this would be managed. The Highway Authority have previously stated that appropriate signage would be required to alert other users of the system and a Traffic Regulation Order could be imposed at a cost to the Developer however it is now understood that this is only on land which is to an adoptable standard, which is not the case here. It would therefore be the responsibility of the developer to impose appropriate signage, under condition of any approval, to ensure the vehicles enter and exit the site in the correct way. Concern has also been expressed at the short two-way section to the north of the site for use by Windy Willows, however the Highway Authority, the Developer and the affected resident have met and the revised scheme incorporating improved visibility and access width, is now considered appropriate at this junction.

Access around the site has also been a discussion throughout the application with insufficient details having been provided from the outset on how a fire appliance could manoeuvre around the site in the event of an emergency at one of the properties. The agent has now submitted accurate tracking details and altered the width of the access road around the site to accommodate this. In addition some of the driveways have been widened to enable more maneuverability within the plots and not to have to rely on the access road to turn. I appreciate this application is only in outline form with details of layout a Reserved Matter, nonetheless it is necessary to consider how the site would work safely throughout its length and it is these measures which will be brought forward at the Reserved Matters stage. I am satisfied that the layout of the site could be designed so as it would not cause any harm upon safety within the site from vehicles.

A revision to the scheme, following a number of concerns from residents, is the relocation of the bin store collection point to the southern access point for plots 3-9. It was a concern that the bin lorry and the number of bins at the northern point would hinder access and traffic congestion on Farnsfield Road. This revision is considered acceptable and would enable more space for the bin lorry and it would also mean plots 3-9 have a collection point closer to their properties. Details of the collection points should be conditioned to ensure these are easily identified and does not result in a hindrance to the access points.

The proposed development is therefore considered acceptable and would accord with the requirements of Spatial Policy 7 and DM5 of the Core Strategy and DPD respectively.

### Impact on Character of the Area

Policy DM5 states proposals should reflect local distinctiveness and character of built form and reflect this in the scale, form, mass, layout, design, materials and detailing for new development. The NPPF (2018) states *'the purpose of the planning system is to contribute to the achievement of sustainable development (para 7). 'Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area' (para 9).*

The character in the area is mainly detached dwellings or bungalows set in large plots. This application is sought for a mixture of detached bungalows, semi-detached and detached two storey properties. Whilst the proposal does not wholly accord with the general character I consider that it adds to an acceptable variety to the existing character. Details of the design of the dwellings will come forward at the Reserved Matters stage whereby I would expect the design of the dwellings to take on local character in terms of their materials and detailing.

As such I consider that the proposal would accord with local character in that it would not harm the distinctiveness of the area and I would expect the detailed design of the dwellings to respond to local distinctiveness in line with policy DM5 of the ADMDPD.

### Impact on Neighbouring Amenity

Policy DM5 of the ADMDPD states 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 application is only in outline form with layout a Reserved Matter, however an indicative layout has been submitted (SK(08)03 Rev H) which is helpful in the consideration process to determine how the 9 properties could be laid out on the site.

The proposed layout has been the subject of amendments which has sought to alter two storey dwellings to single storey where it is close to Windy Willows and improve separation distances where relevant. I appreciate the concerns of residents with regard to the proximity of new development however I am satisfied that a scheme could be produced where the layout is appropriate and would not cause unacceptable harm to the amenities of neighbouring occupiers. It was noted that the rebuilt Rose Cottage which is indicated as a two storey 3 bedroomed dwelling, was sited approximately 7.5m from the eastern boundary and 18m from the rear elevation of the closest property on Meadow Close. Even without elevational details this proximity was considered inappropriate and I have negotiated with the agent to amend the orientation of this dwelling and thus improve the relationship. A revised layout has been received which alters the orientation of Rose Cottage. The distance from the proposed Rose Cottage and the eastern boundary is now approximately 9.5m and approximately 12m from the rear elevations of the properties on Meadow Grove, and due to the oblique angle and the distance, I consider the overbearing impact has been alleviated. I now consider that the proposed layout is more acceptable and although this is only indicative, it results in a positive layout arrangement moving forward. I do however consider that there is some more work to be carried out on the relationship between Rose Cottage and the properties on Meadow Grove and this should be explored in the Reserved Matters application, but I am confident that a solution is achievable within the site parameters.



Despite the alterations still needed to Rose Cottage, I am confident that a scheme could be produced which ensures that the future occupiers of the dwellings and existing occupiers of the surrounding sites would not have their amenity detrimentally impacted upon. On this basis the proposal is considered compliant with the relevant elements of Policy DM5.

#### Flooding/Drainage

Policy DM5 and Core Policy 9 require that proposals pro-actively manage surface water and Core Policy 10 seeks to mitigate the impacts of climate change through ensuring that new development proposals taking into account the need to reduce the causes and impacts of climate change and flood risk.

The site is located with Flood Zone 1 on the Environment Agency's mapping relating to flooding from rivers and sea and therefore under the definitions within the NPPF in an area of low probability for flood risk. Given the site is less than 1Ha no flood risk assessment has been submitted in support of the application. However, the site is shown as being within an area prone to surface water flooding. Drainage details have not been provided as part of the application documentation and it is necessary to consider these at Reserved Matters stage. I therefore consider it necessary to impose a condition requiring these details to be submitted with any subsequent application upfront. At this stage I do not consider it necessary to have these details at the Outline stage as the drainage is subject to the layout being agreed. Therefore as the layout is a reserved matter it is not possible to consult effectively on this matter.

The site, whilst it is currently a greenfield site and has a high degree of permeability I consider that a scheme could be achieved whereby it would not result in any surface water management concerns.

#### Impact on Ecology

Paragraph 175 of the NPPF (2018) states that when determining planning applications, local planning authorities should, amongst other things, conserve or enhance biodiversity; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. Core Policy 12 of the Core strategy and policy DM7 of the ADMDPD states that new proposal should protect, promote and enhance green infrastructure. Proposals should seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity.

#### *Bats*

An ecology survey has been submitted due to the presence of the existing farm/commercial buildings on the site which could give rise to ecological use. The surveyor carried out a full assessment of the site and found that there were loose tiles on the existing dwelling which could give rise to bat access, however no evidence of such use was evidenced within the roofspace. There was however evidence of a roost found in one of the barns which has been used for a limited period. There was no other evidence of bats usage within the other buildings and indeed they are of simple construction which lack cavities and crevices to support bats. The barn was therefore deemed to provide a low bat roost potential. In light of the roost that was found in one of the barns a bat emergence survey was conducted which revealed that the site does contain bat activity across the site but mainly from foraging and feeding within the site. No bats were observed emerging from out of the barn. The survey concluded that the barn has been used by a bat on a single occasion and that no bats were found to be roosting on the site on the 12<sup>th</sup> July 2018 which is in the peak of the

bat season. Mitigation measures have been proposed which are outlined in paragraph 4.3 of the report and these relate to the demolition method of the cottage and the barn, the ridge tiles and bitumen felt lining, which should be carried out by hand and with care of the apex of the barn. The roof tiles from off the north side of the cottage should also be removed by hand and with care.

Mitigation measures are proposed within the construction of the buildings which are outlined in paragraph 6.3 of the Ecology survey. These include purpose built wildlife mitigation, nest boxes on buildings for Swift, House Martin, Starling and House Sparrow.

### *Vegetation*

The survey also conducted a Phase 1 habitat survey which recorded areas of the site which are 'target' areas for ecology. These included the grasslands, hedging areas and trees. The grasslands provided opportunities for cover for small mammals such as hedgehogs and value for nesting birds. The hedgerow on the western boundary provides the highest ecological value. Although it appears to be of no significant age, it provides a food and/or nectar source for invertebrates, as well as nesting habitats for birds, and foraging and commuting route for bats, as well as shelter and overwintering habitat for hedgehogs, common amphibians and other small mammals. Hedgerows are identified as a low priority habitat within Nottinghamshire and therefore should be retained and enhanced wherever possible. This is reflected in Core Policy 12 and policy DM7 where it states developments should maximise the opportunities to conserve, **enhance** and restore biodiversity. The ecologist suggests retaining and enhancing the hedgerows which are located within the red line and plant up with native species.

### *Badger/Hedgehog*

A survey of badger and hedgehog usage within the site resulted in no evidence of them found on the site but the site is capable of supporting them due to the foraging potential. Caution is expressed during clearance of the site.

### *Nesting Birds*

All wild birds are protected under the Wildlife and Countryside Act (1981) (as amended) whilst breeding. Therefore any vegetation removal must be undertaken outside of bird breeding season (March – September inclusive).

### *Reptiles*

The site provides limited potential habitat for reptiles and as such there are no specific mitigation or further surveys deemed to be required.

Further mitigation measures are outlined in Section 6 of the submitted Ecology Survey which, if Members resolve to approve the application, I would recommend a condition to ensure such measures are implemented. Therefore in conclusion, I consider that the presence of bats on the site can be adequately mitigated for and the site does include features which are of high ecological value, namely the western hedgerow, which should be retained for its value.

Subject to appropriate conditions it is not considered that the development of the site would not result in harm to the ecological interest that cannot be mitigated against and the proposal would accord with the requirements of policy DM7 of the DPD.

### Housing Mix

Whilst housing type, design and layout are not for consideration at this stage, the applicant had implied that the general mix would comprise of 3no. 3 bedroomed detached dwellings (No.3, 4 and 9), 2no. 3 bedroomed single storey dwellings (no.1 and 2) and 4no. 3 bedroomed semi-detached dwellings (no. 5,6,7,8). The Newark and Sherwood Housing Need Survey (2014) in which Bilsthorpe is incorporated in to the Sherwood Sub Area, states that there is a high demand for bungalows, followed by detached and then semi-detached properties ranging from 2 – 4 bedrooms. Given that all 9 no. properties are currently demonstrated as being 3 bedrooms, it may be more appropriate at reserved matters stage for a more varied mix of number of bedrooms to be presented (albeit retain the mix in terms of bungalows, semi-detached and detached). I therefore consider this does generally accords with Core Policy 3 of the Core Strategy and there remains the potential to secure an appropriate overall mix at reserved matters stage.

### Contaminated Land

Colleagues from Environmental Health have stated that due to the former use there is potential for contamination issues with the land. Therefore they have requested that the phased contamination condition is imposed on any decision made of the Authority to ensure appropriate measures are taken to clear the land. Comments have also been received that the site contains asbestos which is also a concern and one which should be dealt with appropriately. However this is regulated outside of the Planning Legislation and a condition would not be appropriate. I therefore consider the land contamination condition is only appropriate in this instance, however an informative could be imposed to advise on the asbestos.

### Affordable Housing

The Council's Core Strategy (2011), Affordable Housing SPD (June 2013) and Developer Contributions and Planning Obligations SPD (2013) will seek to secure the provision of 30% on site affordable housing where the thresholds are met. In this instance given that the proposal is for a net increase of 9 dwellings with a combined floor space of less than 1000m<sup>2</sup> the threshold has not been met and no affordable housing contributions are being sought.

### CIL

The application site falls within a zeroing charging area for CIL and as such the development is exempt from any contributions in this respect.

### Overall Balance and Conclusions

The proposal relates to the opportunity to deliver 9 properties within an area shown as part of the sub regional housing report to be in need of such properties within an identified sustainable location. Subject to appropriate conditions the proposed development is not considered to result in harm to the character of the area, residential amenity, highway safety, flood risk or ecological interest which cannot be mitigated against. It is not considered that there are any further material considerations that would warrant refusal of the application.

## **RECOMMENDATION**

**That outline planning permission is approved subject to the conditions and reasons shown below.**

### **Conditions**

01

Application for approval of reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

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

02

Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

03

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

- DRWG no. SK(08)01 Rev B Existing site plan and 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 permission.

04

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,
  - ground waters and surface waters,
  - ecological systems,
  - archaeological 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.

05

The reserved matters application shall be accompanied by details of the means of foul drainage and surface water disposal unless otherwise agreed 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: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

06

No development shall be occupied on any part of the application site unless or until the new access into the site, egress point, and new footway to the north of the site, on Farnsfield Road, have been provided, as shown for indicative purposes only on dwg. SK(08)03 Rev. H to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

07

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 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 highway safety.

08

The reserved matters application shall be accompanied by details of all parking and turning facilities, gradients, access surfacing/improvements, lighting and drainage within the site. All details submitted to the Local Planning Authority for approval shall be implemented as approved.

Reason: In the interests of highway safety.

09

The reserved matters application shall be accompanied by details (appearance etc.) of the wheelie bin collection point as detailed on site plan Dwg No. SK(08)03 Rev H. The bin storage facilities shall be provided prior to the first occupation of any dwelling and shall thereafter be retained for the life of the development.

Reason: In the interests of highway safety.

10

Development shall be carried out in full accordance with Section 6 and Appendix 1 and 3 of the Protected Species survey undertaken by BJ Collins dated May 2018 which sets out the mitigation measures, timing of demolition, timings for work affecting hedgehogs and the types of bird/bat boxes recommended, unless otherwise agreed in writing with the local planning authority.

Reason: In the interests of ecology and biodiversity.

11

Prior to the occupation of any dwelling, details of the locations of the bat and bird boxes to be installed on the buildings and any other ecological enhancement, shall be submitted to and approved in writing by the local planning authority. The boxes shall thereafter be installed prior to occupation of any dwelling and shall be retained for the life of the development unless otherwise agreed in writing with the local planning authority.

Reason: In the interests of ecology and biodiversity.

12

The hedgerows to the east and west of the site shall be retained for the life of the development and shall not be willfully cut down or destroyed in any way without the prior written consent of the local planning authority. Should any part of the hedge require replacing then it should be done so by the next planting season with native species to match that of the existing hedgerow.

Reason: In the interests of ecology and biodiversity.

13

Plots 1 and 2 as shown on drawing no. SK(08)03 Rev H shall be single storey only with no accommodation within the roofspace.

Reason: In the interests of neighbour amenity.

14

No demolition of buildings or works to trees/hedgerows shall be carried out during the bird nesting period (beginning of March to end of August inclusive) unless the site has first been inspected by a suitably qualified ecologist in accordance with the submitted Protected Species Survey by BJ Collins (July 2018).

Reason: In the interests of ecology and biodiversity.

15

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) 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 to Plots 1 and 2 illustrated on drawing no. SK(08)03 Rev H to the east of Windy Willows, under Schedule 2, Part 1 of the Order in respect of:

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

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 ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any amending legislation).

#### Notes to Applicant

01

Where the existing or previous land use(s) indicate that there is a potential for asbestos to be present at the site, the applicant/developer will need to have a contingency plan to effectively deal with these materials. Should the construction/conversion phase reveal the presence of asbestos, please notify the Health and Safety Executive (HSE) on 0845 3450055 and the Proactive Team in Environmental Health at Newark and Sherwood District Council on 01636 650000.

Under the Control of Asbestos Regulations 2012, in the majority of cases anyone working with asbestos will require a licence; it is an offence to work with asbestos without one and could result in prosecution. In addition, there have been some changes to what is required for non-licensed asbestos work. Details of the changes are available from the HSE website at: <http://www.hse.gov.uk/asbestos/regulations.htm>.

For further information on this subject please visit our website at: <http://www.newark-sherwooddc.gov.uk/asbestos>



02

In order to carry out the offsite works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore, land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact David Albans (0115) 804 0015 for details.

03

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.

04

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

#### Background Papers

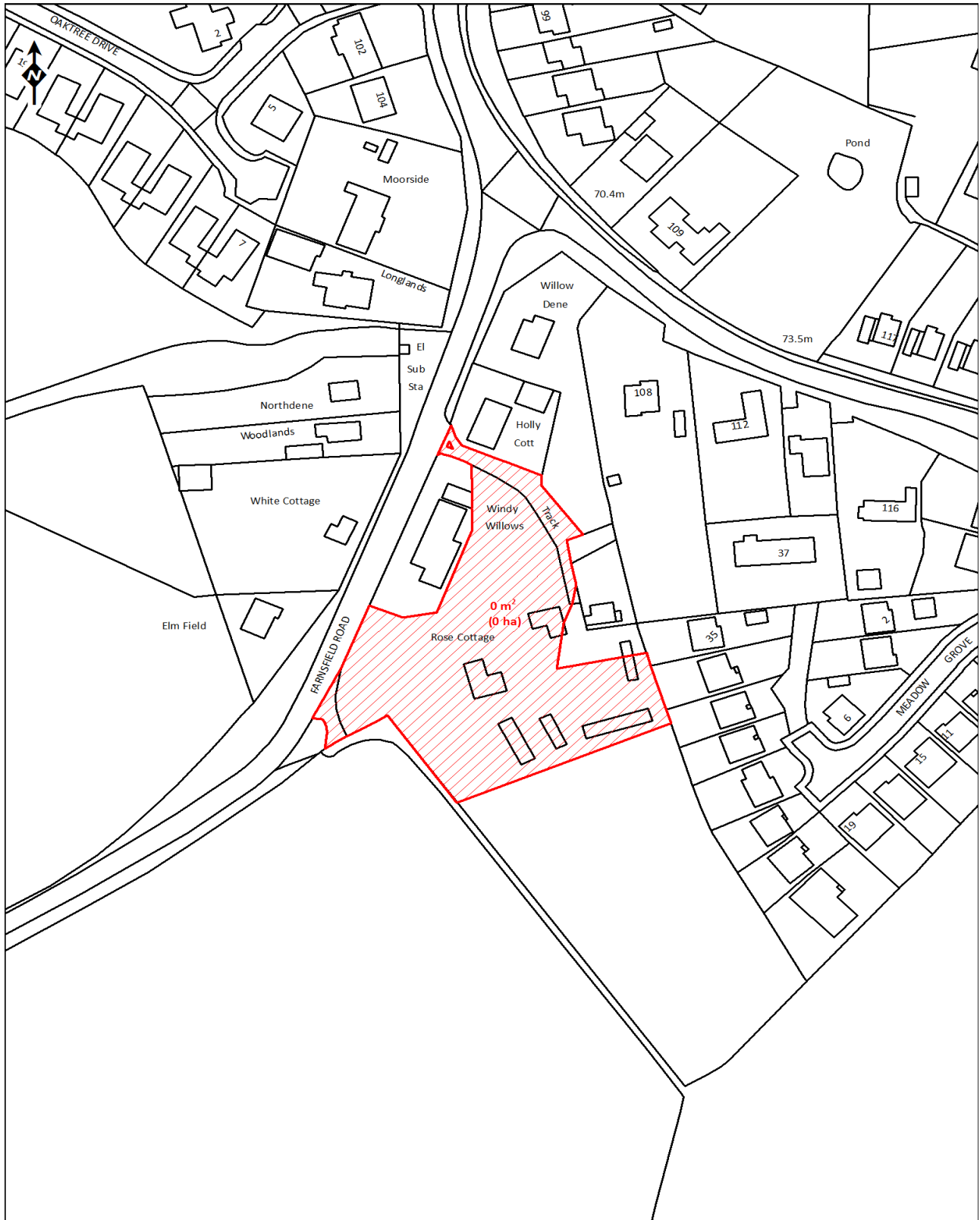
Application Case File

For further information, please contact Lynsey Tomlin on ext. 5329

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 – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/01616/OUT</b>		
<b>Proposal:</b>	<b>New dwelling within the existing garden space to Rhed Cottage, with shared vehicle access</b>		
<b>Location:</b>	<b>Rhed Cottage, Station Road, Ollerton NG22 9BN</b>		
<b>Applicant:</b>	<b>Mr Robert Lilley</b>		
<b>Registered:</b>	<b>03.09.2018</b>	<b>Target Date: 29.10.2018</b>	<b>Extension of Time Agreed Until 09.11.2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Ollerton and Boughton Council has supported the application which differs to the professional officer recommendation.**

### The Site

The application site is a broadly rectangular plot to the north of Station Road within the urban boundary of Ollerton as well as the designated Conservation Area. The site is towards the south west of the settlement close to the A616 roundabout. The site as existing forms part of the existing residential curtilage of Rhed Cottage which is a two storey property fronting Station Road with its gable end abutting the pavement to the north east of the site. The site is surrounded by neighbouring residential curtilages of both single storey and two storey scale.

### Relevant Planning History

There is no planning history of relevance to the site.

### The Proposal

The application seeks outline planning consent for a single residential unit with only matters of access to be agreed. The access would be along the southern boundary of the site from Station Road with an intention to create a shared access arrangement with the host dwelling; Rhed Cottage.

Although all other matters would be agreed through reserved matters if outline approval were to be forthcoming, the application has been accompanied by an indicative site plan which demonstrates that the dwelling would be set towards the south of the site fronting Station Road and would necessitate the demolition of an existing garage.

The appraisal below is based on the assessment of the plan reference, 'Site Plan and Location Plan – 1812 Drawing No. 01' dated August 2018.

### Departure/Public Advertisement Procedure

Occupiers of six 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. A second notice was posted on the site on 15<sup>th</sup> October 2018 with an expiry date for comments of 22<sup>nd</sup> October 2018 owing to concerns that the original notice was removed.

## **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 9 – Sustainable Development  
Core Policy 14 – Historic Environment

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

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 2018
- Planning Practice Guidance 2014
- Emerging Core Strategy

### **Consultations**

**Ollerton & Boughton Town Council** – Support the proposal (8 support, 0 object)

**NCC Highways Authority** – This proposal is an outline application for the construction of a new dwelling within the existing curtilage of Rhed Cottage, served by the existing access onto Station Road.

The block plan submitted (ref. 01) shows the existing access is of insufficient width to serve two dwellings. In accordance with current guidance, a width of 5.25m (a minimum of 4.25m with 1m added if bounded by a wall, fence, hedge etc. on each side) is required, however, the existing width is significantly less than this. Therefore, two vehicles are unable to pass each other at the point of access, leading to one vehicle waiting in the carriageway whilst another exits. Also, there is insufficient space within the site for vehicles to adequately manoeuvre and exit safely.

Therefore, it is recommended that this application be refused for the following reason:  
The proposed development would be likely to result in an unacceptable increase in danger to the users of the highway due to the increased use of the existing access which is of insufficient width to accommodate the proposed vehicular movements.

The proposed development fails to make adequate provision for the maneuvering of vehicles within the site resulting in an increase in the likelihood of danger to other users of the highway due to drivers having to maneuver into Station Road.

**NSDC Conservation** –We have been consulted on the above proposal.

### *Legal and Policy Considerations*

Section 72 of the Act 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, 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 16 of the National Planning Policy Framework (NPPF – revised July 2018). 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, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of conservation areas when considering new development (paragraph 200).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

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.

### *Significance of Heritage Asset:*

Rhed Cottage on Station Road is located in the Ollerton Conservation Area, first designated in 1977. The site is located in the heart of the Ollerton Conservation Area, and while there are no listed buildings in close proximity, the majority of the dwellings along either side of Station Road are identified as non-designated heritage assets on the historic environment record due to their age and original plan form. . The village has been encroached upon by extensive new development, however the historic core of the centre still has a strong historic character, and when the village is viewed from the North West the original strategic siting can still be identified. Rhed Cottage is located within this historic core; the village boundary of Ollerton takes in a long and narrow tract alongside the River Maun. In the 18th and 19th centuries the land between the village and the river was largely occupied by hop yards, which made a significant contribution to the economy of the settlement, and the hop yards are clearly evidenced on the 1779 Ollerton

enclosure map as well as Sanderson's 1835 Map of Nottinghamshire. There were two fairs held annually in Ollerton for cattle, sheep and hops, discontinued in 1886. The advent of the railway had a significant detrimental impact on Ollerton which gained much prosperity from the business of coaching inns supporting the post carriages. This led to the eventual demise of the hops business, as evidenced by the 1904 Kelly's Directory which no longer makes reference to the trade among the townspeople.

Rhed Cottage was originally located on the southern part of Main Street, which became known as Station Road following the construction of the railway station in 1895. The OS Map of 1875 shows the cottage in situ, with a range of agricultural outbuildings and labourers cottages in close proximity. The majority of these outbuildings survive, including the range immediately opposite Rhed Cottage on the south side of Station Road which has been converted into residential use. Many of these traditional agricultural outbuildings, cottages and farmsteads are recognised as non-designated heritage assets on the Historic Environment Record, and as such the application site is situated in a sensitive location. Set back at a higher level on the south side of Station Road there are a number of modern C20 dwellings. These properties make a negative contribution to the intimate, rural atmosphere, where the historic buildings are set immediately onto the front of Station Road.

#### *Assessment of Proposal:*

Conservation has scrutinised the submitted outline plans and consulted with the planning officer regarding the suitability for a new dwelling in this location. It is evident with due consideration for residential and neighbour amenity that a new dwelling in this location, with the required footprint, would negatively impact on the neighbouring properties and amenity space. From a conservation viewpoint, this would also disrupt the historic settlement pattern where traditional cottages have been grouped in pairs with adequate open green space on one side.

In this instance, a new residential property may overwhelm the plot and negatively impact on the character of the conservation area. It is noted at this stage that insufficient details have been submitted to allow Conservation to comment on the design element of the new dwelling. It may be possible to mitigate the impact of the overly substantial footprint through high quality detailed design, with a new dwelling that includes traditional materials, brickwork and bond to match the adjacent historic buildings. However at this stage Conservation is unable to provide further commentary, but would be in a position to offer further advice upon receipt of the reserved matters that are not included as part of this outline application.

**NSDC Access & Equalities Officer** - Observations in relation to building regulations.

**Representations have been received from 5 local residents/interested parties which can be summarised as follows:**

- There has been no notice given near the said property
- The road cannot cope with any further driveway access
- There are issues with car parking on the road
- The road is used by people avoiding Ollerton Roundabout
- The garden is not big enough for one property never mind two
- It will make neighbouring bedrooms dark and reduce privacy
- The dwelling would be imposing to neighbouring properties

- The proposal would be infill development which will be detrimental to the Conservation Area and quality of life
- Properties in the immediate area have no off street parking which causes chaos at peak times
- The doors of the parking space would open out onto the footpath
- If there were two cars per household and visitors there would be extra parking on the street
- Ollerton has no public car park
- It would set a precedence for further developments in gardens
- The application has not been appropriately advertised and the original notice was removed

### Comments of the Business Manager

#### *Principle of Development*

The application site forms part of the existing residential curtilage of the two storey property known as Rhed Cottage and is therefore considered to represent a greenfield site. Ollerton is defined by Spatial Policy 1 of both the extant and emerging Core Strategy as a Service Centre for the Sherwood Area. The function of Service Centres is to act as a focus for service provision for a large population and rural hinterland. The principle of development within the site is therefore accepted.

Notwithstanding the above, it remains necessary to assess the application against the provisions of the remainder of the Development Plan including in the heritage context noting the positioning of the site within the designated Conservation Area. 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. Policy CP14 of the Core Strategy 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 the setting of Listed Buildings.

#### *Impact on Highways*

The application has been submitted in outline where the only matter to be agreed at this stage is the proposed access. Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

The application seeks to retain an existing vehicular access but to create a shared arrangement with the host dwelling such that the use of the access would intensify. The indicative site layout submitted suggests that one car parking space would then be provided for each property. The indicative layout however does not appear to demonstrate that there would be appropriate turning facilities on site and thereby vehicles would be required to reverse onto the highway. The proposed access arrangements have been subject to consultation with NCC as the Highways Authority. Their comments are listed in full above but briefly, as well as the aforementioned issues with space to maneuver; they have raised an issue with the width of the access being inadequate to serve two dwellings. The proposed access would fall significantly short of the required 5.25m width and would therefore potentially lead to one vehicle waiting in the carriageway whilst another exits. The Highways Authority have recommend refusal on this basis. Given that access is the only matter which Officers can consider in any certainty, the lack of a safe access is considered to carry determinative weight in the proposal.

### *Impact on Amenity*

Policy DM5 requires an assessment of likely amenity impacts both in respect of existing and neighbouring occupiers. Clearly given the outline nature of the proposal, there is a minimum level of information which is required at submission stage in order to allow a full consideration of the proposal, however, indicative relationships can be inferred from the site constraints. The indicative layout assists in this manner. On the basis of the indicative plan, it is suggested that the proposed dwelling could achieve a separation distance of just under 10m between the neighbouring dwelling to the north and the proposed dwelling. The separation distance between the gable end of the proposed dwelling and the side (principle) elevation of the host dwelling would then be around 12.6m. Clearly whilst these are indicative distances, the constraints of the site (as discussed further below) present little opportunity for these distances to be increased at reserved matters stage.

It is my view that a distance of less than 10m would in no way be acceptable for the neighbouring property if the proposed dwelling were to be two storey in that it would impose overbearing and overlooking impacts. In this context Officers contacted the agent during the life of the application to confirm the intentions in respect to the scale of the proposal. It has been suggested during the life of the application that the proposal could deliver a two bed property with first floor accommodation in the roof space served by roof lights to allow for a 'bungalow appearance'. The suggestion is that this could be achieved within the pitch height of circa 6m. It has been requested that the agent demonstrates this through scaled plan albeit Officers were clear that the costs in drawing these plans may transpire to be abortive given other issues with the application. No plan has been received and thus it falls to assess the application purely on the basis of the site location plan and indicative layout taking in good faith that a single storey property could be delivered at a height of 6m.

Even with a single storey relationship, separation distances would be tight (between 8 and 10m if based on the indicative layout). In reaching a view as to whether they would be potentially harmful enough to refuse the application I have taken account of existing site circumstances. The northern boundary features a fence. The neighbouring property does feature windows on the elevation which faces the site, but one of these is obscurely glazed and I note that the neighbouring plot extends some distance to the north such that it would be inferred that their private amenity space is on the opposite side of the property.

I do not consider that the relationship which would result from the a single storey unit would be materially worse in respect of overbearing and overlooking given the presence of the boundary fence. Any reserved matters submission if permission were to be otherwise forthcoming would need to carefully consider how this relationship works and if outline permission were to be forthcoming, it would be appropriate to condition a maximum pitch height for any reserved matters submission moving forward. It would however be inevitable that main outlook windows would be orientated towards neighbouring plots at a relatively close spatial relationship which must serve to weigh negatively in the overall planning balance regardless of whether amenity impacts would sustain a separate reason for refusal.

### *Impact on Character including Heritage Impacts*

Policy DM5 confirms that, where local distinctiveness derives from the presence of heritage assets, as in the case in the context of this proposal, development will also need to satisfy Policy DM9. Given the outline nature of the proposal, it is not a requirement to assess the specifics of the application in terms of matters of character and design.



The comments of the Conservation Officer are listed in full above which outline the heritage value of the surrounding area confirming that Rhed Cottage is located within the historic core of Ollerton with numerous traditional agricultural outbuildings, cottages and farmsteads in proximity being considered as non-designated heritage assets.

In seeking outline permission for a single dwelling, it is possible to assess whether the site constraints would at least allow for a single dwelling in spatial terms.

The plot itself is relatively modest at just 0.2 hectares approximately. The indicative site plan demonstrates that the plot could achieve a single unit with an approximate foot print of just 50m<sup>2</sup>. Given the above discussion whereby Officers do not consider that a two storey dwelling would be appropriate in amenity respects, this footprint would be extremely modest to deliver a residential unit with appropriate living accommodation. The constraints of the site do not allow for any leeway to extend this footprint as it would have subsequent detrimental impacts on either the parking arrangements or neighbouring amenity impacts. Moreover, the Conservation Officer has specifically commented on the heritage implications of the proposal as repeated below:

*From a conservation viewpoint, this would also disrupt the historic settlement pattern where traditional cottages have been grouped in pairs with adequate open green space on one side. In this instance, a new residential property may overwhelm the plot and negatively impact on the character of the conservation area.*

I concur with this view and in the context of the above discussion consider that a proposed dwelling would overwhelm the plot. On this basis, I do not consider that a dwelling with satisfactory living accommodation could be physically accommodated in the space available without creating a detrimental impact on the character of the area including in its heritage context.

#### *Overall Balance and Conclusion*

I appreciate that the applicant is seeking to establish the principle of development before encountering the expense of more detailed plans. However, the information provided is entirely inadequate as it fails to provide any clear indication that a property, of the scale proposed, could be accommodated on this plot. The limited details provided actually suggest the alternative.

Officers do not consider that the size of the site would be sufficient to deliver a residential unit which could achieve policy compliance in all respects. Despite an acceptance that it is not appropriate to assess the full details of the proposal given its outline nature, Officers cannot envisage a scheme which could deliver a reasonably sized residential unit which could secure appropriate highways arrangements and neighbouring amenity relationships whilst securing the heritage value of the area. Whilst the principle of development is acceptable in respect to the sustainability of the settlement, it would be inappropriate to grant outline approval for a proposal which could not achieve agreement of its finer details at reserved matters stage.

#### **RECOMMENDATION**

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

01

Although submitted in outline form with only matters of access to be agreed, it is the view of the Local Planning Authority that the applicant has failed to demonstrate that the plot could deliver a single residential unit with a safe vehicular access. The modest size of the plot does not allow for an adequate vehicular access width (given the proposed shared access arrangement) or parking arrangement and manoeuvrability space within the site. The proposed development would therefore result in an increase in on street parking and highways movements to the detriment of the safety of the highways network.

Despite the sustainable nature of the settlement, the Local Planning Authority does not consider that the benefits of the scheme in respect to housing delivery would outweigh the aforementioned harm identified. The proposal is therefore contrary to Core Policy 9 and Spatial Policy 7 of the Core Strategy as well as Policy DM5 of the Allocations and Development Management DPD. In addition the proposal would be contrary to the advice contained within the NPPF 2018 which forms a material planning consideration to the decision.

02

The application site is located within the historic core of the settlement in the designated Conservation Area. Moreover, there are numerous non-designated heritage assets in the vicinity of the site and as such the application site is situated in a sensitive location between existing residential dwellings.

The proposal for a single dwelling within the site would disrupt the historic settlement pattern where traditional cottages have been grouped in pairs with adequate open green space on one side. A new residential property would overwhelm the plot and negatively impact upon the character of the conservation area. The delivery of a residential dwelling within the plot (of just 0.2 hectares in size approximately) would represent overdevelopment of the site which would have subsequent detrimental amenity impacts on neighbouring dwellings, particularly the plot to the north, due to constrained separation distances.

The proposal is therefore contrary to Core Policy 9 and Core Policy 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Management DPD as well as the NPPF which forms a material planning consideration.

### Informative

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

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to clarify the intentions of the applicant.

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**



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## PLANNING COMMITTEE – 6 November 2018

<b>Application No:</b>	<b>18/00787/FUL</b>
<b>Proposal:</b>	<b>Erection of 4 bedroom detached house with double garage</b>
<b>Location:</b>	<b>Land Adjacent Bramley House, Burnmoor Lane, Egmonton, Nottinghamshire</b>
<b>Applicant:</b>	<b>Mr and Mrs Michael Wallace</b>
<b>Registered:</b>	<b>15.05.2018</b>
	<b>Target Date: 10.07.2018</b>
	<b>Requested extension of time until 10.11.2018</b>

**This application is being referred to the Planning Committee for determination due to the parish council objecting to the proposal whereas the officer recommendation is to approve the proposal.**

### The Site

The site is situated to the north of Burnmoor Lane which itself is situated to the north of Weston Road, located at the eastern end of Egmonton. The site forms a rectangular shaped plot of land approximately 0.05 hectares in area. The site is somewhat overgrown with no structures present. There are several trees to the western and northern boundary of the site, none of which are protected by Tree Preservation Orders. The land within the plot is generally flat, although the prevailing topography of this area slopes gently down from north to south, towards Weston Road.

The front of the site is currently open onto Burnmoor Lane which is also an existing bridleway. Hedgerows and an established tree line enclose the other boundaries of the site.

To the west of the site lies Burnmoor Farm House, whilst to the north, east and south are modern dwellings comprising detached two-storey and single-storey buildings, all of which share access off Burnmoor Lane.

The site originally comprised the farmyard to Burnmoor Farm, occupied by modern agricultural buildings but these were demolished some years ago. The site lies outside of the Egmonton Conservation Area but is close to its edge.

The proposed development site lies within flood zone 1, although part of the access to the site is situated in flood zones 2 and 3.

### Relevant Planning History

16/00411/FUL - Erection of a dwelling- **Approved 15.08.2016 – This permission is still extant until 15.08.2019**

Application Ref. 09/01674FUL – Erection of dwelling (Removal of Condition 9 of planning permission Ref. 07/01070/FUL requiring the surface of the bridge deck adjacent to Weston Road to be surfaced in a bound material) approved in February 2010.

Application Ref. 07/01070/FUL - Erection of dwelling approved in July 2007. This permission has not been implemented at the site and has now lapsed.

FUL/931186 Full planning permission was granted to erect new house in December 1993 and work commenced in August 1994.

**On adjacent land to the east (also included within the original outline permission granted in 1989):** OUT/920834 Outline planning permission granted for residential development to erect one dwelling in November 1992.

Application Ref. 38900693 - Reserved Matters were approved for a three-bed bungalow with integral garage in August 1990.

**On adjacent land to the north (included within original outline permission granted in 1989):**

Application Ref. 38891559 - Full planning permission was granted for proposed private dwelling and garage in January 1990 and work commenced in March 1990.

Application Ref. 38890292 - Outline planning permission was granted for the redevelopment of redundant farm buildings into three dwellings on land at Burnmoor Farm in August 1989.

### The Proposal

The initial design of the proposed dwelling was not considered to be acceptable due to the inclusion of a number of incoherent external features and a lack of consistency with regard to some architectural details proposed. Following discussion with the applicant a revised scheme has been submitted and consulted upon.

The application seeks planning permission for the erection of a single 4 bedroom dwelling and associated detached double garage. The dwelling and garage would be served by a driveway which features a half hammerhead to facilitate turning within the site. The dwelling would benefit from a rear garden and also circulation space to both sides. A new access to Burnmoor Lane is proposed to serve the dwelling.

The dwelling would be positioned centrally within the plot and it would face south. The dwelling would be two storey in height with the first floor featuring front and rear dormers at eaves level with the eaves being midway through these first floor dormer windows. The dwelling would feature a single storey gable side projection to the west side and an external full height chimney breast to the east side of the main body of the dwelling. The rear of the dwelling would feature a rear single storey pitched roof projection and the front elevation would include a two storey high centrally positioned gable projection. This element would feature first floor to gable height glazing to the front and an open porch to the front door at ground floor level.

The proposal also includes a detached cart shed style double garage which would feature a fully hipped roof and a cupola to the roof peak. The garage would be positioned close to the front (southern) boundary of the site facing east serving the proposed driveway allowing for parking of two cars off road.

The dwelling would measure approx.:

<i>Main body:</i>	7.8m deep x 14.5m wide, 4.5m eaves & 7.5m ridge
<i>Side projection:</i>	5m deep x 1.8m wide, 2.5m eaves & 4.5m
<i>Rear single storey projection:</i>	3m deep x 4.2m wide, 2.6m eaves & 4.2m to ridge
<i>Front gable:</i>	1.8m deep x 3.6m wide, 5.4m to eaves and 7m to the ridge (0.5m lower than the main roof ridge)
<i>Detached garage:</i>	6.2m deep x 6.2m wide, 2.5m to eaves, 4m to ridge (+0.8m high cupola)

The application has been submitted alongside the following up to date plans and documents:

Site location Plan - 18.008.1 rev A

Site Plan - 18.008.2 Rev A

House Type Planning Drawing – 18.008.3 Rev A (includes proposed elevations and plans)

Detached garage details – 18.008.4

Existing site plan

Foul Drainage assessment Form (FDA)

CIL form

Due to minimal details being provided at this stage regarding drainage, landscaping and boundary treatment, it has been agreed with the agent that pre commencement conditions will be imposed in the event of an approval. This was expected by the agent and is considered an appropriate way to control the quality of the development if approved.

#### Departure/Public Advertisement Procedure

Occupiers of seven neighbouring properties have been individually notified by letter and a site notice has been posted adjacent to the site and an advert has been posted 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 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 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 14 – Historic Environment

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

Policy DM3 – Developer Contributions and Planning Obligations

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM9 - Protecting and Enhancing the Historic Environment

DM12 – Presumption in Favour of Sustainable Development

##### Other Material Planning Considerations

- National Planning Policy Framework 2018
- Planning Practice Guidance 2014
- Guidance Note to SP3 Supplementary Planning Document

## Consultations

### **Egmanton Parish Council**

#### *Comments regarding revised scheme*

Object to the proposal Effluent discharge was queried

#### *Comments regarding the original now superseded proposal:*

Object to proposal

1. Application refers to no flood risk – there is a flood risk
2. Property far too large for size of plot
3. Property too close to neighbours boundary fence
4. No proper route for treatment plant expelation (*sic*)

### **Archaeological Consultant**

No archaeological input required.

### **NSDC Conservation Team**

We have been consulted on the above proposal.

The proposal site is adjacent to Egmanton Conservation Area (CA). Burnmoor Farmhouse is identified as a Local Interest building (ref MNT22626).

We do not wish to make any formal observations in this case, but refer you to advice and guidance contained within CP14 and DM9 of the Council's LDF DPDs, section 16 of the NPPF (revised 2018). Fundamentally, if the scheme results in a neutral impact on the setting of those heritage assets, preservation is likely to be achieved.

If you have any specific concerns or queries, please do not hesitate to ask.

### **NSDC Environmental Health Contaminated Land**

This application includes the construction of a new residential dwelling on land that historic mapping and aerial photography shows was formerly part of Burnmoor Farm. 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.



## **NSDC Access & 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. 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 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 and 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 dwelling together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations matters.

## **Nottinghamshire Ramblers Association**

I am responding on behalf of Nottinghamshire Ramblers. As long as Burnmoor Lane remains unobstructed and safe for pedestrian use during and after the development we have no objection.

## **The Environment Agency**

*Following submission of the revised plans*

I refer to the above application and additional information received on the 24 August 2018. I have no further comments to add to those provided by my colleague on the 23 May 2018.

*Comment regarding the initial scheme 23.05.18*

Thank you for referring the above application which was received on 16 May 2018.

The Agency has no objections to the proposed development but wishes to make the following comments.

## Comments

The site of the proposed dwelling is in Flood Zone 1, at low risk of flooding. The nearby watercourse is not a main river, it is therefore the responsibility of the Lead Local Flood Authority and we do not have hydraulic model data for the watercourse at the Environment Agency.

As the access to the proposed development is situated in flood zones 2 and 3, access to the wider road network maybe unavailable during flooding events. The LPA must therefore determine, in consultation with their emergency planners whether the arrangements of access and egress are acceptable.”

### **Trent Valley Internal Drainage Board**

We Refer to the above planning application and make the following observations:

The site is within the Trent Valley Internal Drainage Board District. There are no Board maintained watercourses in close proximity to the site. However, the Board are aware of flooding issues in this area. Surface water run off rates to receiving water courses 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 risk authority and Local Planning Authority. If you require and further information please do not hesitate to contact the Board’s Operation’s Manager, Matt Everett.

### **Lead Local Flood Authority (LLFA)**

Thank you for inviting the Lead Local Flood Authority (LLFA) to comment on the above application. Having considered the application the LLFA will not be making comments on it in relation to flood risk as it falls outside of the guidance set out by Government for those applications that do require a response from the LLFA.

As a general guide the following points are recommended for all developments:

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.

**NCC Highways Authority** – No comment received at the time of writing this report.

Previous comments regarding the approved dwelling under 16/00411/FUL were as follows:

*“The junction of Burnmoor Lane with Weston Road has restricted visibility, particularly to the east onto Weston Road due to an existing boundary wall and existing trees/shrubbery adjacent the existing verge. Although this lane currently serves a number of dwellings, it is suggested that an intensification of use should not be encouraged.*

*However, it is noted that a previous similar application for this site (ref. 07/01070/FUL) was approved in July 2008 with no strong objection from the Highway Authority. Therefore, in view of this, it is considered that the Highway Authority would not wish to raise objection in this instance."*

### **NCC Rights of Way Officer**

No comments received at the time of writing this report

**One third party comment objects** to the proposal which can be summarised as follows:

- Concerns raised regarding extra traffic on the un-adopted Road
- The dwelling will impact surface water and foul water in the area
- The dwelling will create privacy issues

**One third party comment neither objects or supports the proposal** which can be summarised as follows:

- Where are the 400 litres a day of water going to be discharged (inc surface water)?
- Burnmoor Lane gives off dust, when are the Council going to take responsibility for the lane given planning permission keeps getting approved.

### Comments of the Business Manager

#### Principle of development

The Council's position is that it can demonstrate a 5 year housing supply. Therefore the Development Plan is up-to-date for the purpose of decision making.

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. The site is considered to be situated within the built up area of the village of Egmonton, which in accordance with SP1 is defined as an "other village". Consequently given its location in a rural area, the site falls to be assessed against Spatial Policy 3 (Rural Areas) of the Core Strategy.

The assessment of the proposal against the criteria of SP3 is included below but I consider it pertinent to raise another issue regarding the principle of the development, which is the site history. As noted above in the site history section there is an extant permission for a single dwelling that could be implemented up until 2019. This dwelling is very similar in scale to that proposed now with almost the same footprint as now proposed. The position of the comparative proposed dwellings is also similar. The one main difference would be the height of the comparative dwelling as the current proposal in hand would represent a larger dwelling being approx. 2m higher at both eaves and ridge height. Notwithstanding this difference I consider that this 2016 permission is a material consideration in assessing the current proposal and the extant permission represents a reasonable fall back position.

Furthermore a further extant permission was identified in the officer report for 16/00411/FUL which highlighted:

*“Within the committee report for the 2007 application Ref. 07/01070/FUL the comments of the Head of Planning Services included the following;*

*‘Following a lengthy investigation and taking into account established case law, the District Council’s solicitor is satisfied that this site does indeed have the benefit of an extant permission. This is based on the commencement of development by reason of the construction of two of three dwellings originally granted outline planning permission in 1989. The principle of residential development in this location is therefore established and the legally extant approval needs to be accorded due weight under planning law.’*

*In light of the above, while the 2007 application has now lapsed, due to the situation highlighted above in which the 1989 outline permission has been implemented through the construction of 2 out of 3 dwellings permitted by this application, I am of the opinion that a legally extant permission still remains in place and constitutes a material planning consideration.”*

On the basis of the above there is another extant permission for a dwelling on site which is again considered to be a material planning consideration in assessing this current proposal although I do not consider it to be as reasonable a fall back as the more up to date, comparable extant permission.

#### *Location of the Development*

Egmanton is a small rural settlement and according to the 2001 census has 254 inhabitants in 101 households. The amenities include an Anglican church, a village hall (formerly the old school) and a pub, 'The Old Plough'. The application site is located on the eastern side of the village, and while I am mindful that the denser built up area of the village is based around Weston Road and Kirton Road which run centrally through the village, I am also mindful that the application site is a rectangular shaped plot with dwellings on all sides and to the rear, and was included in the village envelope within the previous Local Plan. As such, I consider that the application site is located within the main built up area of Egmanton.

The location criterion of SP3 also requires consideration of local services and access to more sustainable settlements. While the amenities of Egmanton are limited in nature, there is a direct link to the larger settlement of Tuxford, which although outside of the Newark and Sherwood district is in close proximity at 1.7 miles to the north. The amenities within Tuxford include a primary and secondary school, a co-operative supermarket and 3 village pubs. The village of Egmanton and application is also well connected to the A1 at 1.1mile away from the junction with Weston Road which affords direct access to Newark.

In taking all of the above points into consideration I am of the opinion that the site is within the built up area of the village and Egmanton is a relatively sustainable location where a single new dwelling can be supported and also considered to be in line with paragraph 78 of the NPPF as an additional dwelling which would enhance or maintain the vitality of the rural community.

### *Need*

Policy SP3 currently states support could be forthcoming for new housing where it helps to meet identified proven local need. Spatial Policy 3 Guidance Note (September 2013) states that proven local need must relate to the needs of the community rather than the applicant. Assessments should be based on factual data such as housing stock figures where the need relates to a type of housing or census data where the needs relate to a particular population group. The onus is on the Applicant to provide evidence of local need. No Needs Assessment has been submitted with the application and Egmonton does not have an up to date Local Needs Survey (prepared in conjunction with the Parish Council). The Housing Market Needs Sub Area Report (2014) provides the most recent breakdown of size of property needed in the market sector for existing and concealed households. As the current application proposes 4 bedrooms, it does fulfil a need for family sized properties within the District as a whole.

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. 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 those listed above. 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.

### *Scale and Impact of Development*

The guidance note to accompany SP3 referred to above 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 of the appraisal. 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. I also consider that one additional dwelling is unlikely to materially affect the transport network in terms of increased traffic levels in volume.

### *Impact on Character*

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.

The immediate locality contains dwellings that range in both size and design and the dwellings that share boundaries with the application site are two storey. There are also single storey and dormer bungalows on the opposite side of Burnmoor Lane and in close proximity to the site. I am therefore satisfied that the proposed dwelling would not be out of character with the immediate surrounding area. In also taking account of the proposed dwellings position within the site and level of private amenity space, I am satisfied that the proposed development would be similar in nature of the surrounding development.

I am mindful that the proposed detached garage would be positioned at the front of the site, which is not a common feature of the surrounding locality. However, as the garage is modest in size and with a suitably worded condition attached to any grant of planning permission, I feel adequate boundary treatment at the site could be achieved which would partially screen this element of the development and reduce any potential visual impact to an acceptable level.

I also note that several trees exist on the site along the eastern boundary. Whilst a tree survey has not been submitted in support of the application, I am mindful that previous applications have accepted the proposed footprint now being considered. The proposed footprint would result in some loss of vegetation, however I am satisfied that this would not be unduly detrimental to the character area in this instance, particularly if some vegetation can be retained as part of the final landscape scheme and potentially some additional soft landscaping could also be provided including to the front boundary to assist in the screening of the proposed garage. A suitable condition requiring final details of boundary treatments and landscaping could be attached to any planning permission.

#### Heritage Issues

I note the Conservation section have not raised an objection to the proposed development and I consider that due to intervening properties between the boundary of the conservation area and the application site, as well as the neutral design of the proposed dwelling, that the proposal would have a limited impact on the setting of the Conservation Area and other nearby heritage assets.

I am therefore satisfied that the proposed development would be consistent with section 66 and 72 of the planning act as well as the aims of Core Policy 14 and DM9 of the Council's LDF DPD's.

#### Impact on Amenity

Impact on amenity is a long standing consideration of the planning process and relates both to the impact on existing development as well as the available amenity provision for the proposed occupiers.

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 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 taking account of the position of the proposed dwelling as well as the separation distances to the closest neighbouring dwellings, I am satisfied that the proposed dwelling would be positioned so as to not result in any significant undue overbearing impact, overshadowing or loss of privacy. This is mainly due to the proposed dwelling being in line with the closest adjacent neighbour to the east (which is a two storey dwelling) and the proposed dwelling being forward of the neighbour to the west which is approx. 15m away. The proposed dwelling would be approx. 25m from the dwelling to the south and I note that this is a bungalow. Being mindful of the previous extant permission for a dormer property which included first floor windows and a very similar position within the site I can see no significant material difference when compared with the current proposal when considering this relationship.

In considering the neighbouring property to the rear of the proposed dwelling I note that there would be a minimum of approx. 22.5 -23m between the rear elevation of the proposed and the front elevation of the neighbour behind (Bramley House). This level of separation is generally considered an acceptable separation distance between facing windows when considering residential development and it is important to note that the front of Bramley house is not likely to be an area of amenity space most used by occupiers. I do note that the views between these facing elevations will be direct with no real angle present but in considering the context set out here, I find the proposal is acceptable.

Overall I am satisfied that the application does not conflict with the amenity criteria under Policy DM5.

#### Impact on Highways

Spatial Policy 7 of the Core Strategy encourages development proposals to provide safe, convenient and attractive accesses for all and provide appropriate and effective parking provision for new development.

I have yet to receive comments from Nottinghamshire County Council Highways but I expect a similar response to their comment regarding the extant permission under 16/00411/FUL which raised no objection to the proposal. Any comments received prior to the Planning Committee meeting can be reported as a late item.

#### Flooding

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. The NPPF adopts a sequential approach to flood risk advising that development should first be directed towards less vulnerable sites within Flood Zone 1. Where these sites are not available new developments will be required to demonstrate that they pass the exception test by demonstrating that the development provides wider sustainability benefits to the community that outweigh flood risk and that, through a site specific Flood Risk Assessment (FRA), the proposed development can be considered safe for its lifetime and not increase flood risk elsewhere. Both elements of the exception test must be passed for development to be permitted.

Para.160 of the NPPF states when determining planning applications the Local Planning Authority should ensure flood risk is not increased elsewhere. It is stated that decision makers should only consider development appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment following the sequential test, and if required the Exception Test, it can be demonstrated that development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant. This includes safe access and escape routes where required and that any residual risk can be safely managed and it gives priority to sustainable drainage systems.

The Environment Agency have not objected to the proposal noting that the built form proposed will lie in flood zone 1 but they have noted the access to the proposed development is situated in flood zones 2 and 3, and therefore access to the wider road network maybe unavailable during flooding events. Furthermore I attach significant weight to the realistic fall-back position available that currently allows the construction of a dwelling on site. Given this and the fact that the built form of the dwelling would be located in Flood Zone 1, it is not considered reasonable to suggest

that the dwelling could be located in a different location. In relation to the position of the access location within Flood Zones 2 and 3, it is noted that this access already serves domestic properties and it is considered appropriate to impose a condition requiring the submission and approval of a Flood Warning and Evacuation Plan to 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.

Subject to this condition, it is not considered that the proposal would result in any adverse impact on flood risk in accordance with Core Policy 10 and Policy DM5.

### *Drainage*

The comments from the Parish Council and third parties made in regard to surface water run-off at the site are noted and a condition requiring further details on this matter is considered appropriate in this instance due to the comments received from the Environment Agency and other external consultees who provided specialist advice regarding flooding and surface water. No objection has been received from the LLFRA or internal drainage board and as such I consider the application appropriate in flooding terms with no consultee raising an objection.

In considering the comments received regarding foul sewerage it is noted that the applicant has indicated (on the submitted application form) that a Package treatment plant is intended to be used and a foul drainage assessment form has been provided for information.

I note that the Environment Agency, LLFRA or internal drainage board have not raised objections to the proposed treatment plant as a means of drainage to serve the new dwelling.

I am aware that Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation).
3. Septic Tank
4. Cesspit

Foul drainage should be connected to the main sewer if possible. Where this is not possible, under the Environmental Permitting Regulations 2010 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, in addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

The proposed treatment plant is second in the hierarchy of drainage options set out in Government Guidance. Such a means of drainage will also require a permit issued by the Environment Agency which, based on the submitted Foul Drainage assessment is being pursued outside of the planning process with the EA. The granting of planning permission does not automatically mean that a Permit would be granted. This would be a matter for the Environment Agency.



Given that the Environment Agency have raised no objections to the proposed drainage scheme it is considered that, although not the optimum means of drainage, refusal on the proposed scheme would be unreasonable in this instance.

Notwithstanding the above, details of the proposed treatment have been not provided with the application. It is therefore considered reasonable to attach a condition requiring precise details of the means of foul drainage and surface water disposal should permission be granted. This also builds in the potential to submit alternative means of foul drainage and surface water disposal should the Environment Agency not permit the proposed treatment plant and the hierarchy of options can be explored further by the applicants.

#### *Contaminated Land*

The comments from the Environmental Health section made in regards to the potential for contamination at the site is noted and the recommended standard conditions are considered appropriate in this instance in order for any relevant remediation work to be carried out and prevent any risk to human health.

#### *Conclusion and Overall Planning Balance*

The proposed development seeks permission for a single dwelling within a rural village. It is considered that the application meets the requirements of policy SP3 particularly taking into account the emerging SP3 which can be afforded weight. Furthermore I consider the fall-back position of constructing a dwelling in line with the 2016 permission for a dwelling (which will remain extant until August 2019) is a reasonable fall back position which could realistically be implemented if this permission were to be refused.

The proposed development has been assessed to not result in any material adverse impact on the amenity of neighbouring properties, on the character and appearance of the site or wider locality or flood risk. As such it is considered that the proposed development would be consistent with the aims of The NPPF, Core Policies 9 and 10 and Policy DM5 and DM12 of the DPD. Accordingly it is recommended that planning permission be approved. There are not considered to be any other material considerations which would outweigh this benefit and therefore the proposal is recommended for approval subject to the conditions listed below.

#### **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions and reasons:**

01

The development hereby permitted shall not begin later than one year 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 approved plans:

Site location Plan - 18.008.1 rev A

Site Plan - 18.008.2 Rev A

House Type Planning Drawing – 18.008.3 Rev A (includes proposed elevations and plans)

Detached garage details – 18.008.4

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 above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish of the dwelling and garage hereby approved) 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.

Reason: In the interests of visual amenity.

04

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, 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.
- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.
- proposed finished and existing ground levels;
- means of enclosure;
- hard surfacing materials.

Reason: In the interests of visual amenity and biodiversity.

06

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 visual amenity and biodiversity.

07

No part of the development shall be brought into use 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 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.

08

No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

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.

09

No development shall be commenced until details of the means of foul drainage and surface water disposal 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: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

10

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 dwelling 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.

## **Notes to Applicant**

01

The application as submitted is acceptable. In granting permission the District Planning Authority is implicitly working positively and proactively with the applicant.

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. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

### **Background Papers**

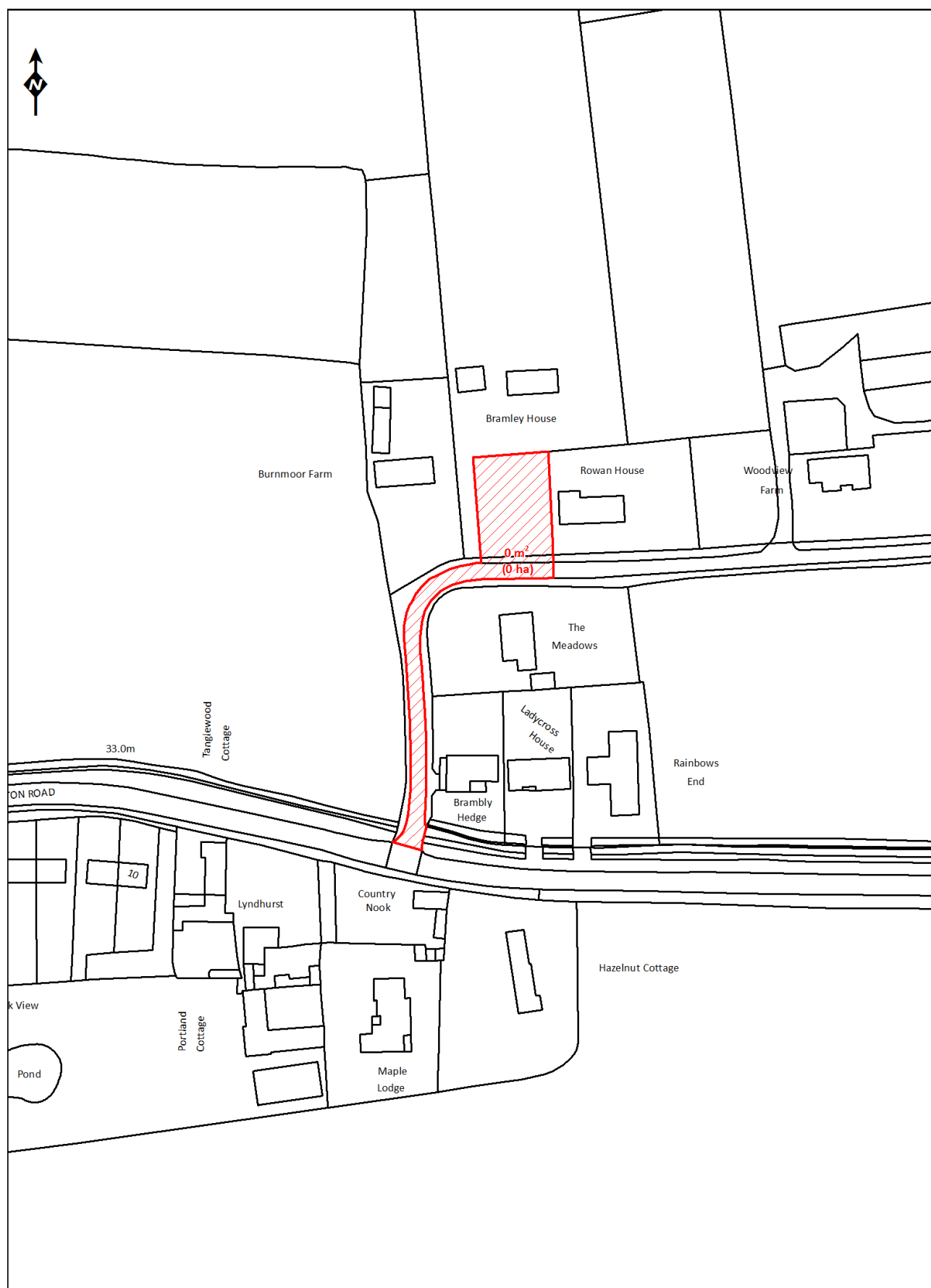
Application Case File

For further information, please contact Mr. Sukh Chohan on ext 5828.

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 – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/01402/FUL</b>		
<b>Proposal:</b>	<b>Part conversion of 9 The Paddocks to create an additional Chalet Bungalow within the site (resubmission of withdrawn application reference no. 18/00683/FUL)</b>		
<b>Location:</b>	<b>9 The Paddocks, Newark On Trent, NG24 1SS</b>		
<b>Applicant:</b>	<b>Mr M Moulds</b>		
<b>Registered:</b>	<b>27 July 2018</b>	<b>Target Date: 18 September 2018</b>	<b>Extension of Time Agreed Until 8 November 2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Newark Town Council has objected to the application which differs to the professional officer recommendation. In addition the local Ward Member, Cllr D Lloyd, has requested that the application is determined by the committee following a site visit.**

### The Site

The site comprises a detached chalet style bungalow on a spacious corner plot within development of similar style properties known as The Paddocks within the suburbs of Newark. Land surrounding the bungalow is grassed with no defined boundaries with the adjacent footway giving it an open appearance. There is one ornamental tree to the southern-most corner of the site.

The existing dwelling is constructed of pale red bricks with horizontal white painted timber cladding to its top half. It provides for accommodation over two floors comprising a lounge, small bedroom, bathroom and kitchen at ground floor with attached single garage with two further bedrooms at first floor.

The existing dwelling fronts north-east towards the two storey dwellings on the northern side of the highway. It and the dwellings to the north-west share the same identical design, with no. 11 being the immediate neighbour which has no side windows facing the application site, albeit it has its entrance in its side and driveway immediately adjacent to the boundary.

The dwellings to the south-west are two storey, whilst dwellings across the highway to the south-east are two storey. No. 7 has its attached flat roof garage immediately adjacent to the site boundary which site slightly further forward than the dwelling. This has one first floor window facing the application site, which appears to serve a landing.

### Relevant Planning History

18/00683/FUL – Part conversion of 9 The Paddocks to create an additional Chalet Bungalow within the site. Application withdrawn in June 2018. On this scheme there was no internal doorway between the units and no new driveway/parking was shown to serve the new garage.

## The Proposal

As originally submitted, this application sought planning permission for what was described as an 'Annex to 9 The Paddocks (Re-submission of 18/00683/FUL)'. However following discussions with the applicant, the scheme has been amended to remove the internal link and to revise the external design and the description of development has been amended accordingly.

Full planning permission is now sought for a physical extension to the existing building and its reconfiguration internally to form 2 dwellings as detailed below.

The extension to the south east of the existing dwelling is largely single storey but proposes accommodation within the roof space at the corner point where it curves around. This extends forward of the existing dwelling by c1m, projecting c16m in depth and extending out to the side by c6m (excluding the garage). The height of the extension is lower than the existing dwelling at c5.23m to ridge. A new dormer window is also proposed to the north-western side of the existing dwelling; this is set back from the frontage by just over 1m and extends c8.87m back into the site and contains one window to the side serving a landing. The proposed materials would match the existing dwelling.

The proposal involves the demolition of the existing garage and the reconfiguration of the internal floor space to create;

- An open plan kitchen/diner/lounge, utility (within the new extension) plus bedroom with dressing room, bathroom and separate w.c (within approximately half of the existing floorspace) at ground level with a spiral staircase leading to a second bedroom (within the new extension) with dressing area and bathroom at first floor (within approximately half of the existing floorspace) at first floor. This unit would also benefit from an attached single garage and its own separate driveway.
- The remaining part of the original dwelling would be reconfigured to comprise a kitchen/utility, lounge with staircase to one bedroom and a bathroom upstairs, served by a new dormer extension. This would be served by a new driveway.

Both of the above described units have their own separate entrances. The previously shown internal linkage has now been deleted allowing each to function independently. The layout plan shows an area of shared front and rear garden area.

The revised application comprises the following and it is upon this these that the recommendation is based upon:

- Design & Access Statement
- Site Location Plan
- Existing Elevations 109 03
- Existing Floor Plans 109 02
- Existing Site Plan 109 01
- Proposed Elevations 109 A/306 (received 17.09.2018)
- Proposed Floor Plans 109 A/305 (received 17.09.2018)
- Proposed Site Plan 109 A/304 (received 17.09.2018)

## Departure/Public Advertisement Procedure

Occupiers of 23 properties have been individually notified by letter of the original proposal with a consultation expiry date of 17 August 2018. Further consultation has taken place on the amended proposal and description of development.

## **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  
Core Policy 10 – Climate Change  
Core Policy 12 – Biodiversity and Green Infrastructure  
NAP1 - Newark Urban Area

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

Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM5 – Design  
Policy DM6 - Householder Development  
Policy DM9 – Protecting & Enhancing the Historic Environment  
Policy DM12 - Presumption in Favour of Sustainable Development

## **Other Material Planning Considerations**

- National Planning Policy Framework 2018
- Planning Practice Guidance
- Publication Core Strategy

## **Consultations**

#### **Newark Town Council – 27/09/2018:**

“Members AGREED that the original objections from this Committee should be sustained with any amendments necessary to reflect the revised design which removes the internal connecting door. Thus the latest application is for a self-contained independent new property.

It was therefore decided to OBJECT to this application again on the following grounds:

### **Terms of Application**

Given the revised application and design it would now seem appropriate to apply policies pertinent to new properties.



## Grounds for Objection

These are principally with regard to design and the impact on the street scene and local character. The application chooses to refer to local properties as chalet bungalows which are used as the description in the following narrative.

### The Proposal is Contrary to Policy:

It is incongruous with the chalet bungalow form of all properties facing no. 9 and does nothing to enhance the street scene and distinctive local character. Given its corner location, the design and massing, entirely detract from the area and does not demonstrate good design considerations. The design statement supplied with the application seeks to reason this away by referring to the different design of properties 1 through to 7 this cannot be justification for the views of all other properties in The Paddocks which, by their layout and clear visibility splays, are contiguous and relatively uniform throughout. The scale of the development is overbearing given its corner location, one which I would suggest is a gateway location to the road. The addition of dormer windows and the large central columnar feature entirely move away from any suggestion of a chalet bungalow design. The scale, layout and design are not in keeping with the uniformity of appearance and spacing found in the current elevations. In support of these objections the following policies are submitted for the Committee to consider:

## National Planning Policy Framework

### Section 7: Design

- 58. Developments will establish a strong sense of place, using streetscapes respond to local character [] and the identity of local surroundings.
- 60. It is however, proper to seek to promote or reinforce local distinctiveness.
- 64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

## Allocations & Development Management Development Plan Document

### Policy DM6 Householder Development

- 2. There is no adverse impact on the amenities of neighbouring users including loss of privacy, light and [sic] overbearing impact.
- 6. The proposal respects the character of the surrounding area including its local distinctiveness.

### Householder Development Supplementary Planning Document

- 7.2 Poorly designed and unsympathetic additions or alterations that will detrimentally affect the appearance of a property and potentially the wider street scene within which it is located, are likely to be out of character with and so harmful to local distinctiveness of an area and give rise to adverse impacts on neighbour amenity.
- 7.4 The overall objective for any proposed addition to a residential dwelling should be based around its successful integration with the host dwelling and its surrounding area [] a balanced visual relationship with the host dwelling and of the surrounding area respected through the design, proportions and detailing of the proposal.

- 8.3 Side Additions: where the density and layout of existing development is generously spaced, or where there are uniform gaps between buildings, the side additions should be designed to respect this pattern of development. On corner plots [] a side addition should be designed so that it would not form an overly dominant feature or appear as out of character with the street scene.
- 8.6 First Floor Additions: should not seek to introduce a dominant feature, by virtue of its design, proportions and/or detailing, which would be harmful to the appearance of the host dwelling or the character of the surrounding area and reflect the over-riding need for the proposal to be successfully integrated with the host dwelling, with due consideration given to the replicating of any external details which contribute to the character of the existing dwelling and/or surrounding area.”

**04.09.2018**

‘It was decided to OBJECT to this application again on the following grounds:

#### Terms of Application

In the first instance, the title and purpose of the application is queried. It is titled as an ‘additional chalet bungalow’ whilst being wholly integrated into the current property. As such, it would seem appropriate to apply policies pertinent to additions and to new properties as both will be pertinent given the seeming hybrid approach of the application.

#### Grounds for Objection

These are principally with regard to design and the impact on the street scene and local character. The application chooses to refer to local properties as ‘chalet bungalows’ which are used as the description in the following narrative.

#### The Proposal is Contrary to Policy:

It is incongruous with the chalet bungalow form of all properties facing no. 9 and does nothing to enhance the street scene and distinctive local character. Given its corner location, the design and massing, entirely detract from the area and does not demonstrate ‘good design’ considerations. The design statement supplied with the application seeks to reason this away by referring to the different design of properties 1 through to 7 – this cannot be justification for the views of all other properties in The Paddocks which, by their layout and clear visibility splays, are contiguous and relatively uniform throughout. The scale of the development is overbearing given its corner location, one which I would suggest is a ‘gateway’ location to the road. The addition of dormer windows and the large central columnar feature entirely move away from any suggestion of a ‘chalet bungalow’ design. The scale, layout and design are not in keeping with the uniformity of appearance and spacing found in the current elevations. In support of these objections the following policies are submitted for the Committee to consider:

#### National Planning Policy Framework

#### Section 7: Design

58. Developments will ‘establish a strong sense of place, using streetscapes’ ‘respond to local character [...] and the identity of local surroundings’.

- 60. 'It is however, proper to seek to promote or reinforce local distinctiveness'.
- 64. 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area'.

#### Allocations & Development Management Development Plan Document

#### Policy DM6 – Householder Development

- 2. 'There is no adverse impact on the amenities of neighbouring users including loss of privacy, light and [sic] *overbearing impact*'.
- 6. 'The proposal respects the character of the surrounding area including its local distinctiveness'.

#### **Householder Development Supplementary Planning Document**

- 7.2 'Poorly designed and unsympathetic additions or alterations that will detrimentally affect the appearance of a property and potentially the wider street scene within which it is located, are likely to be out of character with and so harmful to local distinctiveness of an area and give rise to adverse impacts on neighbour amenity'.
- 7.4 'The overall objective for any proposed addition to a residential dwelling should be based around its successful integration with the host dwelling and its surrounding area [...] a balanced visual relationship with the host dwelling and of the surrounding area respected through the design, proportions and detailing of the proposal'.
- 8.3 Side Additions: 'where the density and layout of existing development is generously spaced, or where there are uniform gaps between buildings, the side additions should be designed to respect this pattern of development'. 'On corner plots [...] a side addition should be designed so that it would not form an overly dominant feature or appear as out of character with the street scene'.
- 8.6 First Floor Additions: should 'not seek to introduce a dominant feature, by virtue of its design, proportions and/or detailing, which would be harmful to the appearance of the host dwelling or the character of the surrounding area' and 'reflect the over-riding need for the proposal to be successfully integrated with the host dwelling, with due consideration given to the replicating of any external details which contribute to the character of the existing dwelling and/or surrounding area.'

#### **Deferred until 29 August to allow residents longer to comment**

#### **NCC Highways Authority – (26/09/2018)**

#### Amended Site Plan A/304

The description of this application has been amended from an annexe to part conversion to create an additional bungalow. The site layout as shown on the amended plan is acceptable to the Highway Authority.

Therefore, there are no highway objections to this proposal subject to the following:

- 1. No part of the development hereby permitted shall be brought into use until 2 dropped vehicular footway crossings, as shown on dwg. A/304 are available for use and constructed in accordance with the Highway Authority's specification.  
Reason: In the interests of highway safety.

2. No part of the development hereby permitted shall be brought into use until the access driveways have been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with dwg. no. A/304.  
Reason: In the interests of highway safety.
3. No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent and as shown on dwg. A/304 is permanently closed and the access crossing reinstated as footway in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.  
Reason: In the interests of highway safety.

#### Notes to Applicant

The development makes it necessary to construct 2 vehicular crossings 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.

The minor access reinstatement works referred to in Condition 3 above involves works on the highway and as such required the consent of VIA/Notts County Council. Please contact 0300 500 8080 to arrange for these works to be carried out.

(07/08/2018) – ‘This application is for an annexe to an existing dwelling, with associated parking. The proposal includes the construction of 2 new vehicular access points – 1 to the north of site and 1 to the south. The existing vehicular access will be reinstated back to full kerb.

There are no highway objections to this proposal subject to the following conditions being imposed:

1. No part of the development hereby permitted shall be brought into use until 2 dropped vehicular footway crossings, as shown on dwg. no. A/04 Rev. A, are available for use and constructed in accordance with the Highway Authority’s specification. Reason: In the interests of highway safety.
2. No part of the development hereby permitted shall be brought into use until the access driveways have been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with dwg. no. A/04 Rev. A. Reason: In the interests of highway safety.
3. No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent and as shown on dwg. No. A/04 Rev. A is permanently closed and the access crossing reinstated as footway in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Reason: In the interests of highway safety.

## Notes to Applicant

The development makes it necessary to construct 2 vehicular crossings 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.

The minor access reinstatement works referred to in Condition 3 above involves work on the highway and as such requires the consent of VIA/Notts County Council. Please contact 0300 500 8080 to arrange for these works to be carried out.'

**NSDC Access & Equalities Officer** – Makes general comments.

**Representations (mostly objections) on the original plans have been received from 15 local residents/interested parties (from 11 households) which can be summarised as follows**

- Nothing significant has changed to original plans that were withdrawn;
- The Paddocks will lose its identity and character;
- Location is prominent corner plot and would seriously detract from the open aspect/plan;
- Dormer will overlook neighbours and cast shadow;
- Noise of two households sharing one tiny garden;
- Loss of peacefulness of the cul-de-sac;
- Right to light will be taken away;
- Concerns that lifts will be installed and the fire risk associated;
- Extension projects beyond the building line and will look ugly;
- There is a covenant preventing extensions, changes to front/side gardens and parking of caravans;
- The new garage could impose overshadow and obscure highway visibility;
- Concern that this could become two separate dwellings by blocking up internal door;
- Can caveat be placed to prevent it becoming two separate dwellings;
- Concern that it contains features not designed for those with disabilities such as spiral staircase and bath rather than showers/wet room;
- Windows, gutters and soffit's would be grey when the existing properties are white;
- Loss of a healthy cherry tree (far better to see the tree when driving into the Paddocks, than the Annex protrusion);
- The proposal to contravene the Local Plan guidance as it is to the detriment of the quality, character and amenity value of the area;
- Loss of light, overshadowing and privacy;
- Structure will obscure the view of traffic coming from around the corner of the bend in both directions which will be dangerous;
- Too modern and too big;
- Driveway already has 5 cars parked permanently outside;
- This is not an annex as it has its own vehicular access;
- Commercial venture providing a supported living car facility which is inappropriate for the locality;
- The applicant has never lived in the property;
- There are existing problems accessing and leaving no. 5 & 7
- Narrow road and footpath widths and pedestrians walk on the road which is not safe
- This application is causing serious stress and anxiety to residents

**In respect of the amended plans, 14 neighbours/interested parties (from 11 households) have raised objections to the scheme. These reiterate previous objections listed above.**

#### Comments of the Business Manager

Based on the amended scheme and description of development, I am of the view that the scheme represents an application to create two separate dwellings formed from the existing dwelling and its proposed extension. This is on the basis that each unit has all the essential accommodation to allow for independent occupation, plus separate entrances and driveways. Whilst the garden is currently annotated on the plans as shared, it would in my view be easy to subdivide the space with the simple erection of a fence or planting which would not in itself need planning permission. I have therefore assessed the application as the creation of a new dwelling as it is capable as being occupied as such. It should be noted that the applicant previously paid the fee for it to be considered as a dwelling.

#### The Principle

The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply which has been confirmed by a number of recent appeal decisions including the dismissal of the Farnsfield appeal (at Public Inquiry) by the Secretary of State in April 2018. I do not intend to rehearse this in full other than to say that the policies of the Development Plan are considered up to date for the purposes of decision making.

The principle of residential development in this area is acceptable, being located within the built up part of Newark, a Sub Regional Centre in the settlement hierarchy and a highly sustainable location. The provision of what I consider to be essentially two dwellings instead of one is acceptable. However this does not automatically mean that development should be granted as other material considerations are also taken in to account including the impact upon the character of the area, impact on the residential amenity of neighbouring properties and highway matters which are discussed below.

#### Housing Need & Mix

CP3 of the adopted Plan seeks to secure new housing that addresses the housing need of the district generally which is identified as family housing of 3 bedrooms or more, smaller houses of 2 bedrooms or less and housing for the elderly and disabled population. I note that CP3 in the Publication Core Strategy deletes reference to the family housing of 3 bedrooms or more, which can be afforded weight given its advanced stage and that there are no unresolved objections to this. Furthermore the National Planning Policy Framework, as revised, seeks to significantly boost the supply of homes and ensure the needs of groups with specific housing requirements are addressed.

The Housing Need for the Newark Sub Area (where Newark falls) according to the 2014 HNS Final Report by DCA, concludes that in the market sector the most needed type of accommodation is as follows: 3 bedrooms (40.2%), followed by 2 beds (33.7%) followed by 4 beds (14.4%) followed by 5+ bedrooms (8%) and finally 1 bedroom units (3.7%).

This is a scheme that would make efficient use of land by introducing accommodation that is capable of supporting two families. The proposal would involve the loss of one 3 bedroom unit (the most needed type in Newark) but on the other hand it could in my view potentially cater for the second most needed type of market accommodation (2 beds) in the area. Whilst the one bedroom unit is the least required, I appreciate that nevertheless there are 79 units of one bedroom dwellings required in the area. I therefore have no objection to the loss of a 3 bedroom unit and the provision of two smaller units in principle and find that this accords with the Development Plan.

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

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. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. The NPPF, as revised, states that a high standard of design is a key aspect of sustainable development and that new development should be visually attractive as a result of good architecture and appropriate landscaping. It is not the intention that policy or decisions should dictate design and the NPPF as revised states (at para.127) that decisions should ensure that developments '*are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change*' This is reflected in the local plan policies noted above.

The site lies within a suburban part of Newark, on a modest estate of houses of a similar era and design. Primarily there are two styles of dwellings on The Paddocks; two storey detached dwellings and detached 'chalet' style bungalows of a similar design to the host dwelling. These are arranged in groups such that along the north side of The Paddocks the houses are fairly uniformed two storey dwellings whilst opposite these are chalet bungalows of a similar (if not identical) design and appearance. This gives a sense of rhythm and uniform to the area. This corner plot is unusual on this estate in that it has to front onto two roadsides as the road turns the corner. It faces northeast and sides onto the south-east with dwellings set on a similar building line. However whilst dwellings to the south-west have their front gardens and drives fronting them, the application site has a large area of open plan lawn area that is essentially side garden but that is not functionally used as such.

The proposals would introduce new built form on the currently open side garden and this would project beyond the current frontage (facing north-east) of the existing dwelling by approximately 1 metre. I note that the existing dwelling together with numbers 9 & 11 are on an identical building line. However equally I note that numbers 15 & 17 are set marginally further forward (by c1.2m), such that I do not consider that the setting of an extension to the building by 1m would have a harmful impact upon in terms of footprint.

I note the concerns regarding the dormer window being a dominant feature. However I do not agree. This would be set back, in and down from the ridge line. Whilst the overall design is unusual and differs from other dwellings in the vicinity the site would still retain a sense of openness with the road by being set away from the back edge of the footway by a minimum of 4.48m.

The proposed materials are bricks and tiles to match the existing dwelling. It is proposed to utilize grey upvc windows, fascias and soffits. I note the objection to these from local residents. However I would point out that any dwelling could change their windows to grey or indeed paint them without needing planning permission and I do not consider the use of these would be unacceptable.

Ultimately Members will need to come to a view as to whether the design is acceptable. I have come to the view that it is acceptable which differs from the position of the Town Council and all of the residents that have made their representations. The reason for this is as follows. Given its corner position, I consider that this plot allows for a design that deviates from the 'traditional' character and appearance of the dwellings on this estate without it appearing detrimental. Clearly this is a subjective consideration but having considered this matter carefully, whilst I do accept that this is somewhat unusual, I find that on balance the design is satisfactory. In coming to this view, I am mindful of a recent appeal decision (APP/B3030BD/18/3202392 – 8 Paddock Close in Edwinstowe, planning app ref 18/00374/FUL) where an Inspector dismissed a very similar argument in terms of character and appearance (albeit went on to dismiss the appeal on other grounds). I do not share the views of residents that the approval of this application would cause The Paddocks to lose its identity or sense of place.

#### 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. In addition consideration should be given to the potential for crime and anti-social behaviour. The NPPF seeks to secure a high standard of amenity for all existing and future occupants of land and buildings.

Firstly I shall turn my attention to the impacts of the 1 bed accommodation within the existing structure. This would be served by a newly formed access drive off The Paddocks and would lie immediately adjacent to a neighbour's driveway. I do not consider that this driveway would cause any unacceptable level of disturbance to the neighbours.

The proposed new dormer window to the first floor spans almost the entire depth of the existing dwelling. Whilst there is one first floor window to the side, this serves a non-habitable room (landing) which faces onto the blank expanse of roof slope of the neighbouring dwelling such that it does not pose an issue of direct overlooking. The principle windows within the dormer face front and rear so do not directly overlook the neighbours to any further degree than the existing situation. I have considered whether there would be any requirement to remove permitted development rights in terms of inserting new windows within the roofslope, however have concluded that this is not necessary as the legislation requires that any windows to the side of the dwelling would need to be obscure glazed and non-opening above a certain height in any event.

I find that the impact of this element of the scheme would not have any adverse impact upon the amenity of the neighbours through loss of light, overshadowing, direct overlooking or a general nuisance.



Secondly, I consider the impact arising from the 2 bedroom unit which includes the new extension. The most affected neighbour here is no. 7 The Paddocks. However the impact of this is limited by its height (at just 5.23m) which is lower than the existing dwelling and that the forward projecting garage would to a large extent shield the living accommodation from being impacted. There are no direct overlooking relationships and I do not consider that the proposed extension would cause any harm to their level of amenity through being overbearing, overshadowing or loss of privacy etc.

I note in a more general sense that concern has been raised that the noise from two households sharing one tiny garden would cause of loss of amenity and a general sense of peacefulness of the cul-de-sac. I do not consider that the intensification of the use is so great that this would lead to unacceptable loss of amenity in terms of noise, given its location within a residential area.

No other dwelling would be directly affected by the proposal given the distances involved.

#### Impact on Highway Safety

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.

Standing advice applies to this type of development albeit I note that NCC Highways have provided comments in any event. I note that each unit of accommodation provides for its own permeable driveway sufficient to park two cars each. This is an acceptable quantum of parking for the size of the units proposed and I have identified no highway harm to this arrangement, which is similar to the other houses on the quiet estate. I note that NCC Highways Authority have commented they have no objection subject to 3 conditions. One of these is incorrect in that it mistakenly requires an access to be stopped up which is clearly not the intension from the plans and contradicts the other suggested conditions. The other two conditions are relevant and reasonable in all other respects and I have therefore included them below. These would control the provision of a dropped curb and require a bound surface to the driveways. NCC Highways Authority have raised no issue with the loss of the visibility splay as raised by some local residents and I find there to be no grounds to substantiate a reason for refusal on this basis.

#### Tree Impacts

Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets. The NPPF also seeks to minimise impacts on biodiversity and provide net gains where possible.

This application would involve the loss of one ornamental tree to make way for the new driveway. Whilst this is regrettable, the tree is not worthy of protection and could be removed at any time without notice such that it would be unreasonable to resist the proposal on these grounds. I do not consider that it is reasonable or necessary to require new planting as part of any permission.

#### Other Matters (including those raised through the Consultation Process)

##### *Assessment of the alternative*

If assessing the scheme as an annex that would operate as ancillary to the main house, my conclusions would be the same in that the impact on residential amenity and visual amenity are considered to be acceptable and in accordance with DM6.

## *Covenant*

I note neighbours have raised the issue of a covenant being allegedly in place to prevent extensions and the change in appearance of the frontages. However this is a private legal matter that is separate from the planning process.

The application is assessed on the basis of the plans. Whilst I note the concern raised regarding the fire risk associated with the provision of a lift, the proposals do not currently show the provision of a lift and in any case would be covered by other non-planning (building regulations) legislation. In Regarding the comments that this is a supported living care facility which is inappropriate for the locality, the application is not advanced as a commercial venture but as two separate dwellings. Whether the applicant has lived at the property is not a relevant planning consideration.

## **Overall Balance and Conclusion**

The extension and subdivision of one building to create two dwellings in this location is considered to be acceptable in principle and the proposal would make an efficient use of land. I have identified no harm in terms of highway safety or neighbouring amenity. Whilst the design of the resultant building would deviate from the style of dwellings in the immediate area, I consider that this unusual corner plot can accommodate a proposed extension of a design that does not follow the traditional style of this particular estate without having such a harmful impact that would warrant a reason for refusal. On balance, I find that the scheme is acceptable and recommend approval.

## **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 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.

03

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

- Proposed Elevations 109 A/306 (received 17.09.2018)
- Proposed Floor Plans 109 A/305 (received 17.09.2018)
- Proposed Site Plan 109 A/304 (received 17.09.2018)

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.

04

No part of the development hereby permitted shall be brought into use until 2 dropped vehicular footway crossings as shown on drawing no. A/304 are available for use and constructed in accordance with the Highway Authority's specification.

Reason: In the interests of highway safety.

05

No part of the development hereby permitted shall be brought into use until the access driveways are surfaced in a bound material for a minimum distance of 5m rear of the highway boundary in accordance with drawing A/304.

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

#### Notes to Applicant

01

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.

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

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

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

Background Papers

Application Case File

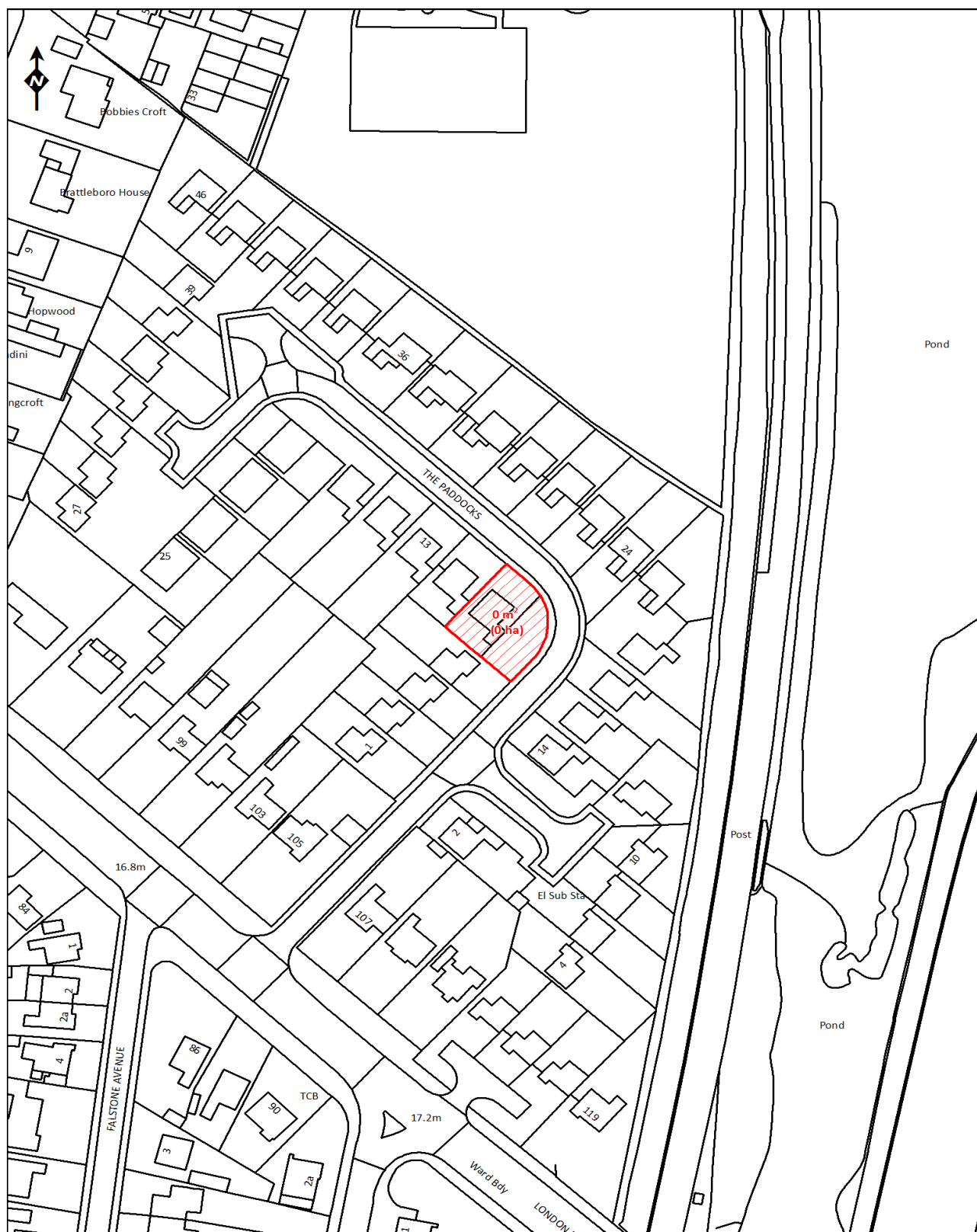
For further information, please contact Clare Walker on ext 5834.

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

**Matt Lamb**

**Business Manager – Growth & Regeneration**

# Committee Plan - 18/01402/FUL



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## PLANNING COMMITTEE – 6 NOVEMBER 2018

<b>Application No:</b>	<b>17/01090/FULM</b>		
<b>Proposal:</b>	<b>Extension of Newark Lorry Park onto adjacent parcels of land which are currently unused and the provision of a fuel bunker on existing lorry park land. Proposals are intended to accommodate the displacement lorry parking spaces which had been lost due to a neighbouring development.</b>		
<b>Location:</b>	<b>Newark Lorry Park, B6326 Great North Road, Newark On Trent, NG24 1BL</b>		
<b>Applicant:</b>	<b>Newark and Sherwood District Council</b>		
<b>Registered:</b>	<b>14 September 2018</b>	<b>Target Date:</b>	<b>14 December 2018</b>

**This application is presented to the Planning Committee for determination because Newark & Sherwood District Council is the Applicant.**

### The Site

The site itself is part of the existing lorry park site with an additional two parcels of land which are currently grassed/scrub land used to graze horses with some mature planting along the highway boundaries at the edge of the Newark Urban Area. This is a relatively prominent site at a gateway to Newark.

To the north is 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 west is the Great North Road which is bounded by some mature trees and vegetation. A railway line is located to the east, beyond which is Newark Conservation Area and Great North Road is located to the west of the site. To the south is the existing lorry park site which contains a single storey café building, lorry wash and large expanse of circulation/parking areas.

The site contains some trees and appears to contain a watercourse/dyke. The site lies within Flood Zone 2.

### Relevant Planning History

16/01963/FUL Erection of a 20m High Galvanised Steel Radio Mast and 2m High Galvanised Steel Pallasade Fence Compound including Access Gate – permission 12.01.2017

01920644 Formation of lorry drivers service block and cafeteria – permission 12.08.1992

01891522 Siting of portacabin for temporary café facility – permission 08.01.1990

01880001 Erection of petrol filling station and car wash, motorists restaurant and car parking – refused 15.12.1988

01870379 Construction of livestock market car and lorry parks – permission 28.09.1987

## The Proposal

The application seeks full planning permission for the extension of Newark Lorry Park onto two adjacent parcels of land. These parcels of land are located immediately to the south of the A46 and north of the existing lorry park, cattle market and Council Offices. The application also includes the provision of a fuel bunker on existing lorry park land.

Each parcel would contain a vehicle circulation loop connecting to the wider lorry park site. Within the west parcel, 60 lorry parking spaces would be provided and the road would loop to the rear of the existing café building. Within the east parcel, 30 lorry parking spaces would be provided with the road looping towards the A46 and the north east corner of the site. The proposal requires the removal of existing foliage and vegetation including of a number of trees. The parcels of land would be excavated to 400mm deep. The proposed parking areas would be constructed from a stone sub-base placed on non-woven geotextile. The roads would be constructed from concrete.

In November 2015 planning permission was granted for the provision of new council offices on land adjacent to the cattle market (App. No. 15/01469/FULM). This has resulted in the loss of lorry parking availability (circa 57 spaces). Prior to the construction of new Council Offices, surveys have shown that the lorry park could accommodate circa 160 heavy goods vehicles and between 49 - 148 lorries parked there on any given day (110-111 on average). The overall no. of lorry spaces prior to construction of council offices was circa. 160. There are currently 103 spaces as existing and the proposal would result in the provision of circa. 159 spaces overall.

Three 25 metre high lighting columns are proposed within the site with CCTV either fixed to the proposed columns or to existing masts/post also proposed (NB there are already three existing columns within the existing site which would have their floodlights replaced to match the proposed lights). Each lighting column would contain 6 floodlights in a circular arrangement. A pedestrian crossing containing 2 illuminated pedestrian beacons would also be provided approximately 40 metres into the site.

The following documents were originally submitted in support of the application:

- Landscape and Visual Technical Note
- Heritage Statement November 2016
- Flood Risk Assessment by BWB August 2017
- Parking Provision Overview Technical Note June 2016
- Ecological Appraisal July 2016
- Bat Survey Report October 2016
- Updated Ecology Survey by fpcr 15.11.2017
- Arboricultural Assessment November 2016

Revised plans were submitted on 14.09.2018 which extended the extent of the red line boundary of the application site to include the location of a proposed fuel bunker to the east of the existing lorry wash and to also overcome concerns raised initially in relation to trees/landscaping. The access roads now also extend through the existing lorry park to meet the existing access road. The purpose of extending the roads is to link the proposed roads with the existing road, so that lorries can circulate around the lorry park without leaving the access road. The position of the proposed access roads have also changed slightly to create a layout which allows additional landscaping including replanting of trees. A footpath and pedestrian crossing have also been added to enhance pedestrian safety within the scheme. Additional CCTV has also been included in the scheme; this would improve security across the site for the existing and proposed parking areas and help to address the national issue of thefts from lorry parks.

The following documents were submitted alongside the revised plans:

- Letter explaining proposed amendments dated 13.09.2018
- Fuel bunker specification
- Photos of fuel bunker
- Enviroceptor forecourt separators installation, operating and maintenance guidelines
- 5658-001 Rev A Proposed Layout (fuel bunker)
- 5658-002 Rev A Miscellaneous Civil Details (bollards and kerbs etc)
- 7349-L-01 Detailed Planting Plan
- DS1247 Enviroceptor Forecourt Separator
- Arboricultural Assessment by fpcr September 2018
- Assessment of Trees for Roosting Bats Letter by fpcr 23.01.2018
- Revised Site Plan 200-01 Rev A
- Site Services Plan R/200-05
- Tree Retention and Removal Plan R/200-06
- Standard Details and Cross Sections R/200-06 (road)
- Proposed Lighting and CCTV R/200-12
- Plan Showing Swept Paths for Parked Lorries R/200-17
- Tree Retention Plan 7349-A-01 Rev A
- Site Plan R/200-01
- Site Clearance Plan R/200-07
- Surface Treatment Plan R/200-08
- Proposed Barriers R/200-15
- Plan Showing Swept Paths for Roads R/200-16

#### Departure/Public Advertisement Procedure

Occupiers of two properties were originally notified by letter. Occupiers of five residential properties were consulted on the revised plans received by letter.

A site notice was posted 01.11.2017.

A press notice was published 19.10.2017.

#### 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 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 Management DPD (Adopted July 2013)**

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

Policy DM4 - Renewable and Low Carbon Energy Generation

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) 2018

National Planning Policy Guidance (NPPG) 2014

Newark and Sherwood Amended Core Strategy DPD 2017

## **Consultations**

**Newark Town Council:** No Objection.

**Environment Agency:** The Environment Agency are not required to formally comment on the above application as Flood Risk Standing Advice applies and we are no longer commenting on the discharge of surface water drainage conditions we requested prior to April 2015 as this responsibility has transferred to the Lead Local Flood Authority.

**Severn Trent Water** – No objection to the proposal subject to the inclusion of the following;

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)) or by contacting our New Connections Team (Tel: 0800 707 6600).

*Suggested Informative:*

*Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals.*

*Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.*

*NB. We have clean water apparatus within the proposed application site, the developer will need to contact Severn Trent Water New Connections Team to assess their proposed plans for diversion requirements.*

**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 in close proximity to the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applied.

The Board's consent is required for any works, whether temporary or permanent, in, over or under, any Board maintained watercourse or culvert.

The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent, within the channel of a riparian watercourse will require the Board's prior written consent.

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 the 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 the planning application may need to be altered to comply with the Board's requirement 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.

**NCC Lead Local Flood Authority:** A surface water drainage strategy must be approved by the LPA prior to any construction start. This must show how flows from the development will be contained to Qbar rates to prevent any increase in run off and how the proposals comply with CIRIA documents C687 and C697.

**Cadent Gas:** 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. If the application is refused for any other reason than the presence of apparatus, we will not take any further action. Please let us know whether Plant Protection can provide you with technical or other information that may be of assistance to you in the determination of the application. Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

The "Assessment" Section below outlines the detailed requirements that must be followed when planning or undertaking your scheduled activities at this location. It is your responsibility to ensure that the information you have submitted is accurate and that all relevant documents including links are provided to all persons (either direct labour or contractors) working for you near Cadent and/or National Grid's apparatus, e.g. as contained within the Construction (Design and Management) Regulations.

This assessment solely relates to Cadent Gas Limited, National Grid Electricity Transmission plc (NGET) and National Grid Gas Transmission plc (NGGT) and apparatus. This assessment does NOT include:

- Cadent and/or National Grid's legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent and/or National Grid's assets in private land. You must obtain details of any such restrictions from the landowner in the first instance and if in doubt contact Plant Protection.

- Gas service pipes and related apparatus
- Recently installed apparatus
- Apparatus owned by other organisations, e.g. other gas distribution operators, local electricity companies, other utilities, etc.

It is YOUR responsibility to take into account whether the items listed above may be present and if they could be affected by your proposed activities. Further "Essential Guidance" in respect of these items can be found on either the National Grid or Cadent website.

This communication does not constitute any formal agreement or consent for any proposed development work; generally or with regard to Cadent and/or National Grid's easements or wayleaves nor any planning or building regulations applications.

Cadent Gas Limited, NGGT and NGET or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements.

**NCC Petroleum Officer:** This Department (Notts County Council Trading Standards) have no objections to this proposal. Our interest is with the provision of a fuel bunker, as we are the Petroleum Enforcement Authority (PEA) for Nottinghamshire. Briefly, if the provision of a fuel bunker involves the storage & dispensing of petroleum, then Trading Standards will need to approve such an installation, and be consulted upon its design & installation, and ultimately, issue a Petroleum Storage Certificate (PSC). No works must begin until our approval has been issued, if we are talking petroleum storage. Diesel fuel storage does not require licensing, hence no approval from Trading Standards is then required, nor consultation from this Department. Please note, Diesel fuel is still subject to storage legislation, which I understand is enforced by the Environment Agency, so they would need to be consulted with if we are talking diesel fuel storage. Please contact myself further if necessary.

#### **Network Rail:**

##### *Comments received 26.09.2018:*

In relation to the above application I can confirm that Network Rail have no further comments to make on the additional information supplied other than those returned in response to the original application on 31 October 2017 which still apply.

##### *Comments received 31.10.2017:*

With reference to the protection of the railway, Network Rail has no objection in principle to the development, but below are some requirements which must be met:

**Fail Safe Use of Crane and Plant:** All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a 'fail safe' manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

*Armco Safety Barriers:* An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway. This is in accord with the new guidance for road/rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land/roadways.

*Fencing:* Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

*Method Statements/Fail Safe/Possessions:* Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a 'fail-safe' manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. 'possession' which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

The method statement will need to be agreed with:

Asset Protection Project Manager  
Network Rail (London North Eastern)  
Floor 3B  
George Stephenson House  
Toft Green  
York  
YO1 6JT  
Email: [assetprotectionlneem@networkrail.co.uk](mailto:assetprotectionlneem@networkrail.co.uk)

*Lighting:* Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Network Rail is required to recover all reasonable costs associated with facilitating these works. I would advise that in particular the boundary fencing, Armco barriers, method statements and lighting should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters we would be pleased if an informative could be attached to the decision notice.

## **Highways England:**

*Comments received 26.11.2018 and 24.10.2017:*

**Drainage:** The proposed site is located adjacent to the southern boundary of the A46, which forms part of the SRN. We therefore recommend that further details should be provided to show that the proposed works are appropriately designed to intercept and convey runoff. The applicant should note that in line with paragraph 50 of Circular 02/2013, no water runoff that may arise due to any change of use will be accepted into the highway drainage systems, and there shall be no new connections into those systems from third party development and drainage systems.

**Boundary Treatment:** From review of the plans provided it is not clear what the existing and proposed ground profiles are to the north of the site closest to the A46, nor is the proximity of the northern boundary to Highways England's boundary clear although an existing fence restricts the northern most part of the site from encroaching on the highway. It is normal practice that any boundary treatment would remain privately owned and the inspection and maintenance would be the responsibility of the owner.

*Conditions to be attached to any grant of planning permission:*

1. The development hereby permitted shall not commence until the drainage strategy associated with these works has been submitted to and approved by the Local Planning Authority in consultation with Highways England. The development shall be carried out in accordance with the approved details.
2. The development hereby permitted shall not commence until details of the boundary treatment adjacent to the A46 have been submitted to and approved in writing by the local planning authority, in consultation with Highways England. Any approved boundary treatment shall be constructed in accordance with the approved plans, and maintained in perpetuity.

**Reason:** To ensure that the A46 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, to maintain the integrity of the strategic road network.

## **NCC Highways:**

*Comments received 26.09.2018:*

Further to comments dated 20 October 2017, HGV swept path drawings have been submitted which satisfactorily show how manoeuvres can be achieved.

*Comments received 20.10.2017:*

It is understood that this is a like-for-like replacement of the lorry parking lost to the adjacent Council Office development. Since it will not alter the access arrangement, nor significantly change the traffic movements I have no objection to the principle of this proposal. Whilst I would expect the designers to have left adequate manoeuvring space for HGVs to circumnavigate the parking areas, perhaps this should be demonstrated by the submission of vehicle swept path diagrams. Since the access and site is so close to the A46, I recommend that Highways England be consulted particularly given the medium term plans to see improvements made to this trunk road. Subject to the above, I have no objections.

## **Nottinghamshire Wildlife Trust:**

### *Comments received 27.09.2018:*

Reptiles: A second walkover survey was undertaken in 2017 which revealed that habitat suitability for reptiles was considered to have declined since the 2016 survey. Given the evidence provided, we are satisfied that the proposed precautionary working methods prior to site preparation, such as strimming existing vegetation back to the site boundaries (and from that point onwards maintaining a short sward) should be sufficient to avoid impact on reptiles.

Bats: Further trees surveys for bats were undertaken in 2018 with no signs of bat roosts identified. Given the results of this survey work, we are satisfied that bats do not pose a constraint to the removal of T7, provided it is carried out in accordance with the ecologist's recommendations. Please note ALL vegetation clearance should be timed to avoid the bird breeding season.

Our other comments dated 12th October 2017 remain valid. All ecological recommendations for measures to avoid, mitigate and/or compensate for identified ecological impacts should be secured through planning conditions, should the application be approved.

### **Comments received 12.10.2017:**

#### Ecological Appraisal Report (FPCR, July 2016)

- The report is considered sufficiently up to date and we are satisfied with the methodology
- The site has been shown to contain a range of habitats potentially suitable for protected species, including bats, nesting birds and reptiles
- Information regarding bats is contained within a separate report
- To avoid impact on nesting birds, any vegetation clearance should be undertaken outside of the bird breeding season (i.e. avoiding March to September)
- To mitigate for habitat loss, new mixed native species planting should be undertaken. We recommend conditioning a detailed landscaping plan
- Suitable habitat for reptiles was identified and therefore a reptile survey was recommended. We cannot see that this has been undertaken and recommend the LPA requests that it is carried out before the application is determined (in accordance with Circular 06/05). Following this work, any subsequent recommendations could then be conditioned. Section 6.26 contains recommendations for biodiversity enhancements. We are supportive of such measures, as encouraged under the NPPF. These could be incorporated into the landscaping plan as above

#### Bat Survey Report (FPCR, October 2016)

- The report gives details of two transect surveys (summer and autumn) and one period of static monitoring. This is less than the ideal level of survey recommended within the earlier Ecological Appraisal Report. There is no information given to justify why spring surveys were not undertaken. We consider this a constraint to the survey work.
- Ground level tree assessments were undertaken. We cannot see that aerial assessment and/or nocturnal survey was undertaken as recommended within the earlier Ecological Appraisal Report. Where trees are not directly affected by the proposal, and will be suitably buffered we are satisfied that no further survey is necessary. However, T7 is to be felled and we recommend LPA requests that aerial assessment and/or nocturnal survey is undertaken before the application is determined (in accordance with Circular 06/05). Following this work, any subsequent recommendations could then be conditioned. If vegetation clearance is planned around trees T8, T10, T12, T13, T14 and G6 then further survey must be undertaken as this could cause indirect impact

- Notwithstanding the constraints to survey, the site has been shown to be used by foraging and commuting bats and therefore recommendations regarding habitat retention, habitat creation and suitable lighting must be secured through planning conditions should the application be approved

We recommend that the above points are addressed prior to determination of the application.

**Historic England:** On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

**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 Conservation Area (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 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).

### 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 site 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.

There are a number of listed buildings nearby, including the Grade II listed Castle Station and various former industrial buildings. 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 create hardstanding areas for lorry parking with associated lighting columns.

Given the existing arrangement on the Lorry Park, the proposal is unlikely to have any significant impact on the setting of the CA or nearby heritage assets. It is acknowledged that the historic landscape setting of the town has been fragmented by the modern A46 and the modern cattle market and lorry park areas. Moreover, the use of hardstanding maintains the overall sense of spaciousness, ensuring that the neutral contribution made by the Lorry Park is maintained. The lighting columns are large, but given the existing lighting column arrangements, this is unlikely to result in significant incremental change (I have taken into account longer views of the Church of St Mary and Castle in considering this issue).

Opportunities to reinforce soft landscaping at the edge of the site should be considered to help soften the hard landscaping proposed.

Conservation otherwise has no objection and finds no harm within the meaning of sections 66 and 72 of the Act.

Clarity should be given on any engineering works, including the depth of any excavations for the new hardstanding. Although archaeology is not anticipated to be an added complexity in this case, clarification of the depth of any subsoil excavations should be given (please re-consult us). The work undertaken on the Council project on the adjoining site provides useful technical information on potential alluvial deposits in this part of the river valley.



**NSDC Archaeological Officer:** The heritage statement submitted with this application focuses solely on historic buildings and pays no regard to potential below ground historic assets that may be impacted by the proposed development. This site is close to the civil war defences of Newark, some of which have been recorded as surviving partially as earthworks. However these are outside the site and it is unlikely that these or any other archaeological remains will be disturbed by the proposed development. No archaeological input required.

**NSDC Environmental Health Officer (Contaminated Land):** No observations.

**NSDC Tree Officer:**

*Comments received 17.09.2018:*

Amended details address previous comments therefore no objection subject to conditions.

*Comments received 17.11.2017:*

The submitted tree survey indicates removal of the majority of vegetation apart from trees T1,2,3,4,5 and groups G1,2,5 with suitable protection measures for these retention recommended.

However, the submitted site plan seems to indicate the revers of this with retention of trees T7,T8 and T9, retention of T10,11,12,13,14 and G6,G8 which are likely to be adversely affected by proposed hard surfacing. T16 is also shown as retained.

Both the tree survey and submitted landscape and visual technical note refer to soft landscaping options but this is not reflected on any submitted plan or within other submitted documentation.

Clarity on the above comments is requested as it is likely that more trees will be lost than shown due to construction activities resulting in the loss of virtually all on site vegetation. I would also expect some mitigation and screening landscaping provision is provided at this stage in order to evaluate loss of green infrastructure against proposed compensatory planting.

**No letters of representation have been received from neighbouring properties.**

Comments of the Business Manager

Principle of Development

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, 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 confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

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 site is within the urban boundary of Newark and involves the extension of the existing lorry park into grazing/agricultural land. The proposed development would provide an increased amount of lorry parking within Newark adjacent to the A46 which would be a benefit to the local economy and beyond 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 site is partially visible from both the A46 and Great North Road albeit views are intermittent due to the existing levels of landscape screening along the sites boundary. This site comprises open space providing a soft edging to the main built-up area of the town and is considered to be important for the setting of the urban boundary. On approach into Newark views also comprises the Edwardian tree lined avenue of Great North Road with a number of listed buildings including Grade II listed Castle Station and various industrial buildings along with the Grade 1 Listed Castle and St Mary Magdelanes Church also visible. The 18<sup>th</sup> century Smeaton's Arches (Grade II) and various Civil War earthworks are located adjacent to the site and are also important aspects of the town's setting and significance.

Conservation Officers' comments are set out in full in the 'Consultations' section above and raise no objection to the proposal. I concur with this view and consider it unlikely that the proposal would have any adverse impact on the setting of the Conservation or nearby heritage assets. The immediate vicinity of the site and historic landscape setting has already been fragmented by the modern A46 and the modern cattle market and lorry park areas. Moreover, the use of hardstanding maintains the overall sense of spaciousness, ensuring that the neutral contribution made by the Lorry Park is maintained. The lighting columns are large, but given the existing lighting column arrangements, this is unlikely to result in significant incremental change.

A Detailed Planting Plan has been submitted with the application and includes reinforcement of soft landscaping at the edge of the site which would help soften the hard landscaping proposed. New tree and shrub planting is proposed along both the north and west boundaries of the site. This would decrease existing visibility of the site and ensure no adverse impact upon visual amenity would result.

Overall, it is considered that the proposed development would not adversely affect the setting of any heritage assets or result in any adverse impact upon residential amenity in accordance with Sections 66 and 72 of the Act in addition to Core Policies 9 and 14 and Policies DM5, DM9 of the Allocations and Development Management Development Plan Document (DPD) and the NPPF.

### 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. In applying the sequential test I consider that given the proposal is an extension of an existing facility/service it would not be practical or appropriate to site this anywhere else. I therefore consider that to site this elsewhere would be nonsensical and it would not in this instance be appropriate to site this in an area of lower risk of flooding.

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 and concludes that 'development will not increase flood risk to the wider catchment area as a result of suitable management of surface water runoff discharging from the site'. A drainage condition (also at the request of Highways England and the LLFA) is recommended. In addition, it also recommended that site staff are encouraged to sign up to the Environment Agency flood warning system. It is also recommended that a planning condition be imposed to ensure this is also undertaken. The Environment Agency raise no objection to the application.

Subject to conditions, 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 utilises an existing access off Great North Road. The Highways Officer raises no objection to the application as swept path drawings have been submitted which satisfactorily show how manoeuvres can be achieved and because the proposal essentially proposes additional lorry park spaces to compensate for those lost as part of the Council offices development. As such, the proposal is considered to comply with the highways requirements of Spatial Policy 7 and Policy DM5 of the DPD.

### 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.

### 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.

An Ecology Report (by FPRC in July 2016), bat survey and reptile survey have been submitted with the application. Further bat and surveys were recommended by Notts Wildlife Trust and have been undertaken. In light of the findings of these surveys, the Trust now raise no objection to the application subject to precautionary working methods being undertaken and measures to avoid, mitigate and/or compensate for identified ecological impacts being secured through planning conditions.

In relation to trees, a number of trees are to be removed. The majority of these trees are contained within groups considered to have low amenity value. However there are four larger trees/groups to be removed. Two of these are Category B trees, one is a Category C trees and one is a Category U. Category U trees are unsuitable for retention as they are in poor condition. Category C trees tend to be smaller trees or ones considered to be of low quality. They may have a limited life expectancy or contribute very little to the amenity of the locality. Such trees should not normally be considered as a constraint against development and their removal will generally be acceptable.

The two category B trees are ordinarily considered suitable for retention and are of moderate quality with an estimated remaining life expectancy of at least 20 years. The submitted Arboricultural report concludes that:

*'Whilst the need to remove these trees is regrettable arboriculturally, it would be unfeasible to consider that the land in which these trees reside offers little opportunities to serve for any other purpose than that of an area of lorry/car parking. As such the trees are always going to have a limited lifespan as there is no requirement, at current, to ensure their longevity. It would be recommended that opportunities to provide mitigation for the losses is explored in the form of new structured buffer planting along the northern boundary, to provide some screening from the main A46 into the site'.*

Both the Tree Officer and I concur with this view subject to conditions relating to tree/landscape protection during construction in addition to the implementation of the submitted landscape scheme. Subject to conditions, no adverse ecology impacts would result from the proposal in accordance with Core Policy 12 and Policies DM5 and DM7 of the DPD.

### Conclusion

The proposed development would provide an increased number of lorry spaces to compensate for those lost as part of the previous Council building development which would facilitate a need for lorry parking adjacent to the A46 to the benefit of the local economy in accordance with the aims of Core Policy 6.

The proposal would not be unduly prominent on approach into Newark and would not adversely affect the setting of heritage assets subject to conditions requiring the protection and enhancement of existing trees and landscaping. In relation to the sites location within Flood Zone 2, it is not considered that the proposal would result in increased levels of flood risk or drainage issues subject to planning conditions. No other harm has been identified and the proposal would not result in any adverse impact upon neighbouring amenity, highway safety or ecology.

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:

- 5658-001 Rev A Proposed Layout (fuel bunker)
- 5658-002 Rev A Miscellaneous Civil Details (bollards and kerbs etc)
- 7349-L-01 Detailed Planting Plan
- DS1247 Enviroceptor Forecourt Separator Plans
- Revised Site Plan 200-01 Rev A
- Site Services Plan R/200-05
- Tree Retention and Removal Plan R/200-06
- Standard Details and Cross Sections R/200-06 (road)
- Proposed Lighting and CCTV R/200-12
- Plan Showing Swept Paths for Parked Lorries R/200-17
- Tree Retention Plan 7349-A-01 Rev A
- Site Plan R/200-01

- Site Clearance Plan R/200-07
- Surface Treatment Plan R/200-08
- Proposed Barriers R/200-15
- Plan Showing Swept Paths for Roads R/200-16

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

The development hereby permitted shall not commence until the drainage strategy associated with these works has been submitted to and approved by the Local Planning Authority in consultation with Highways England. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the A46 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, to maintain the integrity of the strategic road network.

04

The development hereby permitted shall not commence until details of the boundary treatment adjacent to the A46 have been submitted to and approved in writing by the local planning authority, in consultation with Highways England. Any approved boundary treatment shall be constructed in accordance with the approved plans, and maintained in perpetuity.

Reason: To ensure that the A46 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, to maintain the integrity of the strategic road network.

05

No works or development shall take place until an arboricultural method statement and 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, hard surfacing).
- e. Details of construction and 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 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 ensure the existing trees, shrubs and or hedges are retained and thereafter properly maintained, in the interests of visual amenity and biodiversity.

06

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 soak- aways 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 ensure the existing trees, shrubs and or hedges are retained and thereafter properly maintained, in the interests of visual amenity and biodiversity.

07

The approved landscaping scheme shown on Drawing No. 7349-L-01 shall be carried out within 6 months of the first use of the site 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.

Reason: To ensure the existing trees, shrubs and or hedges are retained and thereafter properly maintained, in the interests of visual amenity and biodiversity.

08

Any clearance works of vegetation on site should be conducted outside of the bird breeding season. If works are conducted within the breeding season (between March to September inclusive), a nesting bird survey must be carried out by a suitably qualified ecologist prior to the clearance taking place and written confirmation has been provided to the Local Planning Authority that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any located nests must then be identified and left undisturbed until the young have left the nest.

Reason: In order to protect biodiversity on the site.

09

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 extended lorry park area 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.

10

Notwithstanding the submitted details contained in the submitted Assessment of Trees for Roosting Bats (letter by fpcr dated 23.01.2018) and the Ecological Appraisal (fpcr dated July 2016), no development shall be commenced until a scheme for ecological enhancements has been submitted to and approved in writing by the Local Planning Authority. This shall include details of a timetable for implementation of the enhancements. The scheme shall thereafter be implemented in accordance with the approved scheme.

For the avoidance of doubt, the scheme shall include:

- Details of how lighting will be designed to avoid any impacts associated with light spill on potential roost locations, bat flight-lines or foraging habitat.
- The installation of bird and bat boxes onto retained tree standards.

Reason: In order to provide ecological enhancements in the interests of biodiversity.

**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 given that there is no net additional increase of floorspace as a result of the development.

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

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

04

*Fail Safe Use of Crane and Plant:* All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a 'fail safe' manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

*Armco Safety Barriers:* An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway. This is in accord with the new guidance for road/rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land/roadways.

*Fencing:* Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

*Method Statements/Fail Safe/Possessions:* Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a 'fail-safe' manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. 'possession' which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

The method statement will need to be agreed with:

Asset Protection Project Manager  
Network Rail (London North Eastern)  
Floor 3B  
George Stephenson House  
Toft Green  
York YO1 6JT  
Email: [assetprotectionlneem@networkrail.co.uk](mailto:assetprotectionlneem@networkrail.co.uk)

*Lighting:* Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Network Rail is required to recover all reasonable costs associated with facilitating these works. I would advise that in particular the boundary fencing, Armco barriers, method statements and lighting should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters we would be pleased if an informative could be attached to the decision notice.

05

The site is within the Trent Valley Internal Drainage Board district. The Board maintained Old Trent Dyke Pt. 1, an open watercourse, exists in close proximity to the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applied. The Board's consent is required for any works, whether temporary or permanent, in, over or under, any Board maintained watercourse or culvert. The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent, within the channel of a riparian watercourse will require the Board's prior written consent. The Board's consent is required irrespective of any permission gained under the Town and Country Planning Act 1990.

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals.

Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

NB. We have clean water apparatus within the proposed application site, the developer will need to contact Severn Trent Water New Connections Team to assess their proposed plans for diversion requirements.

#### 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 – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/01118/FUL</b>		
<b>Proposal:</b>	<b>Application to Retain Existing Building and Use as a Sui Generis Retail Warehouse Club with ancillary B1 (Business) and B8 (Storage and Distribution) uses</b>		
<b>Location:</b>	<b>Future Fishing Ltd, Unit 17, Hardys Business Park, Hawton Lane, Farndon, NG24 3SD</b>		
<b>Applicant:</b>	<b>Frank Hardy &amp; Sons (Farndon) Limited - Mr Jack Hardy</b>		
<b>Registered:</b>	<b>13 June 2018</b>	<b>Target Date: 08 August 2018</b>	<b>Extension of Time: 5 September 2018</b>

The application is being presented to the Planning Committee in line with the Scheme of Delegation as in the judgement of an Authorised Officer, the specifics of the application warrant determination by the Planning Committee. In this particular case, the application is finely balanced. In addition, the description of development requires careful assessment due to potential CIL and enforcement implications.

### Update to Planning Committee

This application was deferred from September Planning Committee in order to provide Members with more detail regarding the planning history and existing uses occurring on the wider Hardy's Business Park site. This extra information is as exempt item and was reported at October Planning Committee. For the avoidance of doubt, the report remains the same as previously presented at September Planning Committee. Whilst correspondence (letter dated 30<sup>th</sup> August 2018) was received from the Agent acting on behalf of the Applicant following the agenda print for September, as was advised in the Schedule of Communication after Agenda Print, Officers do not consider that this letter affects the judgements taken in the Appraisal below.

The Applicant has been invited to include more precise details of access and parking in relation to the current application but no response has been received to date.

### The Site

The 0.15 Ha site relates an existing building at Hardy' Business Park. It is a warehouse style building with mezzanine floor located immediately to the south west of another building. A garden centre and other business park buildings and are located immediately to the south west, west and north of the building. The application building is a steel portal framed building with plastic coated green sheet walls and roof. The building has two side doors and a main entrance with large roller shutter at the front of the building.

The site located in the open countryside and is served by an existing access off Hawton Lane which leads through the Business Park and to the site. Agricultural fields are located around the edge of the wider site.

The position of the building and the majority of its access is located in Flood Zone 3. A small part of the access is located within Flood Zone 2.

## Relevant Planning History

*The planning history below sets out the planning history relevant to the wider Hardy's Business Park site. For the avoidance of doubt, the plot on which the proposed building is located does not benefit from any previous planning permission albeit it was previously used as a menage. The building was built in 2016 or later (according to aerial photography records).*

18/01117/FUL Application to Retain Existing Building and Use Building and Forecourt for Use as a Gym (Use Class D2) – permission 01.8.18.

18/01121/FULM Application to Retain Existing Buildings and Use Buildings for a Mixed Use of B1 (Business); B2 (General Industry); and B8 (Storage and Distribution) – permission 1.8.18

18/00770/LDC Certificate of Lawfulness to continue the existing mixed Use of: 1) for B8 Storage Involving External Storage (at no more than 2m high from the adjacent ground level) and Internal Storage within Shipping/Storage Containers; 2) the siting of a maximum of 9 Shipping/Storage Containers (that shall be no higher than 3.2m in height from the adjacent ground level); 3) the Parking of a maximum of 3 HGV Lorry Trailers; and 4) the siting and storage of a maximum of 6 items of plant and machinery (that shall be no higher than 3.2m in height from the adjacent ground level) – Certificate issued

04/01022/FULM Change of use from existing agricultural buildings to industrial units classes B1-B2 – permission 09.07.2004

95/50583/FUL Agricultural storage building – permission 29.06.1995

11901358 Siting of mobile café – permission 04.06.1991

## The Proposal

The proposal seeks full planning permission to retain the existing building and use as a Sui Generis Retail Warehouse Club with ancillary B1 (Business) and B8 (Storage and Distribution) uses. The application is retrospective in nature and the building has been in situ since May 2016 according to the planning application forms. The building has a floorspace of 731m<sup>2</sup>.

The red line boundary of the application site contains no parking spaces albeit the application form states that there are 6 car parking spaces which I assume are available for use on the wider Business Park site (within the blue line boundary of the application site).

The use described as a 'members only' club is managed and maintained through the on-site electronic till and online registration NB with a sign in the entrance stating that membership is free. It employs 3 full time members of staff. The site operates 09:00 – 18:00 Monday to Saturday and 10:00 – 16:00 Sundays and Bank Holidays according to the submitted application form.

The planning application is accompanied by the following supporting documents:

- Supporting Statement
- Flood Risk Assessment and Sequential Test
- Uses Within Building Statement

## Departure/Public Advertisement Procedure

A site notice was posted adjacent to the site on 26.06.2018.

## Planning Policy Framework

### **The Development Plan**

#### *Newark and Sherwood Core Strategy 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 6 – Shaping our Employment Profile  
Core Policy 8 – Retail Hierarchy  
Core Policy 9 – Sustainable Design  
Core Policy 11 - Rural Accessibility  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 - Landscape Character

#### *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 DM11 – Retail and Town Centre Uses Policy  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Considerations**

- National Planning Policy Framework 2018
- Planning Practice Guidance
- Newark and Sherwood Amended Core Strategy DPD 2017
- The Newark and Sherwood Landscape Character Assessment SPD

## Consultations

**Farndon Parish Council** – Support proposal.

**NCC Highways** – The Highway Authority is satisfied that the level of off-street parking provision within the site is sufficient to accommodate the proposed uses. We therefore do not wish to raise an objection.

**Highways England** – No objection

## Environment Agency –

*Comments received 30.07.2018:*

If the finished floor levels are indeed a minimum of 13.0mAOD, then yes, the suggested condition would be acceptable to us:

‘Within three months of the date of this decision, a scheme of mitigation to protect against flood risk as set out in the approved Flood Risk Assessment (FRA) compiled by WtFR Ltd (ref: WTFR-FRA-2018/04/Q24 Unit 9, Units 10-12 and Units 13-16) on 30th May 2018, shall be submitted to and approved by the Local Planning Authority. For the avoidance of doubt, this scheme shall include:

- Identification and provision of safe routes into and out of the site to an appropriate safe haven.
- Details flood resilient design measures incorporated into the final design as stipulated within section 9.3 of the FRA (including any undertaken retrospectively).
- timing/implementation arrangements of all mitigation measures identified.

The mitigation measures set out in the approved scheme shall be fully implemented in accordance with the timing / implementation arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure safe access and egress from and to the site and to reduce the risk of flooding to the proposed development and future occupants.

*Comments received 26.06.2018:*

The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the Flood Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission.

Condition:

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) compiled by WtFR Ltd (ref: WTFR-FRA-2018/04/Q24 Unit 17) on 30<sup>th</sup> May 2018 and the following mitigation measures detailed within the FRA:

- Identification and provision of safe routes into and out of the site to an appropriate safe haven.
- Finished Floor Levels (FFL) to be set no lower than 13.03mAOD for unit 17 as indicated within sections 4.1, 9.1 and 10 of the FRA.
- Flood resilient design measures incorporated into the final design as stipulated within section 9.3 of the FRA.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.



Reason:

- To ensure safe access and egress from and to the site.
- To reduce the risk of flooding to the proposed development and future occupants. The FRA mentions that the stipulated FFL of 13.03mAOD may not be able to be achieved due to planning constraints. It should be noted that although specific site ground levels have not been provided in the FRA, LIDAR data suggests ground levels ranging between 12.4mAOD and 13.4mAOD on site and therefore the suggested FFL should be achievable. If this level cannot be achieved then we would like to be re-consulted with revised FFL. I also wanted to point out that the FRA uses 20% climate change allowances when informing FFL. You should be aware that climate change guidance has been updated and both 30% and 50% climate change allowances should now be considered when proposing FFL. While we do not currently have updated modelled data to reflect these changes we have seen that, on models which have been updated the 1 in 1000 year levels closely reflect those of the 50% climate change allowance outputs.

As the proposed use is less vulnerable and fully within FZ2 we are satisfied that the site will remain safe with these floor levels however we would suggest incorporating flood resilient design with a 300mm freeboard above the 1 in 1000 year level (i.e. 13.19mAOD) to add a further level of resilience and protect the business during times of extreme flooding.

Advice to LPA:

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The Technical Guide to the National Planning Policy Framework (paragraph 9) states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Advice to applicant:

While the Environment Agency do not object to the FFL being set at 13.03mAOD it may be prudent to incorporate an additional 300mm of flood resilient construction above the 1 in 1000 year level of 12.89mAOD (i.e. 13.19mAOD for unit 17) in to the final design. This will give an added level of flood resilience to the building and in the event of extreme flooding will reduce the impact on the business.

Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels.

Consultation with your building control department is recommending when determining if flood proofing measures are effective.

Additional guidance can be found on the [www.gov.uk](http://www.gov.uk) website pages under the heading 'Prepare for a flood and get help during and after'. These pages can be found by clicking on the following link – [Prepare for a flood and get help during and after - GOV.UK](#)

#### **NSDC Planning Policy –**

Warehouse clubs are included within the definition of retail development provided in the NPPF, and consequently policy relevant to main town centre uses is applicable.

#### **Sequential Test**

I'm not of the view that the proposal falls within the exemptions to the sequential test listed at para 88 of the updated NPPF, consequently the test should be applied in line with local and national policy.

Application of the test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case, and land ownership does not provide such a justification. In addition we also need to be mindful that there may be viability concerns associated with sequentially preferable locations and so need to be realistic and flexible in terms of our expectations.

I'm content that there is in all likelihood a particular market/locational requirement which suggests that the application of the test should be limited to a select number of defined centres in the Newark Area. I would suggest that the applicant's suggestion of the Newark Urban Area should be widened to incorporate the Local Centre at Collingham, which is located within reasonable proximity to the River Trent and former gravel pits (features which the applicant has suggested contribute towards the active fishing community in the area). I do not concur that possession of, or the ability to provide, dedicated parking provision ought to necessarily form a site requirement though. Particularly where a site within a Town Centre is being considered, given the availability of parking elsewhere to serve the unit.

In terms of the exercise undertaken by the applicant, potential alternative sites with a minimum 500 sqm floorspace have been considered – demonstrating flexibility on their part, and so I would be comfortable with those discounted below this level. I'm also satisfied with those ruled out due to present unavailability (Northgate, the NSK allocation and the Local Centres associated with the strategic sites), even having had regard to the widened test within the updated NPPF which explicitly allows for consideration of suitable sites which are expected to become available within a 'reasonable period'. I have no reason to doubt the figures presented over business rate and rent increases contributing towards the dismissal of the remaining sites identified by the applicant. If a site had been ruled out due to one of those financial factors then it may have been worthwhile seeking further more detailed information from the applicant to allow us to consider what increase could feasibly be supported. However I am mindful of the need to be realistic over our viability expectations and the need for the test to be applied in a proportionate manner. Having looked through our recent monitoring surveys I cannot identify any additional vacant units which the applicant should consider within Newark Town Centre or either of the Balderton Local Centre's.

Turning now to Collingham Local Centre Units 1 and 2, High Street (the former Co-op store) appear to remain vacant. However my understanding is that the unit would fall significantly below the 500 sqm threshold. On balance I would consider it unlikely that there would be any other edge-of-centre or superior out-of-centre locations able to accommodate the business.

I would therefore be comfortable in reaching the conclusion that there unlikely to be any sequentially preferable locations able to accommodate the unit / business having had reasonable regard to the requirements of the business.

### Impact Test

The unit exceeds the impact thresholds within the amended Core Policy 8 emerging through the review of the Core Strategy. I would disagree with the applicant over the weight that they can be afforded as part of the Development Management process – which I would deem to be significant, consistent with the tests at para 48 of the NPPF. This reflected the approach we have followed with retail proposals elsewhere.

Nevertheless the business as currently trading is fairly specialist in nature and unlikely to compete with the existing offer in any of the centres within the Newark Urban Area or at Collingham's Local Centre. Whilst I accept that Sports Direct and Millets (both located in Newark Town Centre) are likely to retail some similar goods this would make-up only a small proportion of their overall offer. It is also, in my view, reasonable to assume that any diversion which does occur is extremely unlikely to be significant adverse in terms of its impact on Newark Town Centre.

Where my concern would lay is with an unrestricted warehouse club consent that could accommodate convenience or bulky comparison goods at some point in the future, the potential impact of which could be very different. These concerns could however be addressed through agreeing the use of a suitably worded condition restricting the warehouse club to the retailing of angling related goods.

**NSDC Environmental Health (contamination)** – No observations.

**NSDC Access Officer** - It is recommended that the developer be advised to give consideration of inclusive access to and use of the proposal for all, with particular reference to access and facilities for disabled people. Inclusive access for all around the site and to, into and around the proposal should be carefully considered.

It is recommended that the developer's attention be drawn to BS 8300: 2018– 'Design of an accessible and inclusive built environment - Code of Practice' as well as Approved Document M of the Building Regulations, which contains further useful guidance in this regard. It is recommended that a separate enquiry be made regarding any Building Regulations matters. It is further recommended that the developer be mindful of the provisions of the Equality Act.

**Neighbours/Interested Parties** – No letters of representation received.

### Comments of the Business Manager

#### **Principle of Development**

##### *Description of Development:*

The description of development has been amended during the lifetime of the application to reflect the fact that the proposed B1 and B8 Uses within the building are ancillary to the main use of the building by Future Fishing Ltd.

The main use applied for as part of this application is a sui generis retail warehouse club use. In the 2005 amendments to the Use Classes Order 1987, a sui generis use of “a retail warehouse being a retail club where goods are sold, or displayed for sale, only to persons who are members of that club” was added.

Advice contained within DCP Online states that *‘It has been argued that this form of shopping is not strictly “retailing”, and this was confirmed in the Thurrock court case. Here, it was held that a Costco warehouse club that involved the sale of goods to members who paid a subscription, did not fall within use Class A1. Of course, the reality is that a club warehouse is tantamount to retailing and that impact on existing centres is just as likely as in the case of a store where goods are sold to any visiting member of the public’.*

In the case of Future Fishing, the membership is free and not therefore in my opinion difficult to sign up to unlike Costco for example which is a retail warehouse club where you are required to provide ID and pay an annual membership which makes it much more difficult to attract/enable passing trade.



Photo of sign on shop entrance taken 26.06.2018

Also, the main ethos behind a Retail Warehouse Club is that they sell bulkier goods in large quantities and then sell onto to smaller traders more cheaply than A1 shops. I can't see that this is the case with Future Fishing and in my opinion is therefore more akin to A1 retail.

Given this view, further advice was sought from the Council's legal department who have advised the following with respect to the proposed sui generis retail warehouse club use:

*‘The leading authority in this field is R v Thurrock EX p. Tesco Stores Ltd 92 L.G.R. 321; [1993]. This is widely known as the “Costco” case.*

*In the Costco case, Schiemann J said “In my judgment, if there is a restriction on those who can come and buy then the premises are not prima facie properly described as being used for the sale of goods to visiting members of the public and in consequence do not fall within class A1 of the order. I say prima facie because I am conscious of cases such as Lewis v Rogers 82 LGR 670 . That was a case brought in relation to the Sunday trading provisions of the Shops Act. Shop keepers who wished to trade on Sundays sought to avoid those provisions by the creation of a club to which one could belong for life upon payment of £5, with no further restriction on eligibility for membership. The court rejected an argument to the effect that, because the consumers were limited to that section of the public which had first paid £5 to join a club, therefore no retail trade or business was*

*carried on there. That conclusion in the context of that case is not surprising. The club was a mere sham designed, and solely designed, to sidestep the Sunday trading provisions of the Shops Act. Lewis v Rogers however is of no assistance in the present case. We are here concerned, not with what was the Parliamentary intention in enacting the Shops Act, but rather what was the planning authority's intention in requiring the s.106 agreement?*

*"The restriction of potential shoppers to club members in the present case appears to be motivated on the part of the applicant by understandable non-planning considerations, and not to be a sham designed to avoid some restriction, and I see no reason why the planning authority should not take the club at face value or (if it be relevant) why I should not do so. From the authority's point of view, the restriction of potential shoppers to those who wished to indulge largely in bulk shopping removed a planning disadvantage, and there was no reason to suppose that the applicants did not wish to achieve that restriction and did not think that the methods they had adopted in the New World to that end might not be successfully transplanted to the Old".*

*He had said earlier "it seems legitimate to assume that it was the presence in the applicant's proposal of the limitation of shoppers to those who –*

- a. Were prepared to pay a significant annual subscription*
- b. Wished to shop in bulk*
- c. Were prepared to shop in a huge shopping facility which, while offering many product categories, nevertheless offered little choice within each category".*

*On balance, Future Fishing does not appear to fall within a retail warehouse club and will more likely fall within A1 retail'.*

On this basis, it has not been demonstrated that the proposed use falls within the definition of a sui generis retail warehouse club. The Agent has declined to amend the description of development on this basis. This does lead me to some difficulty in assessing the application before me. However, legal advice is that I should assess the application as described in the application. For the avoidance of doubt, I am not assessing the retail use which I consider is taking place and that use will be subject to separate enforcement action. I am consequently assessing the proposal as an application to retain the existing building and to use it as a proposed Sui Generis Retail Warehouse Club with ancillary B1 (Business) and B8 (Storage and Distribution) uses. The NPPF inclusion of warehouse clubs within the definition of retail development means that policy considerations in relation to retail remain relevant in any event.

Members should be aware that a Sui Generis use is not CIL liable whereas an A1 retail use is.

#### *Location:*

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.

The core of the village of Farndon is located to the north of Fosse Road. In this case, the site is located to the south of Fosse Road and is clearly detached from the main built up part of the settlement with an approximate 60 metre field separating the edge of the wider business park site from Fosse Road. As such, the site is considered to be within the open countryside.

I note the Agent's assertion that the site forms part of the settlement of Farndon however I disagree. The Agent is correct in identifying that the Amended Core Strategy Inspector has suggested, through the issuing of his 'post-hearing note 2', that main modifications will be necessary to make Spatial Policy 3 in its submitted form sound. Clearly the main modifications are yet to be made public and consulted on, however the Inspector's note provides helpful direction. This is set out in full below:

*"However, while I understand what the Council is trying to achieve, I agree with views expressed at the Hearing that the reference to 'the main built-up areas of villages' under the heading Location, in Spatial Policy 3 is a little ambiguous. Some clarity is needed and I wonder whether it might be better to delete the phrase. Any proposals that come forward that would extend a village into the countryside, or have a similar detrimental impact of concern to the Council, could be safely resisted under the later heading of Character."*

Implicit in the above is the anticipation that the policy in its modified form will still need to be able to deal with those locations and circumstances where SP3 ought to facilitate appropriate development and other countryside locations beyond this – where a stricter approach would be necessary (the Inspector's reference to the extension of villages into the countryside as a 'detrimental impact' is notable here). The way in which the modification (currently being considered by the Inspector) has been drafted seeks to reflect this.

The applicant has suggested that the reference within Policy DM8 to the 'main built-up area' renders the policy out-of-date. It is however considered that a more nuanced reading and interpretation is necessary. Beyond the Principal Village level of the hierarchy SP3 allows for some forms of development in certain locations and circumstances, outside of this in the open countryside. Policy DM8 sets the detailed context for what would be appropriate. Whilst the locations where Policy SP3 would support some development will change as a result of the main modifications, it is clear that a distinction with the open countryside will remain. Policy DM8 is clearly orientated around controlling development in open countryside locations, and whilst the amendment of SP3 will have implications for what this includes it is not considered that the current references to 'main built-up area' go to the heart of DM8. The policy remains an appropriate basis for considering development proposals within the open countryside.

Policy DM8 of the DPD states that development away from the main built up areas of villages, in the open countryside, will be strictly controlled and limited to certain types of development. Supporting text to this policy states that *'appropriate development can preserve the countryside as a natural resource whilst contributing to the prosperity of the District but inappropriate development can conversely have an irrevocably harmful effect'*.

In my opinion, the proposal does not sit comfortably under a single development type listed and as such, is not considered to meet any of the exceptions under Policy DM8. However, for completeness it is considered appropriate to assess the proposal against 2 of the most relevant categories listed:

1. Rural diversification – This part of the policy states that *'proposals to diversify the economic activity of rural businesses will be supported where it can be demonstrated 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'*. The supporting text to this policy states that *'the Council will be firm in distinguishing between proposals for genuine diversification and those for independent businesses that may be more sustainably located elsewhere'*.

I am not fully convinced that the proposal represents a typical form of rural diversification given that many of the uses on the site are more typical to those found on industrial estates within urban areas rather than an agricultural unit. Moreover, the nature of the proposed use as by Future Fishing is a different in terms of use class to the many other uses on site which are more typical to B1, B2 and B8 uses of a business park albeit I acknowledge that there may be some similarities with the retail elements of the established farm shop and garden centre.

I note that the Supporting Statement states that fishing is predominantly a rural/countryside activity and the proposal provides a complementary activity to the other rural/countryside activities on the site. However, fishing is not an activity that takes place on site or even adjacent to the site (albeit I note the River Trent is close by approximately 850 to the north west of the site) and cannot therefore be considered complimentary to an existing recreational use of the site. Nor do I agree with the assertion within the submitted Planning Statement that the proposed use directly results in any tourism or community benefits in terms of angling participation and give very little weight to this in the overall planning balance.

Supporting information submitted with other recent planning applications on this site states that the site forms *'part of the overall working farm holding of Frank Hardy & Sons (Farndon) Ltd that has diversified to maintain the overall economic viability by securing a rental income from businesses using and operating from the site'* and the *'buildings are currently used and these occupants provide valuable income to the Business Park and overall farm holding which would be lost if these buildings were not present'*.

Whilst I don't doubt that the business operating from the site contributes to the local economy, it is clear that the proposal would be occupied by an independent business that could be more sustainably located elsewhere. This is particularly the case as I would envisage the customer of this base of this business to be greater than what I would consider to serve the immediately local rural economy given that customers are likely to be from a geographical area which encompasses a number of more sustainable locations e.g. Newark.

2. Employment uses – This part of the policy states that *'Small scale employment development will only be supported where it can demonstrate the need for a particular rural location and a contribution to providing or sustaining rural employment to meet local needs in accordance with the aims of Core Policy 6'*.

Core Policy 6 further states that development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact. It also states that most growth should be in the Sub-Regional Centre of Newark, and a lesser scale in the Service Centres and Principal Villages. The NPPF is supportive of sustainable economic growth and states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Notwithstanding my views set out in 'Description of Development' section above, the proposed uses fall within a sui generis 'retail business club' use class. This is not therefore a use class which strictly falls to be assessed under Core Policy 6. The site only employs three full time member of staff which equates to 244m<sup>2</sup> of floorspace per member of full time staff which is low in comparison to the recently approved B1, B2 and B8 uses in adjacent building which equated to 118m<sup>2</sup> of floorspace per member of full time staff. As such, I give little weight to the proposed development as an employment use despite its location on the edge of an established business park. In addition, I attach little weight to the loss of the site as employment land given that its use

for employment purposes ancillary to the wider business park use has never been secured through a formal planning application.

Overall, I am not convinced that a need for this particular rural location has been demonstrated by the individual business proposed within the building and the proposal is not therefore considered acceptable in principle. The proposal does not represent the growth or expansion of an existing business. This view is supported in paragraph 83 of the NPPF which states that *'the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings'* will be supported.

I am however aware of NPPF in paragraph 117 which requires policies to make as much use as possible of previously-developed or 'brownfield' land except where this would conflict with other policies in this Framework and I note that this land was previously occupied by a menage (which whilst never regularised through a formal planning application, was in situ for a period in excess of 10 years). Despite the open countryside location, the nature of the proposed use is somewhat compatible with the nature of the uses on the wider business park and does provide some benefit (albeit limited) to the rural economy in terms of employment and the re-use of brownfield land in this case. These factors must be weighed in the overall planning which includes a consideration of all other policy considerations including availability of alternative sites and other site specific circumstances as set out below.

#### *Main Town Centre Use:*

Notwithstanding the views set out in 'Description of Development' section above, the proposed use fall within a sui generis 'retail business club' use class. This use is defined within Annex 2 of the NPPF as being a Main Town Centre Use. I note that that some of the goods sold are larger and that the proposal also incorporates ancillary B1 and B8 uses. However, this is not dissimilar to many town centre uses and I do not therefore consider that this is sufficient reason to discount the proposed use as a main town centre use in this case.

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 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.

#### *Town Centre Use Sequential Test:*

Paragraph 86 – 88 of the NPPF states that *'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'*

*When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.*



*This sequential approach should not be applied to applications for small scale rural offices or other small scale rural development’.*

On the basis of my findings with regards to ‘Location’ above, I do not consider the proposal to represent small scale rural development on the basis that the need for a rural location of the business has not been demonstrated in this instance and the proposal represents some 731m<sup>2</sup> of floorspace. As such, I consider the application of the sequential test to be necessary.

Paragraph 11 of the PPG further states that ‘Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case, and land ownership does not provide such a justification’. The NPPF at para 90 states ‘*where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused*’.

The site is located in the open countryside and not within a defined town centre as set out in Core Policy 8. The nearest centres to the application site are Newark Town Centre (approximately 3km to the north east (as the crow flies) and land South of Newark (situated approximately 1.5 km to the east of the site).

The site is located out-of-centre. The Supporting Statement submitted with the application states that there are currently no sequentially preferable sites for the proposed development within Newark Urban Area. I concur with the views of the Planning Policy set out in the Consultations section above which conclude that there unlikely to be any sequentially preferable locations able to accommodate the unit / business having had reasonable regard to the requirements of the business. I therefore consider the proposal to pass the town centre use sequential test.

#### *Impact on Nearby Centres:*

Notwithstanding the 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.” At 731m<sup>2</sup> (and 648m specifically for the retail element of the overall floorspace) the proposed floorspace exceeds this threshold and the NPPF makes it clear that retail development includes warehouse clubs. An impact assessment has not been submitted with the application.

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.”

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.

The impact on the vitality and viability of nearby centres is a clear material planning consideration and it is not unreasonable to expect the applicant to provide a proportionate assessment of the likely impact of the proposal. The Supporting Statement submitted with the application does offer some commentary on the retail impact of the proposal.

I concur with the view of Planning Policy set out in the Consultations section above which states that it is 'reasonable to assume that any diversion which does occur is extremely unlikely to be significant adverse in terms of its impact on Newark Town Centre'. This is because Future Fishing is likely to attract customers from a niche market and I am not aware of any shops which focus on mainly on a fishing offer located within Newark Town Centre or other nearby centres. As such, it is not reasonable for me to suggest that proposal would result in the diversion of trade from an existing centre. As a sui generis use, I am also aware that planning permission would not be as easily interchangeable as would be the case if the application had been proposed as an A1 retail use. However, I would still consider it appropriate to impose a condition to restrict the warehouse club to the retailing of angling related goods only. This would be to prevent unrestricted warehouse club consent that could accommodate convenience or bulky comparison goods at some point in the future with a potentially different impact.

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. In this case, the impacts of the proposal are considered unlikely to be significant adverse and the effects of the proposal are weighed in the planning balance set out below.

### **Impact on Flood Risk**

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. Para.103 of the NPPF states when determining planning applications the Local Planning Authority should ensure flood risk is not increased elsewhere. It is stated that decision makers should only consider development appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment following the sequential test, and if required the Exception Test, it can be demonstrated that development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant. This includes safe access and escape routes where required and that any residual risk can be safely managed and it gives priority to sustainable drainage systems.

The Environment Agency Flood Map identifies the majority of the site to be located within Flood Zone 3 with part of the access within Flood Zone 2. A Flood Risk Assessment (FRA) and Sequential Test has been submitted with the application.

As a standalone use unconnected to wider business park uses, I consider the application of the sequential test to be necessary in this instance as it does represent an expansion/extension of an existing business. PPG states *"the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives."*

*When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere. For nationally or regionally important infrastructure the area of search to which the Sequential Test could be applied will be wider than the local planning authority boundary."*

A search for alternative sites has also been considered under the 'Town Centre Use Sequential Test' section above. The submitted Sequential Test concludes that 'there are no sequentially preferable sites to that proposed available within the Newark Urban Area'. However, I would consider the area of search in relation to a flood risk sequential test in normal circumstances tends to differ to that of a town centre sequential test as this can also include other open countryside locations at lesser risk of flooding. However, the NPPF at paragraph 158 and 159 states that alternative sites should be 'reasonably available' and 'appropriate for the proposed development' as well as 'taking into account wider sustainable development objectives'. As such, whilst I do not consider the submitted flood risk sequential test to be robust in terms of considering all available options, I would concede that there are unlikely to be any sequentially preferable sites when taking into account wider sustainable development objectives i.e. alternative sites are also likely to be in open countryside locations with potentially greater visual harm (when also accepting that an appropriate catchment for the flood risk sequential test matches that of the retail sequential assessment).

The position of the building and the majority of its access is located in Flood Zone 3a. A small part of the access is located within Flood Zone 3a. Whilst it is not considered reasonable to suggest that the established access to the site should be located in a sequentially preferable location, it may be possible for the building to be relocated within an area of the site located in an area at less risk of flooding i.e. Flood Zone 2. I do however note that the building does replace a menage on this position and helps to maximize the use of previously developed land in accordance with Chapter 11 of the NPPF. In addition, the submitted sequential text explores available locations across the Business Park and concludes that *'the available space to accommodate a building of this size is only available in Flood Zone 3'*. I have no evidence to the contrary.

Given my reservations regarding the submitted sequential test, I consider it is worth rehearsing acceptability of the scheme against the Exception Test (even though this is not ordinarily required for a development of this type). Paragraph 34 of the PPG states that *'ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere'*.

The proposed uses with the buildings are classed as a less vulnerable according to the Flood Risk Vulnerability Classification table set out in Planning Practice Guidance. This type of development is appropriate in Flood Zone 2 and 3a. Paragraph 160 of the NPPF states that for the Exception Test to be passed, the development must provide wider sustainability benefits to the community that outweigh flood risk and a site specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and where possible, reduce flood risk overall. In addition paragraph 163 of the NPPF states that it must be demonstrated that within the site the most vulnerable development is located in areas of lowest flood risk and development is appropriately flood resilient and resistant, including safe access and escape routes where required and any residual risk safely managed and it gives priority to the use of sustainable drainage systems.

The submitted FRA recommends that the finished floor level is set 300mm above the predicted flood level of 12.65mAOD, i.e. 12.95mAOD. The Agent has confirmed that the building FFL is set at 13.0AOD which is above what was suggested in the FRA so the Environment Agency raises no objection to this. The Environment Agency also recommends a condition requiring flood resistance and resilience measures are incorporated in the development and that the development ensures safe access and egress from the site during a flood risk event (see section 9.5 of the FRA).

To conclude, the submitted Sequential Test does not demonstrate categorically that there are no other sites within the District reasonably capable of new employment development that is within Flood Zone 1. However, taking a pragmatic view, I would concede that there are unlikely to be any sequentially preferable sites when taking into account wider sustainable development objectives. The proposal would result in limited wider benefits to the community that would outweigh flood risk and this is weighed in the overall planning balance. However, the critical issue here is that submitted site specific Flood Risk Assessment demonstrates that the site can be operated safely in flood risk terms, without increasing flood risk elsewhere, subject to conditions (including an evacuation plan) in accordance with Core Policy 10 and Policy DM5.

### **Impact on Visual Amenity**

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. Core Policy 13 requires the landscape character of the surrounding area to be conserved. Policy DM5 states that the rich local distinctiveness of the District's landscape and character of built form should be reflected in proposals for new development.

Core Policy 13 of the Core Strategy addresses issues of landscape character. It states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area.

The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District. Within the Newark and Sherwood Landscape Character Assessment, the application site falls within the Trent Washlands Policy Zone (TW PZ 12). This area has a predominantly flat arable landscape with suburban influences of housing on the edge of

Newark and Farndon. The landscape condition is described as poor with the landscape sensitivity described as low. The Policy Action for this area is to 'Create' which the LCA defines as recreating, restoring and reinforcing planting.

The application building is located close to the existing group of buildings on the wider site which inhibits views from the south west, south and south east. Views from all other sides are set against the backdrop of existing buildings and are also highly screened by a high strip of trees to the north west of the site and a less dense strip of landscaping also located along Fosse Road. The proposal does not encroach into the undeveloped open countryside beyond the existing built envelope of the wider business park site and given the previous use of the land is not considered to result in a harmful effect on the countryside or the surrounding rural landscape.

The building itself is also considered to be in agricultural appearance (steel portal framed building with green sheet cladding to the walls and roof) and its size and setting ensures a development with the rural character of its open countryside setting in this instance in accordance with the aims of Core Policies 9 and 13 of the Core Strategy and DM5 of the DPD.

### **Impact on Highways Network**

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

The Highways Officer raises no objection to the proposal and consider the level of parking (within the blue line boundary) to be adequate when taking into account likely peak times for use of the gym in addition to the location of Hawton Lane which is a cul-de-sac and capable of accommodating overspill parking on the highway and unlikely to present a road safety issue or be considered an obstruction to the freeflow of vehicles. As such, the proposal is not considered to result in any highway safety issues and complies with the above policies.

### **Impact on Residential Amenity**

Policy DM5 of the Council's DPD requires new development to have regard to their impact on the amenity of surrounding land uses and where necessary mitigate for any detrimental impact. The site is located away from residential properties with the nearest dwelling being located approximately 100 metres away. As such, it is not considered that an adverse impact upon the amenity of nearby neighbours would result.

### **Conclusion and Overall Planning Balance**

Notwithstanding the views set out in 'Description of Development' section above, the proposal relates to the retention of a building for a proposed sui generis retail warehouse club in an open countryside location. The need for this particular rural location has not been demonstrated and it is not therefore considered to fully comply with the exceptions listed in Policy DM8 of the DPD.

The proposed use is a main town centre use and should ideally be located within an existing centre. A town centre sequential test has been submitted with the application and concludes that there are no sequentially preferable town centre sites for the development which meet the particular market and locational requirements of the Applicant. It is therefore considered that the proposal passes the town centre use sequential test. The impact of the proposal is considered unlikely to be significant adverse and the nature of the proposal is therefore considered unlikely to result in any adverse impact upon the vitality and viability of nearby centres.

The site is located in Flood Zones 2 and 3. A Flood Risk Sequential Test has been submitted with the application which concludes that there are no sequentially preferable sites which meet the catchment area for the development type proposed. Whilst I have some concerns in relation to the robustness of this assessment, when taking a pragmatic view I would concede that there are unlikely to be any sequentially preferable sites when taking into account wider sustainable development objectives as any other potential sites appropriate for the proposed development are also likely to be located with open countryside locations. No adverse flood risk impacts would arise from the proposed development subject to conditions.

Consequently, the lack of sequentially preferable sites identified through either the flood risk or sequential testing identified reduces the weight I attach to my principle concern which related to the demonstration of the need for a particular rural location in this instance. I am also aware of the NPPF which requires policies to make as much use as possible of previously-developed land except where this would conflict with other policies in this Framework and I note that this land was previously occupied by a menage which whilst never formally regularised appears on aerial photographs for a period in excess of 10 years. Despite the open countryside location, the nature of the proposed use is somewhat compatible with the nature of the uses on the wider business park and does provide some benefit to the rural economy in terms of employment (albeit limited given that the level of employment generated is low) and the re-use of brownfield land in this case.

The proposal would result in limited wider benefits to the community given the nature of the business which would cater for a niche market from a catchment area which is likely to be larger than the immediate rural community. Minimal benefits to the fishing community and the proximity to the River Trent (on the other side of the settlement of Farndon) are noted.

No other harm has been identified and the proposal is considered to be acceptable from a residential, visual amenity and highway safety perspective. The lack of adverse visual impact is particularly pertinent in relation to the principle open countryside issue in this instance as the proposal is not considered to conflict with the overall reason for Policy DM8 which is to ensure that inappropriate development does not have an irrevocably harmful effect on the countryside and the landscapes, traditional forms of development and biodiversity which it contains. The proposal does not encroach into the undeveloped open countryside beyond the existing built envelope of the wider business park site - if it had, the recommendation would clearly have been a refusal.

Full and proper consideration has been given to all material planning considerations and the appropriate weight afforded to each matter. There are both positive and negative impacts identified. However, in my opinion I consider that the applicant has done enough in each area to persuade me that the recommendation should be an approval. Subject to conditions, I consider that the scheme is acceptable in accordance with the Development Plan and all other material considerations.

## **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions:**

1.

Within three months of the date of this decision, a scheme of mitigation to protect against flood risk as set out in the approved Flood Risk Assessment (FRA) compiled by WtFR Ltd (ref: WTFR-FRA-2018/04/Q24 Unit 17) on 30th May 2018, shall be submitted to and approved by the Local Planning Authority. For the avoidance of doubt, this scheme shall include:

- Identification and provision of safe routes into and out of the site to an appropriate safe haven.
- Details flood resilient design measures incorporated into the final design as stipulated within section 9.3 of the FRA (including any undertaken retrospectively).
- timing / implementation arrangements of all mitigation measures identified.

The mitigation measures set out in the approved scheme shall be fully implemented in accordance with the timing / implementation arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure safe access and egress from and to the site and to reduce the risk of flooding to the proposed development and future occupants.

2.

Within three months of the date of this decision, a Flood Warning and Evacuation Plan shall be submitted to and agreed in writing with the Local Planning Authority, and implemented with immediate effect. 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 ensure safe access and egress from and to the site and to safeguard against the risk of flooding.

3.

Notwithstanding The Town and Country Planning (Use Classes) Order 1987 (as amended), and The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any succeeding orders, the building hereby permitted shall be used for Sui Generis Retail Warehouse Club for the retailing of angling related goods with ancillary B1 (Business) and B8 (Storage and Distribution) uses only.

Reason: To define the permission and to ensure no adverse impact on the vitality and viability of nearby centres.

4.

The premises shall not be open to members of the public outside the following:-

09:00 to 18:00 Monday- Saturday

10:00 to 16:00 Sundays, Public or Bank Holidays

Reason: For the avoidance of doubt and in the interests of residential amenity.

## **Informatives**

1.

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 sui generis use of the development hereby approved as the development type proposed is zero rated in this location.

2.

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).

3.

While the Environment Agency do not object to the FFL being set at 12.95mAOD it may be prudent to incorporate an additional 300mm of flood resilient construction above the 1 in 1000 year level of 12.9mAOD (i.e. 13.2mAOD) in to the final design. This will give an added level of flood resilience to the building and in the event of extreme flooding will reduce the impact on the business.

Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels.

Consultation with your building control department is recommending when determining if flood proofing measures are effective.

Additional guidance can be found on the [www.gov.uk](http://www.gov.uk) website pages under the heading 'Prepare for a flood and get help during and after'. These pages can be found by clicking on the following link – [Prepare for a flood and get help during and after - GOV.UK](#)

## **Background Papers**

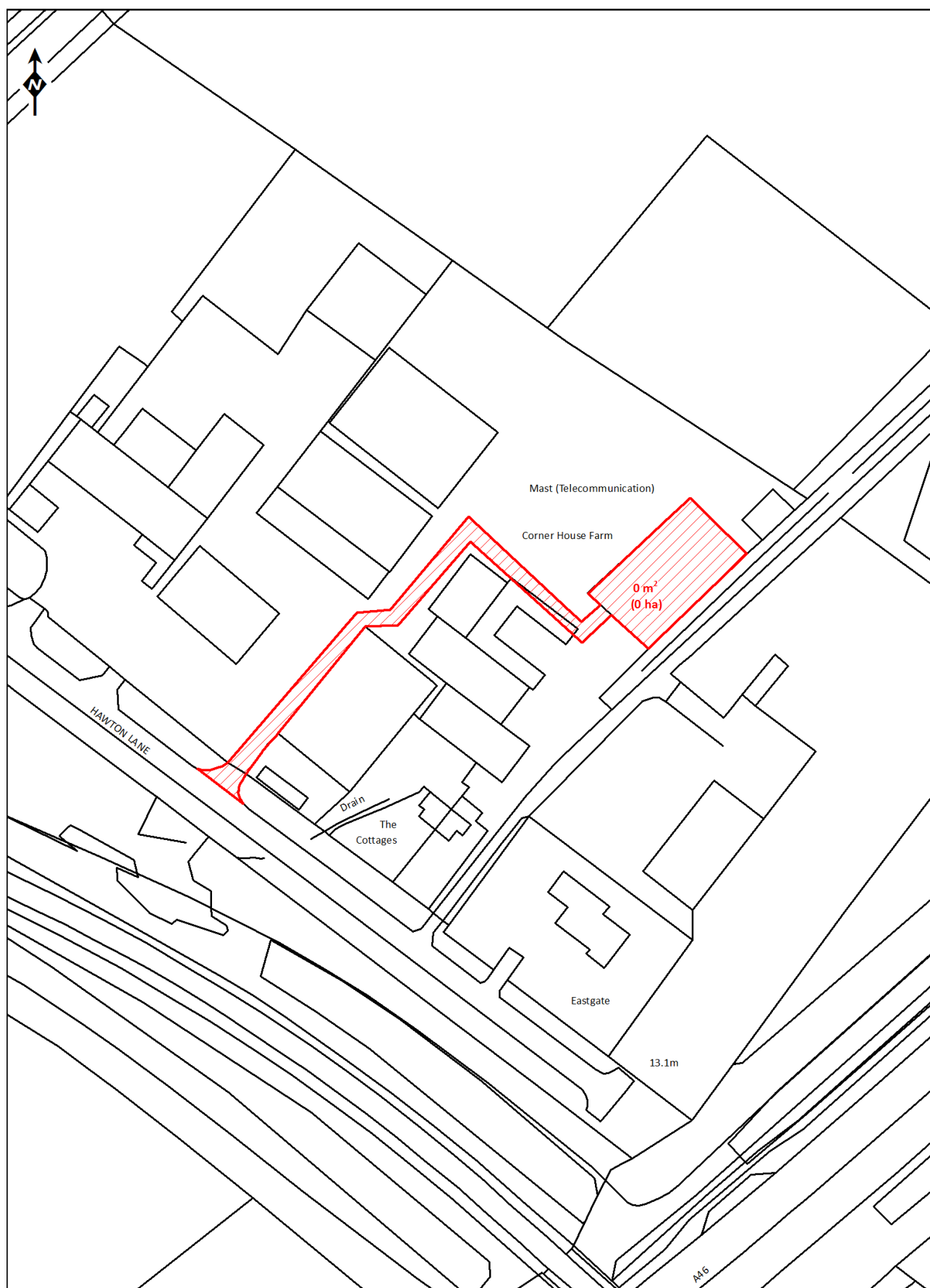
Application Case File.

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 and Regeneration**





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## PLANNING COMMITTEE – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/01337/RMA</b>		
<b>Proposal:</b>	<b>Reserved matters application for the erection of 3 dwellings. Approval sought for the design, siting, scale and layout. Approved reference 17/00383/OUT</b>		
<b>Location:</b>	<b>Brooklyn, Lower Kirklington Road, Southwell</b>		
<b>Applicant:</b>	<b>Mr Simon Pogson</b>		
<b>Registered:</b>	<b>19 July 2018</b>	<b>Target Date: 13 September 2018</b>	<b>Extension of Time Agreed Until 8 November 2018</b>

**Whilst the professional recommendation aligns with the views of Southwell Town Council, this application is before the Planning Committee for determination as the Business Manager considers that this is a scheme that Members should determine, given their previous decision to refuse outline consent.**

### The Site

The site comprises a modern chalet style bungalow (Brooklyn, the host property) set well back from Lower Kirklington Road and its extensive mature garden. The site is bound largely by mature hedgerows and there are a number of trees within the site, forming a wild orchard setting. The land rises gradually from the road and falls away again towards the south of the site.

Vehicular access to Brooklyn is currently taken from the eastern side of the frontage on Lower Kirklington Road which leads to a gravel driveway and plenty of off-street parking for the existing dwelling. Brooklyn has some outbuildings attached to its western side and there is a pergola/covered structure adjacent to its eastern side.

There is a dyke to the south of the southern site boundary. The site lies in flood zone 1 and is not identified as an area prone to surface water drainage issues on the Environment Agency maps.

There is a mix of housing styles and types in the vicinity of the site, including both single and two storey development. Franklyn to the south-east is a property similar in design and style to Brooklyn whereas the new two storey dwelling constructed adjacent to Benaigh is contemporary in design and scale.

### Relevant Planning History

17/00383/OUT – Outline permission was sought for the erection of 3 dwellings with just the means of access open for consideration. All other matters were reserved. It was recommended for approval by officers but refused by the Planning Committee on 9<sup>th</sup> May 2017 for the following summarized reasons:

- That the site was green field and brown field sites should be developed first where we can demonstrate a 5YHLS
- Loss of green character, removal of trees, loss of ecological habitat and piecemeal approach would have detrimental impact upon the character and appearance of this part of Southwell
- Proposal for 3 units with substantial plots would not deliver the smaller house types that Southwell requires as identified by Policy SoHN1

APP/B3030/W/17/3179351 – This refusal was subject to an appeal which was allowed on 17<sup>th</sup> January 2018 subject to 13 conditions.

### The Proposal

Reserved matters approval is sought for 3 dwellings on this site where outline permission has been granted upon appeal.

Originally the scheme was for 2 x 5 bedroom dwellings and 1 x 6 bedroom dwelling all with triple garages. Following concerns raised, the application has been amended as follows.

All dwellings are two storey detached and set out in a linear arrangement of development in depth served off a private access drive from Lower Kirklington Road.

#### **Plots 1 & 2**

At ground floor an open plan kitchen, sitting and dining room, separate lounge, snug, cloakroom, store and hall are proposed whilst at first floor 4 bedrooms (1 with dressing room and en-suite, 1 with just en-suite), bathroom and room labelled 'study' are proposed. A triple garage is proposed for each unit which is attached to the dwelling via a single storey link.

#### **Plot 3**

At ground floor an open plan kitchen, sitting and dining room, separate lounge, snug, cloakroom, store and hall are proposed whilst at first floor 5 bedrooms (1 with dressing room and en-suite, 1 with just en-suite), bathroom and room labelled 'study' are proposed. A triple garage is attached to the dwellings.

The application is accompanied by the following amended plans received 15 October 2018:

- Drawing No. 580-04 Rev A (Site Layout and Location Plan Scheme Design) \*
- Drawing No. 580-02 Rev E (Plot 1 Scheme Design)
- Drawing No. 580-01 Rev E (Plot 2 Scheme Design)
- Drawing No. 580-03 Rev G (Plot 3 Scheme Design)
- Drawing No. 580-05 (Site Access Showing Visibility Splays)

*\*it should be noted that the scale appears to be incorrect on this plan*

### Departure/Public Advertisement Procedure

Occupiers of three properties have been individually notified by letter. A site notice has also been displayed near to the site giving an overall expiry date of 13 August 2018.

### Planning Policy Framework

#### The Development Plan

#### **Neighbourhood Plan**

Policy SD1 – Delivering Sustainable Development  
Policy E1 – Flood Risk Assessments and Mitigation  
Policy E2 – Flood Resilient Design

Policy E3 – Green Infrastructure and Biodiversity  
Policy DH1 – Sense of Place  
Policy DH2 – Public Realm  
Policy DH3 – Historic Environment  
Policy DH4 – Highways Impact  
Policy TA4 – Parking Standards

### **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 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  
Core Policy 13 – Landscape Character

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

Policy So/Ho/4 – Southwell – Housing Site 4  
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 DM2 – Development on Allocated Sites  
Policy DM3 - Developer Contributions  
Policy DM4 - Renewable and Low Carbon Energy Generation  
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 2018
- Planning Practice Guidance
- Publication Core Strategy
- Appeal Decision APP/B3030/W/17/3179351

### **Consultations**

**Southwell Town Council** – Comments on amended plans awaited.

(04/09/2018)

‘Southwell Town Council considered application 18/01337/RMA Brooklyn Lower Kirklington Rd and agreed by majority to object to this application for the following reasons:

- The conditions of appeal must be applied in particular the treatment of foul and surface must be submitted and approved in writing.
- Policy E1 Flood Risk Assessments and Mitigation and Policy E2 Flood Resilience Design- The data used in the Flood Risk assessment is out of date.
- There are no plans for the treatment of surface water and these must be submitted in writing and permission should not be granted without this, it should be remembered that this location can negatively impact on flooding downstream.
- In the original application (17/00383/OUT), there was an unjustified assumption that ground drainage was suitable despite the fact that no percolation tests had been carried out. These are essential for proving the case for ground drainage.
- The designs increase the Massing edge of the town.
- The view of the planning inspectorate should be observed regarding the information required.'

(03/08/2018) 'Southwell Town Council considered application 18/01337/RMA Brooklyn Lower Kirklington Rd and agreed by majority to object to this application for the following reasons:

Policy E1 Flood Risk Assessments and Mitigation and Policy E2 Flood Resilience Design- The flooding risk assessment used is out of date.

There are no flood mitigation plans and percolation test results.

The designs increase the Massing edge of the town.

The view of the planning inspectorate should be observed regarding the information required.'

**NCC Highways Authority** – Comments on the amended plans are awaited.

(06/08/2018) 'The submitted drawings do not provide sufficient detail to discharge condition 5 of the planning appeal decision relating to 17/00383/OUT.'

**Southwell Civic Society** – (12/08/2018)

'The plan area of all three houses has increased from the scheme approved by the Planning Inspector who states in Schedule 4 of his Decision that the development shall be carried out in accordance with Site Location Plan 118.F01. This clearly shows smaller houses than now proposed. Furthermore this site was not included in Allocated site So/04 because of its ecological importance. It is worth repeating part of NSDC's Decision to refuse application 17/00383/OUT.

*The site offers important green amenity and relief within this part of the town, which is otherwise largely surrounded by residential development, permissions or site allocations. The loss of green character with removal of numerous trees, ecology habitat, and general piecemeal approach to development with multiple planning submissions for housing and their own access points will be detrimental to the character and appearance of this part of the settlement. The proposals are therefore contrary to Core Policies 9 and 12 of the Newark and Sherwood Core Strategy (2011) and Policies DM5 and DM7 of the Allocations and Development Management DPD (2013), which seek to promote local distinctiveness and character as well as protecting the biodiversity of the District. There are no other material planning considerations that would outweigh such harm.*

Site Plan 118.F02 Rev B submitted with 17/00383 (which was part of the Inspector's package) shows five mature trees to be left in place. The Block Plan submitted with this application shows that except for one on plot 1 all the trees are within the buildings. In fact even the single remaining tree is not shown. There are no proposals to replace them.

The Flood Risk Assessment is out of date and no mitigation strategy has been submitted.'

**NSDC Tree Officer – (19/10/2018)**

'Considering the amount of tree and associated vegetation removals for this site there is still little to demonstrate any mitigation planting or otherwise. The latest layout plan only notes a retained hedgerow and shows some illustrative greenery on plots with no detail. Insufficient for a reserved matters application.'

(20/07/2018) - 'There has been no submission of any soft landscaping as required as part of the reserved matters'

**NSDC Access & Equalities Officer – Makes general observations**

**Severn Trent Water – (31/07/2018):**

"Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)) or by contacting our Developer Services Team (Tel: 0800 707 6600).

Suggested Informative

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building."

**Environment Agency – Confirm they have no comments to make.**

**Trent Valley Internal Drainage Board –** 'The site lies outside of the Trent Valley Internal Drainage Board district but within the Boards catchment. There are no Board maintained watercourses in close proximity to the site. The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent within the channel or a riparian watercourse will require the Boards prior consent. The Board's Planning and Byelaw Policy, Advice Notes and Application form is available on the website. Surface water run-off rates to receiving watercourses must not be increased as a result of development. The design, operation and future maintenance of the site drainage systems must be agreed with the LLFA and the LPA.'

**A representation has been received from 1 local resident /interested party which can be summarised as follows:**

No objections in principle to this development (which already has outline permission), would like substantial green border to Avondale Lane to remain. This border has been in place for many years and comprises a mature tree line and other landscaping. Concerned that this border feature may be removed as part of the proposed development (although do not believe it is necessary to do so) and replaced with a fence or new immature landscaping features that may take many years to grow. If planning permission is granted, it should be done so with a strict condition that the existing boundary landscaping be retained so as to protect the existing character of the area and amenity of residents both in existing properties on Avondale Lane and the new properties to be constructed.

### **Comments of 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**

Outline planning permission has already been granted for the erection of 3 dwellings with just the means of access having been considered. As such the principle for housing at this quantum is already established through an extant permission and this is not a matter that can or should be revisited by this reserved matters application.

However as other matters (scale, appearance, layout and landscaping) were reserved, the Council is entitled to assess these against the Development Plan, which is the starting point for decision making along with any other relevant material planning considerations, including the previous appeal decision on this site. I therefore make an assessment of the relevant issues below.

### **Housing Need and Mix**

Core Policy 3 of the adopted Development Plan states that the LPA will seek to secure new housing which adequately addresses the local housing need of the district, namely family housing of 3 bedrooms or more, smaller houses of two bedrooms or less and housing for the elderly and disabled population. It goes on to say that 'such a mix will be dependent on the local circumstances of the site, the viability of the development and any localized housing need information'. I am also mindful of the proposed amended CP3 as set out within the Publication Core Strategy which deletes reference to family housing of 3 bedrooms or more but is otherwise broadly unchanged. However equally I note that there are unresolved objections to this policy such that I do not attach full weight to this. It should be noted that Policy HE1 of the SNP only applies to developments of 11 or more dwellings.

In addition to CP3 of the Core Strategy (both the adopted version and the Publication amended version), Policy So/HN/1 of the Allocations and Development Management DPD sets out that within Southwell, subject to local circumstance and the viability of the development, the majority of new housing on allocated and windfall sites shall be one or two bedroom units in line with the identified housing need.

I have carefully considered the appeal decision which allowed the outline scheme and I acknowledge that the Policy SO/HN/1 was considered by the Inspector to be somewhat outdated being based on 2011 evidence. However I also note that housing mix is a reserved matter (given that layout and appearance were reserved) and it is right and proper that this matter is assessed as part of the reserved matters submission. The applicant's advisors dispute this as a matter of fact.

It is noted that the previous case officer for the outline consent made a recommendation to the planning committee that on balance, *'a deviation from the Southwell Housing Need policy could be justified with units that better utilize the plots available and better reflect the immediate character of the area subject to final design.'* The outline committee report went on to say that: *'The reserved matters application will determine the final housing mix but it is considered in this particular instance that a scheme with no 2 bedroom dwellings could be justified.'*

However, Members resolved to refuse the scheme, in part, because they felt the scheme would not deliver the smaller units envisaged by Development Plan policy. This represents the most recent Council view and one which weight should be attached, along with those views of the Inspector who determined the subsequent appeal.

Bearing in mind the conclusions the Inspector drew regarding So/HN/1, I have therefore considered the most up to date evidence of the housing need in Southwell which is contained within the Housing Needs Survey Sub Area Report 2014 by DCA. This provides that **in the Southwell Sub Area** (where this site falls) the most needed type of accommodation are 2 beds (37.9%) followed by 4 beds (33%) followed by 3 beds (16.3%) followed by 1 beds (10.1%) and finally five or more beds (2.7%). It confirms that *'In the market sector the main size of property required by both existing and concealed households moving is two bedrooms.'*

I note that at paragraph 10 of his decision the Inspector states:

*"The most recent evidence on housing need is the Housing Market Needs Sub Area Report which was published in 2014. It found in Southwell that there was a greater need for houses of 3 or more bedrooms than there was for properties of two bedrooms or less. As a result, the proposed development would provide housing of a size for which the current local evidence is the greatest need exists in Southwell..."*

On the face of it therefore, the Inspector's conclusions appear to be incorrect. However, following further interrogation it appears that the Inspector may have been making a reference to a cumulative need, i.e. the cumulative percentage need for 3, 4 and 5 beds is 52% which is greater than the cumulative percentage need for 1 and 2 beds at 48%. In any event it was not in the public interest to challenge the Inspector's decision given that the reserved matters application is able to deal adequately with the matter.



Setting this aside for a moment, I turn now to the scheme which this Authority is being asked to consider. As originally submitted the application was for 2 x 5 bedroom units and 1 x 6 bedroom unit which are the least needed types of accommodation in the area. After concerns were raised that the dwellings promoted did not meet the identified need, the applicant has amended the scheme to what they describe as 2 x 4 bedroom dwellings (with floor areas of 254m<sup>2</sup> and 258m<sup>2</sup> plus triple garages) and 1 x 5 bedroom dwelling (with a floor area of 316m<sup>2</sup> plus triple garage.)

However as Members will note from 'The Proposal' section of this report and the plans, the dwellings promoted remain very large and whilst the plans are labelled as having 4 and 5 bedrooms, in reality, in all three plots there would be an upstairs 'study' capable of being used as a 5<sup>th</sup> and 6<sup>th</sup> bedroom. I therefore conclude that all 3 dwellings proposed are more akin to 5 and 6 bedroom dwellings which are significant in size, floorspace and footprint and are thus unlikely to cater for the most needed types of houses identified in the locality.

I note that the agent has sought planning advice (via IBA Planning and The Planning Hub) relayed to me through letters dated 10 August 2018 and 6 September 2018 which have been submitted in support of the application. I have read and noted all of the contents.

I note that the advice given to the agent from their planning advisors is that the Inspector created an expectation that 3 larger units would be acceptable. I do not disagree with this. Indeed I have some sympathy with the applicant's position albeit many applications are made subject to detailed reserved matters approval being granted and if the applicant has bought the land on an unconditional basis this would be at their own risk. The application for reserved matters must be assessed on the basis of the material planning considerations. I note that the indicative block plan provided at outline stage showed 3 reasonably large detached units but that the dwellings proposed as part of the reserved matters application are even larger units in footprint terms than previously depicted and in all cases the footprint has increased by between 44% and 49%. I have below set out a table which sets out the footprint of the units as indicated on the plan at outline stage, as originally submitted with this application and as now amended for ease of reference. I have used footprint for comparative purposes given that this is available in all 3 scenarios.

	<b>Plot 1</b>	<b>Plot 2</b>	<b>Plot 3</b>
<b>Outline (indicative footprint incl. garage)</b>	151m <sup>2</sup>	167m <sup>2</sup>	181m <sup>2</sup>
<b>Original Plans submitted with Reserved Matters (footprint incl. garage)</b>	221m <sup>2</sup>	229m <sup>2</sup>	290m <sup>2</sup>
<b>Amended Plans at Reserved Matters (footprint incl. garage)</b>	218m <sup>2</sup>	249m <sup>2</sup>	266m <sup>2</sup>

In this particular case, I agree with the applicants and their advisors that based on the appeal decision as a material consideration, the Council is unlikely to be able to secure two bedroom dwellings (the most needed type) on this site. However importantly I do not consider that the appeal decision has the effect of allowing dwellings that do not address the housing need in any sense. Had the scheme been presented as genuine 4 and 5 bedroom dwellings, my recommendation may have differed. However based on the proposals before me I consider that the 3 large dwellings proposed being in reality still 5 and 6 bedroom dwellings are the least needed house type in Southwell and this must carry significant weight.

No viability information has been provided to support the proposal in an attempt to justify why smaller units (such as the second most needed type of dwellings; 4 bedrooms for example or any other mix) cannot be provided. It is not for the planning system to sacrifice an appropriate mix because the land price may have been too high (a principle that para 11 of the NPPG makes clear). In this case I am not satisfied that the planning system has secured the maximum benefit in the public interest given the types of units proposed and I have to conclude that the scheme fails in this regard.

### Design and Appearance

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. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. The SNP also reflects this. The NPPF, as revised, states that a high standard of design is a key aspect of sustainable development and that new development should be visually attractive as a result of good architecture and appropriate landscaping.

The application is set behind the host dwelling known as Brooklyn with Plot 1 being over 75m from the back edge of the footpath and the other plots being even further back into the site. As a result of their set back and context these units will not be readily visible from the public realm. This type of development in depth is evident on the adjacent site (Avondale Lane) and as far as I can see is the only way in which the site could be developed for 3 units but in any case I consider that it would not be alien to the character, appearance or grain of the area. The design and appearance of the 3 dwellings is acceptable and they accord with the identified policies in this regard.

### Impact on Residential Amenity

Impact on amenity is a long standing consideration of the planning process and relates both to the impact on existing development as well as the available amenity provision for the proposed occupiers.

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. In addition consideration should be given to the potential for crime and anti-social behaviour. The NPPF seeks to secure a high standard of amenity for all existing and future occupants of land and buildings.

There are existing dwellings to the north (Brooklyn – the host dwelling) and to the east of the application site; (north to south) Franklyn, 2 Avondale Lane, a currently unnamed property and Benaiah. Having assessed the impact of the dwellings upon the existing dwellings I find that there would be no adverse impact that would lead to a loss of unacceptable loss of privacy through overlooking, overshadowing or overbearing. Where there are any, the first floor windows at first floor level facing the application site serve non habitable rooms to avoid overlooking and the applicant has been careful to align the dwellings to avoid overbearing/overshadowing impacts. I am satisfied that the scheme accords with DM5 of the Development Plan.

## Highway 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.

Condition 5 of the outline consent granted on appeal states:

*Notwithstanding condition 4 (the plan condition), details submitted pursuant to the application for approval of reserved matters consent shall include the following which the development shall be carried out in accordance with:*

- i) Minimum access of 4.8m for the first 10metres behind the public highway boundary (with an additional 0.5m if bounded by a wall, fence or hedge; 1m if bounded on both sides).*
- ii) A dropped curb crossing of the existing footway;*
- iii) Visibility splays in accordance with the County Council's current Highway Design Guide. (It is noted that splays of 2.4mx65m to the south-east and 2.4m x 140m to the north east are submitted as being available and if achieved these are acceptable).*

NCC Highways initially advised that there is insufficient detail to deal with the matter however further information has been submitted to fulfil the condition which they have been consulted upon. Their comments are awaited.

Each of the dwellings propose a triple garage and parking in front of these such that there would be adequate off-street parking provision provided for the units.

## Tree and Ecology Impacts

Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets. The NPPF also seeks to minimise impacts on biodiversity and provide net gains where possible.

The application site boundaries comprise mature vegetation which currently offers a robust level of screening to neighbours as well as offering benefits through retaining trees and habitat. The block plan as amended shows that 3 trees would need to be removed to accommodate Plot 1, 2 trees would be removed to accommodate Plot 2 and 7 trees would be lost to make way for Plot 3. For the access a number of smaller trees would need to be removed.

The Tree Survey submitted as part of the outline application identifies that most of the trees within the site are of category C (low quality and value but could be retained) and U (trees considered to have no landscape value but with no overriding need for removal.) Only two trees were identified as B graded trees, being a Sycamore near the site frontage which appears to be retained and an Ash tree to the southern part of the site. B graded trees are considered desirable to retain and of a moderate quality and value.

The Ash tree (T16) appears to be one of the 7 lost to accommodate Plot 3, which is categorized as of reasonable quality with a good life expectancy and was suggested as being retained if possible in the Tree Survey. The loss of this tree is therefore regrettable, especially in the context that a smaller unit here might have avoided the loss of this tree. However I am also mindful that the tree would grow and dominate this part of the site such that in the longer term, there may have been pressure to remove this in any event such that I am minded to conclude that this should not be a barrier to development in itself.

The Tree Survey does not include the hedgerow or vegetation to the eastern boundary but I note that it is shown as being retained. I note the Council's tree advisor has raised concerns that there is adequate information submitted. However I also note that Condition 7 of the outline permission requires these details to be submitted before any development commences and there is therefore a mechanism for this to be agreed albeit it is outside of the reserved matters application. In any event the garages of the plots are between 0.85m and 1.3m to the boundary hedge which is likely to be adequate to ensure that vegetation remains along these boundaries.

In terms of ecological impacts, these were assessed at outline stage and measures to mitigate any harm to bats and breeding birds were subject to conditions at outline stage. I am therefore satisfied that there would be no unacceptable harm to the ecological value of the site.

### Flood Risk Impacts

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. I note that Condition 9 of the appeal decision requires that a scheme for foul and surface water disposal needs to be submitted before development can be commenced. I consider that this is therefore a matter for a discharge of condition application to consider rather than the reserved matters application.

### Planning Balance and Conclusions

The principle of developing 3 dwellings on this site is established through the extant outline permission. I am satisfied that the scheme is acceptable in terms of design, amenity and ecology. It is regrettable that one of the better trees is to be removed to make way for Plot 3 but overall I consider that this is not so detrimental that it should form a reason for refusal. In terms of the impact upon the highway, information to satisfy the planning condition imposed by the Inspector granting the permission has been provided and I am not anticipating an objection from NCC Highways.

Whilst I do not now consider that the Council will be able to secure any 2 bedroom dwellings on the site, given the previous appeal decision, I do consider it appropriate to secure a mix that at least reflects the remaining need of the area. The next needed type/size of houses after 2 bedroom dwellings in this area are 4 bedroom houses which this scheme would not provide for at all. Rather it provides for the least needed type of houses in the area. I have concluded that the proposed scheme does not provide an appropriate mix of housing taking into account the identified housing needs in the Southwell Sub Area.

Taking all matters into account, I find that the inadequate mix to meet the identified need should mean that the application should fail on this occasion as there are no positives that would outweigh the planning harm. I consider that this is a defensible position on appeal.

### **RECOMMENDATION**

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

## Refuse

01

Core Policy 3 (Housing Mix, Type and Density) of the adopted Newark and Sherwood Core Strategy states that the Local Planning Authority will seek to secure new housing which adequately addresses the local housing need of the district, namely family housing of 3 bedrooms or more, smaller houses of two bedrooms or less and housing for the elderly and disabled population. It goes on to say that 'such a mix will be dependent on the local circumstances of the site, the viability of the development and any localized housing need information'. The proposed amended CP3 as set out within the Publication Core Strategy deletes reference to family housing of 3 bedrooms or more but is otherwise broadly unchanged albeit limited weight can be attached to this as there remain unresolved objections. In addition to CP3 of the Core Strategy (both the adopted version and the Publication amended version), Policy So/HN/1 of the Allocations and Development Management DPD sets out that within Southwell, subject to local circumstance and the viability of the development, the majority of new housing on allocated and windfall sites shall be one or two bedroom units in line with the identified housing need.

In the opinion of the Local Planning Authority the scheme proposed does not represent an appropriate mix of dwellings to meet the identified local need for the Southwell Area. The most up to date evidence of the housing need in Southwell is contained within the Housing Needs Survey Sub Area Report 2014 by DCA (as advocated by the Inspector in allowing the outline permission) and provides that in the Southwell Sub Area (where this site falls) the most needed type of accommodation are 2 beds (37.9%) followed by 4 beds (33%) followed by 3 beds (16.3%) followed by 1 beds (10.1%) and finally five or more beds (2.7%). The dwellings as advanced whilst described as 4 and 5 bedroom dwellings are in reality more akin to 5 and 6 bedroom dwellings given their significant sizes and that there is an upstairs study in all three plots capable of being used as a bedroom. Thus these plots are unlikely to cater for the most needed types of houses, rather they are the least needed type of accommodation in the locality and do not offer an appropriate mix to meet the identified need. The proposal is therefore contrary to CP3 of the Development Plan. There are no other material planning considerations that outweigh the harm identified.

## 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. 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.

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

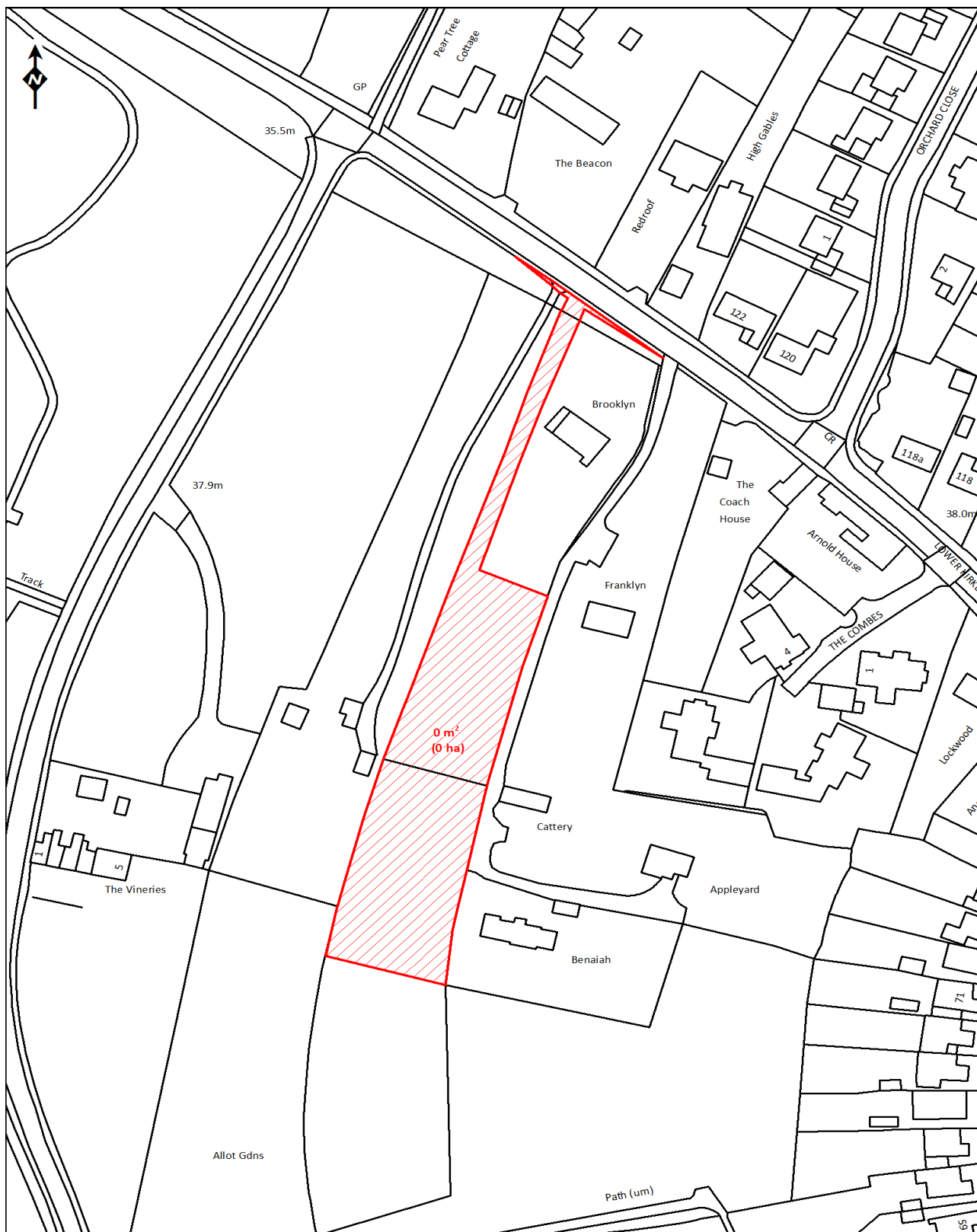
Application Case File.

For further information, please contact Clare Walker on ext 5834.

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 – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/01563/FUL</b>	
<b>Proposal:</b>	<b>Proposed removal of existing timber storage building and erection of holiday lodge</b>	
<b>Location:</b>	<b>2 Forestry Holdings, Edwinstowe NG21 9JL</b>	
<b>Applicant:</b>	<b>P &amp; M Blanche</b>	
<b>Registered:</b>	<b>24.08.2018</b>	<b>Target Date: 19.10.2018</b>
		<b>Extension of Time Agreed: 09.11.2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Kings Clipstone Parish Council has objected to the application which differs to the professional officer recommendation.**

### The Site

The application site is a rectangular plot of land adjacent to the existing residential curtilage of the dwelling known as 2 Forestry Holdings. The host dwelling is a semi-detached property with the attached neighbor to the north. Both dwellings are accessed via a private track from the B6030 to the north.

There is an existing building within the site which comprises a single storey timber cabin with a pitched slate roof and an existing wrap around flat roof extension to the east and south elevations. The building is approximately 4.25m in height to the pitch and 2.5m in height to the eaves (with some variations to the land level across the footprint of the building). The overall footprint of the building is approximately 62m<sup>2</sup>. Boundaries to the site include fencing and tree planting.

The site is within the open countryside within the Sherwood Forest Landscape Area between the settlements of Clipstone and Edwinstowe. Nearby land uses include the Sherwood Pines Visitor Centre.

### Relevant Planning History

**18/01158/FUL** - Conversion and change of use of timber storage building for use as tourist accommodation. *Application approved 24 July 2018.*

**14/00424/FUL** - Householder application to demolish single storey side accommodation and erection of two storey side extension. *Application approved.*

**11/00384/FUL** - Erection of a log cabin to be used as a holiday let.

*Application refused May 2011 for the following reason:*

*"Planning Policy Statement 4 'Planning for Sustainable Economic Growth' advocates economic growth through sustainability and in the case of tourism development, PPS4 states that Local Planning Authorities should strictly control economic development in open countryside away from existing settlements and support the provision of tourist facilities through appropriate conversions, extensions of existing facilities and diversified uses, thus ensuring that the countryside is protected for the sake of its intrinsic character*



*Policy 42 of the East Midlands Regional Plan states that LPA's should commit to developing sites close to popular destinations that have adequate infrastructure, improve the quality of existing facilities and improve accessibility by non-car means.*

*Both Spatial Policy 3 and Core Policy 7 (identified by Area Policy ShAP 1) directly address the issue of new tourist development and state that, inter alia, attractions and facilities will only be supported in principle villages and only in rural areas where they are to meet an identified local need or form the conversion/extension of an established/existing use.*

*The proposals represent the erection of a wholly new use in the open countryside which, by virtue of its location would have to rely on car means to travel to and from. The proposals do not fall within any of the exception criteria presented by Strategic Policy and would therefore represent an unsustainable pattern of development that does not meet any identified local need. Consequently therefore, the proposals would also represent an inappropriate use in the open countryside which would be contrary, to the commitment to its protection for its own sake and intrinsic character.*

*The proposals are therefore contrary to the key aims of Planning Policy Statement 4 'Planning for Sustainable Economic Growth', Policy 42 of the East Midlands Regional Plan 2009 and Spatial Policy 3, Core Policy 7 and Area Policy ShAP 1 of the Newark and Sherwood Core Strategy DPD 2011."*

*A subsequent appeal was dismissed June 2012.*

The application submission has also made reference to another appeal at a site in Bilsthorpe (application reference 15/00975/FUL). The relevance of this will be discussed further in the appraisal section below.

### The Proposal

The current application seeks full planning permission for the demolition of the existing timber shed which exists within the site and the erection of a single storey unit of tourist accommodation along the south western boundary of the site (in broadly the same position as the existing building). Internally the accommodation would provide two bedrooms; open plan living area; and a bathroom. There would also be a small external deck accessed from the west elevation. The maximum eaves height of the unit would be approximately 2.7m and maximum pitch height approximately 3.6m. The proposed footprint of the accommodation would be approximately 57m<sup>2</sup>. Materials proposed are timber walls with a tiled roof.

The application has been accompanied by the following plans:

- Revised Site Location Plan – FH-01
- Existing Floor Plans and Elevations – FH-02
- Proposed Floor Plans and Elevations – FH-03
- Proposed Site Plan – FH-04

### Departure/Public Advertisement Procedure

Occupiers of one property have been individually notified by letter. A site notice has also been displayed near to the site.

## **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 7 – Tourism Development  
Core Policy 9 – Sustainable Design  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character  
Sherwood Area Policy 1 – Sherwood Area and Sherwood Forest Regional Park

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

Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM8 – Development in the Open Countryside

### **Other Material Planning Considerations**

- National Planning Policy Framework 2018
- Planning Practice Guidance 2014
- Kings Clipstone Pre-Submission Draft Neighbourhood Plan
- D2N2 Visitor Accommodation Strategy
- Newark & Sherwood Plan Review - Publication Amended Core Strategy July 2017

### **Consultations**

**Kings Clipstone Parish Council** – Object to the proposal – The Parish Council are in the process of consultation for the neighbourhood plan and need to wait for it to be adopted before making comment. Please holdover decision until such time.

#### **Three letters of representation has been received, details of which are summarised below:**

- Forestry Holdings is not a road but a 10ft wide private access lane
- The visibility on the lane is not good
- Concerns over neighbours peace and privacy
- The area is oversubscribed with holiday accommodation
- The cabins referred to at Deerdale Lane are over 3 miles away
- There are concerns over the water supply to the other properties on Forestry Holdings
- The deeds say that properties on Forestry Holdings cannot run a business from their property
- There are currently 83 holiday cabins at Forestry Holdings, 2 lodges, permission for a 200 pitch camping site and Centre Parcs all within a couple of miles of the village as well as cabins further afield
- Traffic through the village is ever increased and has doubled between 2012 and 2016
- There will be an increase of vehicles accessing the property from the B6030
- Support for the proposal on the basis of support for tourism supporting local economy and businesses

## Comments of the Business Manager

### Principle of Development

Newark and Sherwood District Council's Economic Development Committee designated the parish of Kings Clipstone as a Neighbourhood Area for the purposes of Neighbourhood Planning at its meeting on 25 June 2014. The community are now progressing the development of their Neighbourhood Plan and as part of the consultation process have conducted household surveys, an open meeting, a drop in consultation session and an exhibition. The Pre-submission Draft NP was out for a period consultation during October and November 2017. The Plan is yet to be made and therefore the weight to which can be attached to it is limited. Officers disagree with the Parish Councils suggestion that any decision should be held until such time as the Neighbourhood Plan is made.

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 material considerations indicate otherwise. The policies of the Development Plan are considered up to date for the purposes of decision making.

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 geographically defined village boundaries. Given its location in a rural area, the site falls to be assessed against Spatial Policy 3 (Rural Areas) of the Core Strategy. The policy 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. It goes on to say that development away from the main built-up areas of villages (i.e. outside of the village and therefore in the open countryside) will be strictly controlled and restricted to uses which require a rural setting such as agricultural and forestry and directs readers to the Allocations and Development Management DPD for policies that will then apply.

The site is subject to an extant planning permission for the retention and conversion to a holiday let of the existing timber shed which is proposed for demolition in the current submission. Moreover, as outlined above, the site has planning history in relation to a proposal for a log cabin for tourism use which was refused by the LPA and subsequently dismissed by an Inspector at appeal. It is worthy of note that whilst these applications remain of relevance, each application must be considered on its own merits against the current Development Plan.

It is useful to note that the Inspectors decision in respect to the LPA's previous refusal confirmed the positioning of the site within the open countryside. This does not appear to be disputed by the applicant and therefore it is accepted that the development should be assessed against Policy DM8 (a policy which has notably been introduced since the 2012 appeal decision). Policy DM8 does accept certain limited types of development of which one of the types is tourist accommodation. The policy states that such development *"will be supported where it is necessary to meet identified tourism needs, it constitutes appropriate rural diversification, including the conversion of existing buildings, and can support local employment, community services and infrastructure."* The policy then directs assessment to other relevant Development Management Policies to which Core Policy 7 (Tourism Development) and ShAP1 (Sherwood Area and Sherwood Forest Regional Park) are of most relevance.

Sherwood Area Policy 1 outlines an intention for the District Council to work with its partners to maintain and enhance the ecological, heritage and landscape value of the Sherwood Area whilst promoting sustainable and appropriate leisure, tourism and economic regeneration.

It should be explicitly stated that the wording of CP7 has been fundamentally altered and essentially completely re-written through current plan review process. However, elements of the justification text remain identical including the acknowledgment that a healthy tourism industry within the District can help sustainable economic growth, and contribute to prosperous communities and attractive environments. Equally it remains the case that increasing the proportion of visitors who stay overnight is identified as a priority for future tourism development.

The weight attached to emerging policies is a matter for consideration of the decision taker. In reaching a judgement of how much weight should be attached to the emerging policy I am conscious that the extant policy wording does give rise to issues in terms of its consistency with national policy. Moreover, there were no objections to the revised policy at the recent publication stage and the Inspector did not identify the revised wording for discussion at the hearings. On this basis, Officers are content that significant weight can be attached the wording of CP7 as presented in the emerging plan document.

The revised wording confirms that, within the open countryside proposals should meet one or more of the following criteria:

- Forms part of a rural diversification scheme;
- Supports an existing countryside attraction;
- Has a functional need to be located in the countryside;
- Constitutes the appropriate expansion of an existing tourism or visitor facility;
- Supports local employment;
- Meets an identified need not provided for through existing facilities within the main-built up areas of 'settlements central to the delivery of the spatial strategy', or villages covered by Spatial Policy 3 'Rural Areas'; or that
- Supports rural regeneration through the appropriate re-use and conversion of existing building.

Proposals would then need to be assessed against their design and layout and individual local character impacts.

Clearly some of the above bullet points would hold little to no relevance to the current application (for example those that relate to existing tourism facilities). In terms of assessment against the other points of potential relevance, I have had regard to the Planning, Design and Access Statement submitted to accompany the application. This identified that Sherwood Forest is a major international tourist attraction which is to be further enhanced through the provision of a new visitor centre. This statement is by no means disputed.

As with the Statement in relation to the extant proposal, the submitted Design and Access Statement states that:

*"The development proposed will complement the range of other tourist attractions in the locality, by providing overnight accommodation for visitors wishing to stay in this area, seeking to visit Sherwood Forest, the Paintball / Adrenalin Jungle, the Karting centre, Rufford Abbey and Park, Clumber Park and Edwinstowe, amongst others, as well as opportunities to walk and cycle."*

In this context, I find it relevant to refer to a previous appeal decision for application 15/00975/FUL (also referenced in the current application submission). This application related to the siting of a log cabin for tourist accommodation at 9 Deerdale Lane in Bilsthorpe. The LPA refused the decision however it was subsequently allowed at appeal. Clearly this was assessed in the context of the extant wording of CP7 rather than the policy advancing through plan review. I do however consider the following statement of the Inspector to be of relevance to the current application assessment:

*“7. Despite the position of the appeal site relatively close to the A614, it is a tranquil and peaceful location, set within an extensive area of woodland. I consider that this together with the availability of leisure facilities nearby means that it would be an attractive location for visitors. This is evidenced by the high occupancy rates at the existing tourist accommodation further along Deerdale Lane, evidence not disputed by the Council.*

*8. Though I acknowledge that the other occupancy figures put forward relate to much larger holiday parks, they do nevertheless relate to sites close to the appeal site and serve to demonstrate that there is a demand for overnight accommodation in the area. This evidence together with the general support of Experience Nottinghamshire for new accommodation particularly in the Sherwood Forest area leads me to conclude that there is an identified tourism need for the proposal in this rural location and that this need could not be met elsewhere.”*

Matters of character will be discussed in further detail below, but the assessment of a tranquil and peaceful location would apply to the current application site as well. The agent has also submitted details of occupancy rates to accompany this application which I would have no reason to dispute. In acceptance of this position, and the precedent which has been set by the appeal decision referred to above, I consider that the proposed tourist accommodation unit would meet a need for additional tourism provision in an established tourist location. The proximity of the site to the Sherwood Pines Visitor Centre would also be deemed to offer support for a countryside attraction.

Policy DM8 places a requirement on tourist accommodation to support local employment, community services and infrastructure. As well as the support to the nearby facilities already identified, the agent has identified that, based on a separate proposal for new log cabins, each cabin would generate around £354k over its lifetime as well as approximately £100k build value for local contractors. Whilst these figures have not been independently verified as part of the current determination, it is not disputed that the proposed end use would make some contribution, albeit likely to be marginal given it relates to one unit, to the local economy.

The D2N2 Visitor Accommodation Strategy 2017 aims to provide a robust assessment of the future opportunities for visitor accommodation development across Derbyshire & Nottinghamshire and the requirements for public sector intervention to support and accelerate visitor accommodation. In addition to considering and analysing existing provision, the study looked at new provision of accommodation across the above area. As part of the assessment the strategy identified a number of potential areas for expansion with the research findings showing clear scope for significant expansion of glamping accommodation. The D2N2 Visitor Accommodation Study also shows significant interest in, and market potential for, the development of all forms of non-serviced accommodation (holiday cottages, holiday lodges and lodge parks, golf lodges, fishing lodges, eco lodges, holiday resorts, holiday parks, caravan and camping sites, camping pods, glamping, treehouses, hostels, bunkhouses and outdoor education centres) across the D2N2 area, particularly in Sherwood Forest.

On this basis I find that the proposal would comply with both the extant and the emerging SP7 and therefore represent appropriate development in the open countryside in the context of Policy DM8. It nevertheless remains that the proposal will need to be assessed against the remainder of the Development Plan including in respect of character; amenity and highways impacts.

#### *Impact on Character*

The District has undertaken a Landscape Character Assessment in order to assist interpretation of Core Policy 13. The application site is within the Sherwood Policy Zone 6: Sherwood Pines Wooded Estatelands. The landscape condition of this Policy Zone is very good with a low sensitivity. In terms of built features it is explicitly stated that the expansion of the recreational and leisure facilities should respect the landscape character of the setting within the woodland.

Despite permission being granted (which remains extant) for the conversion of the existing timber building to a unit of holiday accommodation, the current application seeks full planning permission to demolish this building and erect a new unit of accommodation along the south western boundary. Having assessed the visual character of the building, I have identified no objection to its demolition in principle.

The proposed unit is of relatively modest construction with the intention of utilizing timber and tiles as per the existing building. Whilst offering a more consolidated building (the existing building has a flat roof lean to addition), overall the proposed building would be visually comparable with the building which exists on the site. I therefore do not consider that the proposal would amount to any perceptible character impacts which would amount to harm worthy of refusing the application against Core Policy 9; Core Policy 13; or Policy DM5.

#### *Impact on Highways*

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

The proposal relates to a single unit of tourist accommodation accessed via an existing private road from the B6030. The very nature of the development is to attract visitors into a rural landscape which can be enjoyed by sustainable modes of movement such as walking and cycling. However, it is fully appreciated that occupiers are likely to have to use private vehicles upon arrival and departure to the site. Even if there were to be a turnover of occupation every night, the level of vehicular movement would be comparable to a single residential dwelling (i.e. usual work commutes etc.) The access is narrow at points and the comments regarding visibility are noted, but the existing users (including the host dwelling and their attached neighbour) would be familiar with such arrangements such that I do not anticipate that a single tourism unit would materially change the established position. There is adequate space within the site for parking away from the access which would not cause obstruction. The application has been informally discussed with the Highways Authority and they have confirmed that they have no objections to the proposal. On this basis I have identified no harmful highways impacts which would warrant resistance of the proposal.

### *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.

The very nature of the end use is that occupiers would be using the building for short term holiday use. I therefore do not consider that the level of amenity required would be as strict as that associated with a residential dwelling. Nevertheless, the building is well separated from the host dwelling and relatively secluded. It is situated south of the closest neighbouring property (no.1 Forestry Holdings) with the attached host dwelling intervening. There is a distance of around 15m between the boundary of no. 1 Forestry Holdings and the proposed application site and clearly there is built form (albeit proposed for demolition) established such that I do not anticipate additional overbearing impacts. The building is single storey and well screened within the site such that I do not consider that the proposal would introduce additional overlooking impacts.

I appreciate that there will an increased level of activity at the site such as vehicular movements or noise from the enjoyment of outside space but I do not consider that this would be perceivable against the amenity relationship already established by the adjacent adjoining neighbor. On this basis the proposal would comply with Policy DM5.

### *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. Paragraph 8 of the NPPF confirms that one of the overarching objectives of the planning system is its environmental objective which includes the need to improve biodiversity.

Whilst not referenced through the application submission, the site is within close proximity to the Site of Special Scientific Interest (SSSI), Birklands and Bilhaugh Special Area of Conservation (SAC) and the Sherwood Forest Natural Nature Reserve (NNR).

The site is also within the 5km buffer zone of the Potential Special Protection Area (pSPA) relating specifically to the presence of woodlark and nightjar. Within this area, a precautionary approach should be adopted by LPAs to ensure that reasonable and proportionate steps have been taken in order to avoid or minimise, as far as possible, any potential adverse impacts upon these birds within the Sherwood Forest Area.

The development relates to the development of a single tourism unit. Whilst there would inevitably be increased human activity arising from the development, I do not consider that this would be to a significant degree which would warrant concern to this application.

The building is currently used for storage however is clearly not in frequent use and given its nature presents a potential for ecological value for bats. On this basis the application has been accompanied by a Preliminary Roost Assessment dated June 2018. The building was identified as having negligible suitability to support roosting bats and also negligible potential for foraging and community bats. The report does however go on to make recommendations that work should be conducted outside of the bird breeding season.

### *Other Matters*

Comments received during the consultation period have raised concern in respect to issues on the water supply stating that the pressure is already poor. However, I do not consider that it would be reasonably justified to resist the current application on this basis. The additional unit is small scale in nature and issues with existing water supply issues would require resolution with the relevant provider outside of the current application process.

Comments were also made in terms of the deeds of the properties preventing the operation of businesses. This would be a private legal matter and therefore not a material planning consideration. In any case the agent has advised that this covenant is in the process of being removed by solicitors.

### *Conclusion*

The application site has been subject to a refusal for a holiday unit in the past, a decision which was supported by the Planning Inspectorate. However, more recently, planning permission has been granted for a tourist unit through the conversion of the building now sought for demolition. In the intervening time since this the refused decision, there have been other appeal decisions also within the Sherwood Forest area which in Officers submission must be afforded weight. The decision referred to at a site in Bilsthorpe accepted that even a single tourism unit can contribute towards the need for additional accommodation within the District. In a careful consideration of the current proposal against both the extant and emerging Core Policy in relation to tourism, Officers find the current proposal to be acceptable in meeting a need for tourism accommodation in the open countryside. No other detrimental impacts have been identified which would warrant resistance of the application and therefore the recommendation of Officers is one of approval subject to the conditions as outlined below.

### **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 reference:

- Amended Site Location Plan – FH-01
- Proposed Plan and Elevations – FH-03
- Proposed Site Plan – FH-04

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 used for holiday accommodation and for no other purpose including any other purpose within Class C3 'Dwelling Houses' of the Town and Country Planning (Use Classes) Order 1987. It shall not be used by any person as their sole or main residence.

Reason: To avoid the creation of a separate residential unit in a location which would not be considered sustainable for such and in acknowledgement of the intentions of the application.

04

No part of the development shall be brought into use 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 implemented prior to the occupation 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.

05

To avoid negative impacts to nesting birds, any clearance works of vegetation on site should be conducted between October to February inclusive, outside the bird breeding season. If works are conducted within the breeding season, between March to September inclusive, a nesting bird survey must be carried out by a qualified ecologist prior to clearance. Any located nests must then be identified and left undisturbed until the young have left the nest.

Reason: In order to protect biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

06

The owners/operators of the visitor accommodation hereby approved shall maintain an up-to-date register of the names of all owners/occupiers of the accommodation on the site. This register shall be made available within 1 calendar month of a written request by the Local Planning Authority.

Reason: The proposed unit/visitor accommodation would be situated in the open countryside, outside any defined settlement boundary where new residential development will be strictly controlled. The proposed unit/accommodation is only acceptable as a tourism development. To grant permission without such a condition would be contrary to policies Core Policy 7 of the Core Strategy and Policy DM8 of the Allocations and Development Management DPD.

07

The unit hereby approved shall not be occupied as a person's sole or permanent place of residence.

Reason: To ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation in the interests of sustainable development in accordance with Core Policy 7 of the Core Strategy and Policy DM8 of the Allocations and Development Management DPD.

08

The development hereby permitted for use as holiday use and 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 unit is not occupied for residential purposes in a location where new residential development would not normally be permitted in accordance with Core Policy 7 of the Core Strategy and Policy DM8 of the Allocations and Development Management 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

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).

#### Background Papers

##### Application Case File

For further information, please contact Laura Gardner of 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**



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## PLANNING COMMITTEE – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/01592/OUT</b>		
<b>Proposal:</b>	<b>Erection of a proposed dormer bungalow (resubmission)</b>		
<b>Location:</b>	<b>Meadow View, Fiskerton Road, Rolleston, Newark On Trent, Nottinghamshire, NG23 5SH</b>		
<b>Applicant:</b>	<b>Mr &amp; Mrs Reilly</b>		
<b>Registered:</b>	<b>23 August 2018</b>	<b>Target Date: 18 October 2018</b>	<b><i>Extension Agreed to: 9.11.18</i></b>

**The application is referred to the planning committee as the officer recommendation is contrary to the view of the Parish Council.**

### The Site

The site is situated within the parish of Rolleston and comprises an approx. 18 m x 44 m parcel of land within the larger approx. 50m x 41m paddock situated to the south-east of 'Meadow View' which is to the south side of the village of Rolleston off Fiskerton Road. Further to the south east of the site is a field which serves the adjacent agricultural unit – across this field is the property known as 'Springfield Lodge'.

To the north and north-east of the site is agricultural land and countryside. There are properties in existence across the highway to the south-west of the site which are set back within their plots and are surrounded by open fields to the rear and SE. Some 60 m to the south of the application site there is no development present across the highway and on the north side of Fiskerton Road development terminates at Springfield Lodge until 'New Manor Farm' approx. 200 m to the south-east. The remainder of the area is characterized by open countryside.

The NE portion of the application site is defined as FZ2 as identified by the EA flood mapping with the south west corner of the site identified as FZ1. The wider paddock land to the SE is mostly FZ2 with the north-east portion of the paddock within Flood Zone 3 and a drainage dyke to the south-east of the site that runs along the site boundary with a portion of land benefiting from flood defenses to the south.

The EA flood mapping provides a low resolution image to identify FZ areas from making percentage differentiation between FZ2 and FZ1 difficult to interpret. The FRA submitted with this application does interpret land levels but still highlights how the north eastern portion of the size is FZ2.

The general character of the Fiskerton Road area in the immediate locality around the application site is characterised by ribbon development with dwellings of varying sizes and designs with the main bulk of the dwellings set back within their plot c.10-20m in most cases (noting that there are instances where projecting garages are closer to the highway). Most dwellings have reasonably sized and spacious curtilages.

### Relevant Planning History

18/00697/OUT – Erection of a proposed dormer bungalow (all matters reserved except for access)  
– Refused 04.07.2018

01

In the opinion of the Local Planning Authority the application site lies outside of the main built up part of Rolleston and it therefore falls to be assessed as development in the open countryside. Both national and local planning policy restricts new development in the countryside. Spatial Policy 3 (Rural Areas) of the Core Strategy and Policy DM8 (Development in the Open Countryside) of the Allocations and Development Management DPD seek to strictly control development in the countryside and limits this to a number of exceptions. This application does not meet any of the exceptions. This proposal represents an unsustainable form of development where there is no justification and the proposal could lead to pressure for similar developments elsewhere in the open countryside that consequently would be difficult to resist if this scheme were to prevail. The proposal is therefore contrary to Spatial Policy 3 (Rural Areas) of the adopted Newark and Sherwood Core Strategy and Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management DPD which together form the Development Plan as well as being contrary to the NPPF which is a material consideration.

02

The outline nature of the application seeks confirmation of the acceptability of the principle of the development on site and reserves matters including layout, appearance, landscaping and scale for subsequent approval. As such, it is not possible to consider a precise layout of the proposal as part of this application. The site lies within both Flood Zones 1 and Flood Zones 2. No sequential test has been submitted with the application. This development is speculative and there is no identified need for a dwelling at this site. There are many other sites within the district that are within Flood Zone 1 at lower risk of flooding that could accommodate such a dwelling. Nor has it been demonstrated that no adverse impact on flood risk would result. As such the proposal is contrary to Core Policy 9 and Core Policy 10 of the adopted Newark and Sherwood Core Strategy 2011, Policy DM5 of the Allocations and Development Management DPD as well as the National Planning Policy Framework 2012 and National Planning Practice Guidance, which are material considerations.

### The Proposal

Outline planning permission is sought for the erection of a dormer bungalow on the paddock land. The application is in outline form with only access and layout a consideration and matters of Appearance, Landscaping and Scale all reserved.

The dwelling is proposed to be sited in the portion of the site that is defined as FZ1 by the EA Flood Mapping. The dwelling is proposed to be set back c. 8.8 m from the SW boundary hedgerow and 1.2 m from what is shown on the plan as the boundary between the new dwelling and 'Meadow View' to the NW. The rear elevation of the new dwelling would be in line with the principal elevation of Meadow View - a 2.2 m separation distance would be present here between the side elevations.

The dwelling is proposed to be 8.8 m wide and 11.3 m maximum depth with an area of 86.5m<sup>2</sup>. The rear elevation has been designed in an L shaped arrangement which appears to be to avoid having any part of the dwelling situated within land that is designated as FZ2. From the site location plan it appears that the dwelling is proposed to be situated within a plot that would be c.14.6 m wide and c.43.2 m deep.

The application also seeks outline planning permission for the reconfiguration of existing access arrangements to serve the proposed dwelling. Both dwellings would share the same access.

The site is defined as being largely within Flood Zone 2 in accordance with the Environment Agency flood zone mapping, mapping with the south west corner of the site identified as FZ1 - The submitted plans show the application site is capable of accommodating the proposed dwelling in flood zone 1.

Documents submitted with this application:

- Planning Application Forms and Ownership Certificate
- Site Location Plan (1:2500) Drawing Ref 340/2018
- Proposed Site Layout Plan (1:500) Drawing Ref 340\_2018\_01Rev B
- Planning, Design and Access Statement (GPS)
- Flood Risk Assessment – Rob Lobley Consulting Ref. RLC/0246/FRA02

#### Departure/Public Advertisement Procedure

Occupiers of 6 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 3 – Rural areas  
Spatial Policy 7 – Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 – Sustainable Design  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character

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

Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM12 – Presumption in Favour of Sustainable Development

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

National Planning Policy Framework 2018  
Planning Practice Guidance 2014  
Landscape Character Assessment SPD 2014

#### **Consultations**

**Rolleston Parish Council** – Support the proposal - “The parish council noted that the application is in outline only and would expect to have the opportunity for further consultation when detailed information becomes available. It is noted that the property’s indicated siting within the application land has been revised since the original submission but still has concerns in relation to proximity to the road and access.”

**NCC Highways** – “This is an outline application (resubmission) for the construction of a new bungalow adjacent Meadow View. The existing access for Meadow View is to be widened and will serve both dwellings.

There are no highway objections to this proposal subject to the following:

1. No part of the development hereby permitted shall be brought into use until the access has been completed, surfaced in a bound material, and have a minimum width of 4.25m for the first 5m rear of the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority and thereafter constructed in accordance with the approved details.

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

2. Pedestrian visibility splays of 2m x 2m shall be provided on each side of the vehicle access. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstructions over 0.6m above the carriageway level at all times.

**Reason:** In the interests of pedestrian safety.

3. No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The area within the visibility splays referred to in this Condition shall thereafter be kept free of all obstructions, 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.

4. No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with drg. no. 340.2018.01. The parking areas shall not be used for any purpose other than the parking of vehicles.

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

#### Note to Applicant

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.”

**NSDC Access & Equalities** – “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 maneuverability 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 maneuver 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."

**The Environment Agency** – "The site falls in Flood Zone 2 and Standing Advice can be applied. The site may be and island in a major flood event and the Emergency Planner should be consulted regarding access and egress."

**NCC Flood Risk** – "Thank you for inviting the Lead Local Flood Authority (LLFA) to comment on the above application. Having considered the application the LLFA will not be making comments on it in relation to flood risk as it falls outside of the guidance set out by Government for those applications that do require a response from the LLFA.

As a general guide the following points are recommended for all developments:

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 Emergency Planner** – "Whilst the living area of the planned building is not within flood zone 2 or 3 it should be noted that access roads to the property may be subject of flooding in effect creating an island effect for the dwelling. The impact upon emergency services or other critical responders may be dependent upon the resilience or vulnerability of residents. Previous flood events demonstrate that residents who witness rising flood waters may become fearful of the consequences and attempt to call upon council services for support. Residents would be expected to prepare personal flood plans and it would be advisable for flood impact mitigation measures to be planed into the building to both limit the potential impact of a severe flood but to also provide reassurance to residents. This may affect the design of thresholds, siting of utility controls and internal wiring."



**LCC Historic Environment Officer - Archeological Advice** – This site lies within the core of the settlement of Rolleston and immediately to the rear of this site there are possible earthworks of medieval date. Across the road there is a large site that has been identified as a possible Iron Age – Roman settlement. This suggests that the proposed development could disturb archaeological finds and features that could inform us regarding either the medieval settlement of Rolleston, or the earlier Iron-Age to Roman use.

Recommendation: Prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction. Initially I envisage that this would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features.

"Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation. 'Policy 189 National Planning Policy Framework (2018)'.

A brief will be produced by this department which will lay out the details above, and the specification for the work should be approved by this department prior to the commencement of works. Please ask the developer to contact this office for further details."

***One Neighbour comment has been received in support of this proposal.***

#### Comments of the Business Manager

I consider that the main issues in assessing the proposal to relate to (1) the principle, (2) flood risk issues, (3) highway matters and (4) the impact on neighbours. Each matter is addressed in turn below:

#### *Principle (including position on 5 Year Housing Land Supply)*

With regards to the Councils current position with regards to 5 year housing land supply it is relevant to acknowledge that at the present time the LPA is well advanced in the process of a plan review with an examination which took place in February 2018. For the avoidance of doubt the Council considers that it has a 5 year housing land supply against the only objectively assessed need (OAN) available and produced independently by consultants and colleague Authorities. Therefore for the purposes of decision making, the Development Plan is considered to be up to date. This has also been confirmed by Inspectors through recent appeal decisions dated April 2018 following a Public Inquiry. Therefore paragraph 11 of the NPPF is not engaged and the policies of the Development Plan are up-to-date for the purpose of decision making.

The site is situated within the parish of Rolleston, which in accordance with Spatial Policy 1 (Settlement Hierarchy) of the Core Strategy is defined as an 'other village' which is the lowest housing tier. The site is situated to the south side of the village of Rolleston off Fiskerton Road and relates to approximately 50m x 41m paddock situated to the south-east of 'Meadow View', further to the south east of the site is a field which serves the adjacent agricultural unit – across this field is the property known as 'Springfield Lodge'.

To the north and north-east of the site is agricultural land and countryside, given the reduction in density of development along this part of Fiskerton Road and to the south-east of the application site I consider this site to be outside of the built up area of the village. Whilst I acknowledge that there are properties in existence across the highway to the south-west of the site I note that these are set back within their plots and are surrounded by open fields. Some 60 m to the south of the application site there is no development present across the highway and on the north side of Fiskerton Road development terminates at Springfield Lodge until 'New Manor Farm' approx. 200 m to the south-east. The remainder of the area is characterised by open countryside.

It therefore falls in the first instance to consider the proposal against Spatial Policy 3 relating to Rural Areas. Under this policy development away from the built up areas of villages, in the countryside, will be strictly controlled and restricted to uses which require a rural setting. The policy goes on to direct the decision maker to an open countryside policy in the Allocations and Development Management DPD, being the extant Policy DM8. This policy is considered up to date for the purposes of decision making and is NPPF compliant.

The scheme proposed here is considered to be beyond the main built up area of the village and would constitute further ribbon development. Core Strategy Policy DM8 reflects the NPPF in containing criteria for considering development in the open countryside, focusing on strictly controlling development to certain types. With reference to new dwellings, the policy stance is that: *'planning permission will only be granted for new dwellings where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area.'*

The Council recognises that an inspector's decision in respect of Land to the South of Bilsthorpe Road in Eakring, dated 23rd January 2018 and the dismissed challenge to the decision (under section 288(1) of the Town and Country Planning Act 1990), concluded that policy DM8 of the Allocations and Development Management Plan Document, and Policy SP3 of the Core Strategy, are inconsistent with paragraph 55 of the NPPF and out of date, so that the weight given to any conflict with them should be greatly reduced. Whilst this challenge was dismissed I would refer to the recently dismissed September 2018 appeal (APP/B3030/W/18/3199931, 16/00033/OUTM) which also considered a proposal for new housing within the open countryside.

In this appeal the Inspectorate states:

*"11. Paragraph 55 of the now superseded Framework advised that new isolated homes within the countryside should be avoided unless there are special circumstances. This has been carried forward into paragraph 79 of the revised Framework.*

*12. Reference has been made to an appeal decision (Appeal Ref APP/B3030/W/17/3169590) that was subject to a recent unsuccessful judicial review by the local planning authority. The appeal decision found, on the basis of the Braintree District Council judgement (Braintree District Council v Secretary of State of Communities and Local Government & Others [2017] EWHC 2643 (Admin)), that in terms of paragraph 79 of the Framework a development on the outskirts of a village was not isolated. As a result, it concluded that the same development plan policies at stake in this appeal that restrict development that was not in an isolated location were at odds with the interpretation of national policy. This greatly reduced the weight the Inspector attached to the proposal's conflict with development plan policy and was an important factor in allowing the appeal.*

*13. However, I disagree with the Inspector on this point. For strategic reasons, new build open market housing is not required by the development plan within the countryside outside the main built up areas of 'Other Villages' and is strictly controlled. I do not accept therefore that there is any inconsistency between development plan policy and the Framework in terms of the spatial strategy of the Core Strategy. As a result, the weight attached to the conflict between the proposal and the policies of the development I have identified should not be reduced.*

*14. In allowing the appeal the Inspector found that the benefits of the proposal were sufficient to warrant granting permission. It is an established principle though that each application is assessed on its merits. The Inspector exercised his judgement in the cited appeal based upon the evidence before him, as shall I in relation to the evidence before me in relation to this appeal. For the reasons that I have given, reference to this appeal decision and the failed judicial review therefore has not altered my findings in relation to this appeal."*

Similarly to the Inspectorate the Council respectfully considers the case at *Land to the South of Bilsthorpe Road in Eakring* to be a rogue decision and as such will proceed on the basis that Policy DM8's approach to controlling development in the countryside for the purpose of promoting a sustainable pattern of development in accordance with CS SP3 is fully consistent with the Framework. Policy DM8 will therefore be accorded full weight.

#### *Location of the Development and Sustainability*

Whilst the site is judged to be countryside, given its located at the edge of Rolleston, is not necessary considered truly isolated. However, with reference to access to services and other villages I have the following observations; the site is within relatively close proximity to a bus stop on Fiskerton Road which provides hourly access to the settlements of Southwell & Newark. The village also benefits from a train station which has connections to Nottingham and Newark.

However facilities in Rolleston are limited to a pub/restaurant, village hall & church. In the inspectors appeal decision in 2008 (Appeal Ref: APP/B3030/A/07/2060030/NWF (Application Reference: 07/01286/FUL)) it was stated that 'although the adequacy of public transport services to the village may be disputed this consideration alone would not make this as sustainable a location as a larger settlement with more services.'

As I have concluded that the site is not within the main built up area of Rolleston, it must be assessed Policy DM8 of the Allocations and Development Management DPD. This states that "planning permission will only be granted for new dwellings where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area." In order for the principle of development within this location to be acceptable, that the proposal would need to accord with the aforementioned policy and be of a style and design that reflects the highest standards of architecture which has not been demonstrated as part of this outline planning application.

Paragraph 55 of the now superseded Framework advised that new isolated homes within the countryside should be avoided unless there are special circumstances. This has been carried forward into paragraph 79 of the revised Framework which states "Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply..." The only circumstance listed that could apply to this proposal is (e) "the design is of exceptional quality, in that it:

- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”

As above, no information has been provided regarding design, whilst the indicative plan shows a dwelling that would be of a relatively comparable scale with neighbouring properties, it has not been demonstrated that the dwelling would be of exceptional and innovative design or that it would significantly enhance the immediate area. In fact I consider the layout plan would not be entirely sympathetic to the defining characteristic of the built form of the local area insofar as it would be set further forward within its plot than the surrounding built form, contrasting with the urban grain of this part of Fiskerton Road. An observation that is mirrored in the planning statement that explains *“The general prevailing character of the Fiskerton Road area in the immediate locality around the subject site ... remains as ribbon development with dwellings of varying sizes, designs and ages irregularly set back from the road in reasonably spacious plots.”* This development would result in a tighter knit arrangement of built form on the site with the principal elevation of this dwelling sat approx. 11 m closer to the road than the principal elevation of the main body of the neighbouring dwelling ‘Meadow View’ - noting that the projecting wing of the dwelling forms a single storey garage area (SW projection).

It is the Council’s view that whilst not ‘isolated’ in a true sense in that would not be very far from the village, the primacy of decision making should be with the Development Plan in a plan led system. Policy DM8 is considered as up to date and should therefore take precedent.

However, the proposed development site is a grassed paddock devoid of built form and as such is considered as a green field site. The proposed development would result in an extension of the built form of the village in the surrounding countryside. In my view the development is clearly open to view and would be prominent from the highway and across the adjacent fields. I conclude that the proposed development would harm the open and undeveloped character of the surrounding countryside by encroaching into the countryside which would constitute an unsustainable pattern of development. It would also set a precedent that would make similar forms of development difficult to resist the cumulative effect would be to have further harmful encroachment if repeated elsewhere.

I maintain the judgement that this site is not isolated in the true sense and in response the agent has countered this referencing the High Court judgement of Braintree District Council v SoS for CLG, Greyhead Ltd & Granville Developments Ltd [2017] EWHC 2743 which considered the interpretation of the term ‘isolated homes in the countryside’ within paragraph 79 (was 55) of the NPPF.

In response to this I would highlight that in the judgement by Mrs Justice Lang, it is clear that Braintree District Council had a supply of housing land that fell well below the 5 year supply required by paragraph 73 (was 47) of the NPPF and such the Development Plan was considered out-of-date for decision making.

This is a marked difference to the position of this Council and in this case. This Council has robust evidence that demonstrates a 5 year supply of housing land available and this has not been contested by the applicant in this case. As such the provisions of the point (c) of ‘decision taking’ of the NPPF paragraph 11 (was 14) applies and the second point (d) of (decision taking) paragraph 11 of the NPPF does not apply.

Section 38(6)(Planning and Compulsory Purchase Act 2004) requires applications be determined in accordance with the development plan, and paragraph 2 of the NPPF confirms that applications for planning permission must be determined in accordance with it unless material considerations indicate otherwise. In this case the application is assessed against the provisions of the Development Plan which is a significant different to the Braintree judgement that has been referred to by within the Planning Statement.

Paragraph 79 (was 55) of the NPPF is a material consideration to the application at hand but not a primary one albeit it largely reflects contents of Development Plan in any event.

The test of Policy DM8 criteria 3 requires planning permission will only be granted for new dwellings where *'they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristic of the local area.'* Having considered the proposal it is my opinion that given no detail has been submitted for me to consider the design and/or innovation of the proposal, I cannot conclude that this dwelling would be of exceptional quality or innovative in nature sufficient to constitute the special circumstances required to outweigh the inappropriateness of development in the Open Countryside.

Whilst the Braintree judgement is an interesting one, it is not considered to be directly relevant to this application given that in this case the decision should be made against the Development Plan, which is compliant with the NPPF.

I therefore remain of the view that the principal of a new dwelling in this location would serve to further extend the ribbon pattern of development of this part of Fiskerton Road into an area that would result in the loss of undeveloped countryside and is therefore unacceptable in principle.

#### *Impact on the Character of the Area: Layout*

The NPPF states that good design is a key aspect of sustainable development, this is mirrored by Policy DM5 (ADMDPD) which confirms the requirement for new developments is to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing.

The general character of the Fiskerton Road area in the immediate locality around the application site is characterised by ribbon development with dwellings of varying sizes and designs with the main bulk of the dwellings set back within their plot c.10-20m in most cases (noting that there are instances where projecting garages are closer to the highway). Most dwellings have reasonably sized and spacious curtilages.

The dwelling is proposed to be sited in the portion of the site that is defined as FZ1 by the EA Flood Mapping. The dwelling is proposed to be set back c. 8.8 m from the SW boundary hedgerow and 1.2 m from what is shown on the plan as the boundary between the new dwelling and 'Meadow View' to the NW. The rear elevation of the new dwelling would be in line with the principal elevation of Meadow View - a 2.2 m separation distance would be present here between the side elevations. There would be approx. 4.6 m between the side elevation of the new dwelling and what has been marked on the SLP as the SE boundary to the site.

The dwelling is proposed to be 8.8 m wide and 11.3 m maximum depth with an area of 86.5m<sup>2</sup>. The rear elevation has been designed in an L shaped arrangement which appears to be to avoid having any part of the dwelling situated within land that is designated as FZ2. From the site location plan it appears that the dwelling is proposed to be situated within a plot that would be c.14.6 m wide and c.43.2 m deep.

Properties across the highway are two storey dwellings set back within their plots, the neighbouring property, Meadow View, is a two storey dwelling set approx 20 m back within its plot with a SW projecting single storey garage that is approx 11.5 m back from the edge of the highway.

The property 'The Dairy' is 3 plots to the NW of the application site and is a one and a half storey height. Across the highway to the NW are two bungalow style properties 'Taree' and 'Glenfield'. Given the properties along this stretch of Fiskerton Road are of varying styles and sizes I accept that a dormer bungalow style property would not unduly impact the character of the area. However I note that the surrounding dwellings are generally set back within their plots, on the NE side of Fiskerton Road, where this new dwelling is proposed, the main bodies of the surrounding dwellings are set back c.15-20 m with some dwellings having single storey garage ranges that sit further forward within their plots. The rear elevation of the proposed dwelling would sit in line with the principal elevation of Meadow View and project further SW than the end of the single storey garage.

I acknowledge that across the highway there is a much more uniform build line where properties are set approx 12 m from the highway. There is less uniformity on the NE side of Fiskerton Road but still a general prevailing character of properties being set back within their plots with circulation space to the front and good separation between properties. In this case there would be c.2.2m between the side elevation of the proposed dwelling and the main body of Meadow View – albeit I acknowledge that this would appear as 7.7 m when viewed from the highway given the single storey garage outshot. Despite this, I remain of the view that from the highway it would appear that this property is set closer to the highway than the surrounding dwellings and as such would be a more prominent feature within the streetscene.

It is clear that the new dwelling has been positioned as such within the plot to avoid the built form being within the land that is designated as FZ2 however this would result in the introduction of a single storey property that would contrast with the linear form and grain of the layout of adjacent development.

Overall I consider the positioning of this dwelling would be out of keeping with the prevailing set back characteristic of the immediate locality. The locality is characterised by a linear build line which is set back from the highway c.15-20 m. The proposal would create a dwelling further SW within the plot which would be unsympathetic to the general grain, character, layout and appearance of the surrounding area and is therefore contrary to Core Policy 9 of the Newark and Sherwood Core Strategy DPD (Adopted March 2011) and policy DM5 of the Allocations and Development Management DPD (Adopted July 2013).

#### *Flood Risk*

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. The NPPF adopts a sequential approach to flood risk advising that development should first be directed towards less vulnerable sites within Flood Zone 1. Where

these sites are not available new developments will be required to demonstrate that they pass the exception test by demonstrating that the development provides wider sustainability benefits to the community that outweigh flood risk and that, through a site specific Flood Risk Assessment (FRA), the proposed development can be considered safe for its lifetime and not increase flood risk elsewhere. Both elements of the exception test must be passed for development to be permitted.

Para 159 states that 'If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance'.

Para.160 of the NPPF states when determining planning applications the Local Planning Authority should ensure flood risk is not increased elsewhere. It is stated that decision makers should only consider development appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment following the sequential test, and if required the Exception Test, it can be demonstrated that development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant. This includes safe access and escape routes where required and that any residual risk can be safely managed and it gives priority to sustainable drainage systems.

The NE portion of the application site is defined as FZ2 as identified by the EA flood mapping with the south west corner of the site identified as FZ1. The wider paddock land to the SE is mostly FZ2 with the north-east portion of the paddock within Flood Zone 3 and a drainage dyke to the south-east of the site that runs along the site boundary with a portion of land benefiting from flood defences to the south. The EA flood mapping provides a low resolution image to identify FZ areas from making percentage differentiation between FZ2 and FZ1 difficult to interpret. The FRA submitted with this application does interpret land levels but still highlights how the north eastern portion of the site is FZ2.

This outline application seeks for layout to be considered – the proposed site plan shows that the dwelling has been sited within the portion of the site that is defined as FZ1. The rear garden to the site is within FZ2 and the access is within FZ1. Given the site includes land designated as FZ1 and FZ2 I must apply the aforementioned tests as directed by the NPPF.

The D&A Statement states that the applicant wishes to build a new dwelling to allow the applicants to decant from Meadow View into the proposed, smaller dwelling, with their elderly relatives. The agent states that the applicant has lived in the village for many years and wishes to remain part the local community. As such, sites beyond Rolleston would not provide a reasonable alternative for this purpose, to the application site.

*Paragraph 33 of the Planning Practice Guidance: Flood Risk and Coastal Change* advises that for individual planning applications where there has been no sequential testing of the allocations in the development plan, a pragmatic approach on the availability of alternative sites should be taken and the area to apply the Sequential Test will be defined by local circumstances relating to the catchment area for the type of development proposed. Para. 33 also provides guidance as to the area that should be used in the Sequential Test for the proposal subject to this Flood Risk Assessment. It states that where there are large areas in Flood Zones 2 and 3 and development is needed in those areas to sustain the existing community, sites outside them are unlikely to

provide reasonable alternatives. It also uses the example of an extension for an existing business premises to advise that where the proposal needs to be in a certain location, it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere.

Whilst I appreciate that the guidance uses an example of where alternative locations are unsuitable for a development that requires a particular location, this example is not considered to be applicable for the application at hand. The guidance states that the development must be needed to 'sustain the existing community' – in this context there has been no evidence put forward to demonstrate that there is a specific and identified local need within Rolleston, and therefore, whilst I am mindful that the applicant seeks to construct a dwelling for themselves, or indeed a relative to live in in order for them to remain in the village it is clear that this is a demonstration of personal need rather than that of the wider community.

Given the applicant has failed to demonstrate that there is an identified local need within Rolleston for a new dwelling that could outweigh the Flood Risk concerns and that there are other allocated sites within Flood Zone 1 and more sustainable settlements within the District I consider that the principal of this development site overall would fail the sequential test. However, the layout plan shows that the dwelling is to be positioned in FZ1 and the applicant has demonstrated within the FRA that the dwelling could be constructed on the site whilst ensuring the safety of future occupiers and would not increase the risk of flooding to third parties. Whilst it is accepted that there would be alternative sites within the District that would be at a lower risk of flooding that would be suitable for this development, in taking a pragmatic approach, given the built form and all residential accommodation would be located within FZ1 (with only garden land in FZ2) I am of the view that it would be difficult to conclude and subsequently uphold in an appeal scenario that the new dwelling in this position wouldn't pass the sequential test.

Notwithstanding this, the EA have commented on the application advising that the site may become an island in a major flood event and as such the Emergency Planner has been consulted and has advised "Whilst the living area of the planned building is not within flood zone 2 or 3 it should be noted that access roads to the property may be subject of flooding in effect creating an island effect for the dwelling. The impact upon emergency services or other critical responders may be dependent upon the resilience or vulnerability of residents. Previous flood events demonstrate that residents who witness rising flood waters may become fearful of the consequences and attempt to call upon council services for support. Residents would be expected to prepare personal flood plans and it would be advisable for flood impact mitigation measures to be planned into the building to both limit the potential impact of a severe flood but to also provide reassurance to residents. This may affect the design of thresholds, siting of utility controls and internal wiring."

On balance it is considered that the proposal in this instance, with the siting of the dwelling wholly within the portion of the site within FZ1, satisfies the sequential test and is therefore in accordance with Core Policy 9 and Core Policy 10 of the adopted Newark and Sherwood Core Strategy 2011, Policy DM5 of the Allocations and Development Management DPD and satisfies the Sequential Test as set out in the National Planning Policy Framework 2018, a material consideration. In the event that the application were to be otherwise approved, it is considered that matters of flood risk for the occupiers could be controlled by condition (i.e. requiring specific flood plans).



### *Housing Need*

The D&A Statement states that the applicant wishes to build a new dwelling to allow the applicants to decant from Meadow View into the proposed, smaller dwelling, with their elderly relatives. The agent states that the applicant has lived in the village for many years and wishes to remain part the local community.

I note that development should be considered with the wider public benefit in mind rather than for private interest - such a requirement is not considered to be consistent with the NPPF.

In any case the proposal is not to be assessed against SP3 and the 'need' criteria contained therein. I do however accept that local need can be a material planning consideration where there is clear evidence to support this. However no supporting documents have been provided as part of this outline application. Whilst this can be taken into consideration as an 'other material consideration', given that this need has not been evidenced the 'need' outlined would not outweigh the considerable harm of development in the open countryside and on the surrounding area that would sway the balance in favour of the application.

### *Highway Matters/Access*

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.

NCC Highways have provided their comments in relation to the proposed development based on the indicative layout plan that has been submitted detailing the access arrangement and the visibility splays. The new dwelling would share the existing access point for 'Meadow View' which is proposed to be reconfigured to achieve adequate vehicular visibility splays of 2.40 m x 43 m.

Subject to compliance with the above details in the Highways consultation the application is not considered to detrimentally impact upon the highway and is therefore be in accordance with SP7 and DM5.

Given that the existing access point is to be reconfigured rather than a new access created the works would not have a significant impact on the existing boundary hedgerow as such the proposal would not have an adverse impact upon the character and appearance of the area.

### *Neighbour 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. An assessment of amenity impact also relates to both the existing neighbouring occupiers and the occupiers of the proposed dwellings in terms of the amenity provision. Given that the proposed development is only outline, only the site layout has been provided. Given the separation distances between the individual properties and neighbouring dwellings it is not considered that the proposed layout would detrimentally impact upon the amenity of surrounding properties.

## Community Infrastructure Levy

The site is located within Housing Very High Zone 4 of the approved Charging Schedule for the Council's Community Infrastructure Levy. As such residential development in this area is rated at £100m<sup>2</sup> for CIL purposes. Given that the floor plans have not been submitted as part of this application the CIL charge on the development would be determined at Reserved Matters stage if the application were to be otherwise accepted.

## *Conclusion*

The above appraisal has concluded that the new dwelling would accord with the policies set out within the NSDC Core Strategy and Allocations and Development Management DPD and the NPPF (2018) concerning the impact upon neighbouring amenity, highways safety and flood risk.

Notwithstanding this, with regards to location, the site is not considered to be within the main built up part of Rolleston. It is judged to be countryside and the proposal would be contrary to DM8 of the Development Plan. As a matter of principle the location of the site means that the development would constitute development in the countryside which would represent an unsustainable form of encroachment and would set a harmful precedent for similar forms of development the cumulative impact would be to erode the character and appearance of the village.

Whilst the site is not 'isolated' the proposal does represent an unsustainable form of development when considering matters of sustainability and the proposal is contrary to the Development Plan. There is no need for this speculative dwelling to be located in this particular area. Furthermore the positioning of this dwelling would be out of keeping with the prevailing set back characteristic of the immediate locality. The proposal would create a dwelling set further forward (towards the highway – SW) within the plot which would be unsympathetic to the general grain, character, layout and appearance of the surrounding area and is therefore contrary to Core Policy 9 of the Newark and Sherwood Core Strategy DPD (Adopted March 2011) and policy DM5 of the Allocations and Development Management DPD (Adopted July 2013).

It has been concluded that the proposal would adversely affect the rural setting of the village as a matter of principle and that in any event given that matters of detailed design have not been submitted with this application it fails to be demonstrated that the dwelling would be of "exceptional quality, in that it: is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area" in accordance with the exception point of Para 79 of the NPPF.

The proposal conflicts with the spatial strategy of the adopted development plan which focuses development on larger settlements and strictly controls new housing in the open countryside and 'Other Villages'. Furthermore, the proposal, contrary to the development plan, would also cause demonstrable harm to the character and appearance of the countryside.

The conflict with the spatial strategy of the development plan and harm to the character and appearance of the countryside are matters to which I attach considerable adverse weight, particularly having regard to the Framework's emphasis on plan-led decision making. On balance, the material considerations in favour of the proposed scheme do not outweigh the conflict with the spatial strategy of the development plan and the harm that would be caused. The proposal would be contrary to the development plan considered as a whole and material considerations do not indicate that a decision should be made other than in accordance with the development plan and should be refused accordingly.

## **RECOMMENDATION**

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

01

The site is located within the open countryside where development is strictly controlled and limited to a number of exceptions such as agricultural workers dwellings as identified in policy DM8 (Development in the Open Countryside). The proposal does not meet any of the exceptions listed in DM8 nor those contained within the National Planning Policy Framework (NPPF) a material consideration. It is therefore considered that development of this site would result in an unsustainable form of development that would have an adverse impact upon a rural area which if approved would be contrary to Policy DM8 of the Allocations and Development Management Development Plan Document (DPD) which forms part of the Development Plan as well as undermining strategic objectives contrary to the NPPF. There are no other material planning decision which indicate a decision should be made otherwise.

02

In the opinion of the Local Planning Authority the proposed dwelling would result in the introduction of a visually prominent dwelling which would be out of character with the grain and appearance of built form in the surrounding area. The layout of this dwelling would be out of keeping with the prevailing set back characteristic of the immediate locality. The proposed dwelling would result in built form closer to the boundary with the highway which would be unsympathetic to the general grain, character, layout and appearance of the surrounding area and is therefore contrary to Core Policy 9 of the Newark and Sherwood Core Strategy DPD (Adopted March 2011) and policy DM5 of the Allocations and Development Management DPD (Adopted July 2013) which together form the Development Plan as well as being contrary to the good design principles contained with the NPPF, a material consideration.

### **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 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 - 18/01592/OUT



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## PLANNING COMMITTEE – 6 NOVEMBER 2018

<b>Application No:</b>	<b>18/01711/FUL</b>	
<b>Proposal:</b>	<b>Variation of condition 2 attached to the appeal decision APP/B3030/W/17/317963 for planning permission 17/00623/FUL to amend the proposed floor plans and elevations</b>	
<b>Location:</b>	<b>Land At Rear Of Franklyn, Lower Kirklington Road, Southwell</b>	
<b>Applicant:</b>	<b>ISP Developments</b>	
<b>Registered:</b>	<b>11.09.2018</b>	<b>Target Date: 06.11.2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Southwell Town Council has objected to the application which differs to the professional officer recommendation.**

### The Site

The application site relates to a residential plot which previously formed the western section of garden area associated with Appleyard, a two storey red brick dwelling. The site is situated on the north western edge of the settlement of Southwell and within the urban boundary for the settlement. The site is accessed from a private road which currently provides access to a number of residential dwellings.

The wider land to the south and west is allocated for residential development of approximately 45 dwellings under policy So/Ho/4. The development is situated within Flood Zone 1 in accordance with Environment Agency mapping and is not designated as being prone to flooding from surface water.

### Site History

**18/01506/NMA** - Application for non-material amendment to planning permission 17/00623/FUL to vary the approved plans.

*The NMA application referred to the changes sought by the current variation of condition application. The decision issued 29<sup>th</sup> August 2018 was split. The reason for this decision is that Officers considered it would be appropriate for existing neighbouring properties to be consulted on the proposed change given that the amendment sought proposes a first floor side window in close proximity to the boundary of neighbouring land uses.*

**17/00623/FUL** - Proposed New Dwelling.

*This application was presented to Members with an Officer recommendation of approval in June 2017. However Members were minded to overturn the recommendation and refused the application by decision dated 12<sup>th</sup> June 2017 for the following single reason:*

*“In the opinion of the Local Planning Authority the proposed piecemeal and uncoordinated development of what is clearly a three bedroom dwelling would result in an overly intensive and cramped development owing to the narrow width of the plot and lack of spacing between dwellings. The overly cramped appearance of the development would be out of character with the existing generous plot spacing within the immediate vicinity of the site to the detriment of the character and grain of the surrounding area and furthermore is a development that fails to meet the specific identified housing need of two bedrooms or less for Southwell which is embedded in the Development Plan. The proposal is therefore contrary to Core Policies 3 and 9 of the adopted Newark and Sherwood Core Strategy (2011) as well as Policy DM5 (Design), Policy So/HN/1 (Southwell Housing Need) of the adopted Allocations and Development Management DPD (2013) which together form the Development Plan as well as the NPPF which forms a material consideration. There are no other material planning considerations that would in the opinion of the Council outweigh such harm.”*

*The applicant subsequently appealed the decision and the Inspector allowed the proposal by decision dated 24<sup>th</sup> October 2017.*

**17/00389/FUL** – Erection of single storey 2 bed barn style dwelling. Approved May 2017.

**17/00221/FUL** - Variation of condition 2 attached to 16/01388/FUL to allow amendments to plot 2. Approved February 2017.

**16/02041/FUL** - Change of use from commercial to residential C3 Use. Retaining existing structure with extension to the east side to create bedroom and bathroom area, and smaller extensions to the north and south to create an open plan kitchen/diner with utility room. Approved January 2017.

**16/01388/FUL** - Phased development of four detached dwellings and alterations to existing access and driveway. Approved November 2016.

**15/02179/FUL** - Erection of four detached dwellings and alterations to existing access and driveway on the same application site. Approved July 2016.

### The Proposal

The current application relates to a Section 73 application to vary condition 2 of the Planning Inspector's Decision. For the avoidance of doubt, condition 2 states the following:

*2) The development hereby permitted shall be carried out in accordance with the following approved plan: 514-01 Rev C.*

The supporting documentation for the current application confirms that the development as built is not in accordance with the above plan and therefore seeks to rectify this to allow for the sale of the property. The differences in respect to the plan now proposed for agreement and the approved plan are outlined by the agent's covering Letter dated 10<sup>th</sup> September 2018 as being:

*These amendments were limited to the aforementioned internal configurations, the insertion of a small, secondary first-floor window on the western gable, and an alternative fenestration detail on the rear elevation serving the utility and open plan dining area.*

*The house, footprint, eaves and ridgeline (and number of bedrooms) otherwise remained exactly as originally approved.*

In addition to the aforementioned supporting letter, the current application has been accompanied by the original plan reference referred to by the extant condition and an updated plan reference 514-01 Rev. E.

To be clear, the internal re-configurations include additional floor space at first floor to create three bedrooms at the first floor. The downstairs bedroom which was shown on the approved plans has now been annotated as a study.

#### Departure/Public Advertisement Procedure

Occupiers of six properties have been individually notified by letter.

#### **Planning Policy Framework**

##### The Development Plan

*Southwell Neighbourhood Plan (Adopted October 2016)*

Policy SD1: Delivering Sustainable Development

Policy DH1: Sense of Place

Policy E1: Flood Risk Assessments and Mitigation

Policy E2: Flood Resilient Design

Policy TA3: Highways Impact

*Newark and Sherwood Core Strategy 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 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 and Development Management DPD Adopted July 2013*

DM5: Design

DM12: Presumption in favour of sustainable development

So/HN/1: Southwell Housing Need

#### Other Material Planning Considerations

National Planning Policy Framework 2018

Planning Practice Guidance 2014



## Consultations

**Southwell Town Council** - Southwell Town Council considered application 18/01711/FUL Land At Rear Of Franklyn and agreed unanimously to object to this application and to ask Cllr Bruce Laughton to the call in to NSDC for the following reasons:

The original plans were objected to and only passed at appeal with the condition that the house was built in accordance with approved plan: 514-01 Rev C, the house has an additional extra upstairs bedroom and ancillary rooms making it a four bedroomed house.

**Southwell Civic Society** – ‘When we submitted our comments on 3 October we were completely unaware that the property had already been constructed to Drawing No 514-01 Rev E. The application did not state that it was in fact a retrospective application.

The amended application is for a four/five bedroomed house, which is contrary to Paragraph 6 in the Inspectors report, which states:-

*“It is also pertinent that the proposed unit would be a modest 3-bedroom property with limited floorspace above the ground floor level. Accordingly, there would be no material conflict with CS Policy So/HN/1”.*

We also note that Condition 5 in the Appeal Decision has also been breached and this states:-

*“No additional windows shall be added into any elevation of the dwelling hereby approved unless consent has first been granted in the form of a separate planning permission.”*

In the side elevation with the gable end an additional window has been added, and on the rear elevation an additional window has been added next to the door and the other window has been increased in size.

We feel that to totally disregard the planning process is a serious matter. The applicant obviously had several months to make this application before any work commenced. The applicant was not new to the planning system.

The decision to uphold the Appeal by The Secretary of State for Communities and Local Government’s was on the basis that The Planning Inspector’s recommendations and Conditions would be complied with. Conditions 2 and 5 have clearly been breached. It is important that the house is built in accordance with Drawing No 514-01 Revision C. Not to do so makes a mockery of the whole planning process.

**Neighbours / Interested Parties** - No written representation have been received.

## Comments of the Business Manager

### *Principle of Development*

An application under Section 73 (variation of condition) is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This Section provides a different procedure for such applications for planning permission and requires the decision maker to consider only the question of the conditions subject to which planning permission was granted. As such, the principle of the additional dwelling cannot be revisited as part of this application.

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<sup>th</sup> 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.

#### *Impact on Housing Need*

The comments of the Town Council are noted in terms of the number of bedrooms which the house would deliver. The application plans to accompany the current application detail that the property would be three bedrooms all at first floor. In the case of the original application approved by the Inspector the dwelling was also approved as being three bedrooms but one of the bedrooms was at ground floor (now annotated as a study). Officers are aware that the house has been advertised on the market as a 4 bedroom dwelling with alternative annotations on the floor plan showing the study as a bedroom (as approved by the Inspector). Officers fully understand the concerns of the Town Council and indeed there is some ambiguity to a degree that a reasonable observer could anticipate the dwelling being used as a four bed property.

Matters of housing mix were addressed through the Officer report presented to Members in the original application confirming the policy preference for one or two bedroom units in Southwell. The application, in seeking a three bed unit, was therefore acknowledged by Officers to be contrary to So/HN/1. This formed part of the reason to the refusal of the application by Members (as detailed in full above).

Subsequently matters of housing need were assessed by the Inspector:

*7. CS Policy So/HN/1 seeks to secure the majority of new housing as 1 or 2 bedroom units. However this is qualified by a requirement to consider local site circumstances. In this case, the provision of a smaller unit is likely to jar with the established character of the locality which comprises large dwellings occupying generous plots. It is also pertinent that the proposed unit would be a modest 3-bedroom property with limited floorspace above the ground floor level. Accordingly, there would be no material conflict with CS Policy So/HN/1.*

Clearly the internal re-configuration which is being sought for approval through the current application would change this position insofar as the first floor space would no longer be considered as limited. Officers consider that this amounts to a material change when comparing the extant approval with the proposal which falls to be assessed through the current application. However, there is an argument to say that the current application would not require planning permission in any case (although the LPA advised that the non-material amendment application referred to in the site history above did require an application, this decision was made in the absence of the additional window being presented as obscurely glazed which it is now).

The difficulty in the current assessment is identifying what, if any, harm amounts from the revisions presented. If the application is considered on its own merits in good faith then it aligns with the number of bedrooms which was assessed and approved by the Inspector. However, in the context of the housing particulars which have been viewed by Officers, there is clearly some doubt to the number of bedrooms to a degree where the property as built would allow for occupation as a four bed dwelling. It is worthy of note that there is nothing procedurally to prevent this being dealt with through the current section 73 application given that the original permission did not refer to the number of bedrooms within the description of development.

In either scenario it remains the case that the proposal is contrary to So/HN/1 and the overall aspirations of the Neighbourhood Plan which seeks to secure smaller units. However, in line with the Inspectors decision above, it has already been accepted on this site that a smaller unit would not necessarily conform with the established character of the locality. Officers are conscious that the dwelling as built (and sought to be regularized through the current application) does not increase the footprint and scale of the original proposal. As Members will be aware, internal reconfigurations do not require planning permission in their own right.

It is also a material planning consideration that the authority has been previously challenged on its application of Policy So/HN/1 through an appeal at Brooklyn on Lower Kirklington Road (APP/B3030/W/17/3179351). The Inspector's decision allowing the appeal was dated 17<sup>th</sup> January 2018 (thus postdating the appeal decision for this site). In respect to matters of housing need the Inspector makes the following comments:

9. *However, the ADMDPD was adopted in 2013 and the justified reasoning for policy So/HN/1 explains that it is based upon the Housing Needs Assessment which informed the preparation of the Core Strategy. As the Core Strategy was adopted in 2011, the data upon which this policy is based is at least 7 years old.*
10. *The most recent evidence on housing need is the Housing Market Needs Sub Area Report which was published in 2014. It found in Southwell that there was a greater need for houses of 3 or more bedrooms than there was for properties of two bedrooms or less. As a result, the proposed development would provide housing of a size for which the current local evidence is the greatest need exists in Southwell. This is an important material consideration which, in my judgement, given that policy So/HN/1 of the ADMDPD is based upon significantly older evidence, outweighs non-compliance with this policy. Owing to the more recent evidence on housing, I find that the proposal would comply with Core Policy 3 of the Core Strategy.*

Bearing in mind the conclusions the Inspector drew regarding So/HN/1, I have therefore considered the most up to date evidence of the housing need in Southwell which is contained within the Housing Needs Survey Sub Area Report 2014 by DCA. This provides that in the Southwell Sub Area (where this site falls) the most needed type of accommodation are 2 beds (37.9%) followed by 4 beds (33%) followed by 3 beds (16.3%) followed by 1 beds (10.1%) and finally five or more beds (2.7%). It confirms that '*In the market sector the main size of property required by both existing and concealed households moving is two bedrooms.*'

On the face of it therefore, the Inspector's conclusions appear to be incorrect. However, following further interrogation it appears that the Inspector was making reference to a cumulative need, i.e. the cumulative percentage need for 3, 4 and 5 beds is 52% which is greater than the cumulative percentage need for 1 and 2 beds at 48%. This does not change the position that the *greatest* need in the market sector is for 2 bed units. What is key from the 2014 Report however is that there is actually a greater need for four bed properties as oppose to three bed units.

In this context, if the LPA were to resist the current proposal purely on the basis that the dwelling was perceived as a four bed rather than a three bed then there would be significant difficulties in articulating the harm to a degree which would be upheld in an appeal scenario. Moreover the LPA would have to consider how it could reasonably remedy the current breach (noting the dwelling is already built). Given that this would relate to the use of internal floor space, this would be extremely difficult (and arguably unenforceable) to secure.

The concerns of the Town Council are fully appreciated. However, Officers are minded to take a pragmatic approach and attach significant weight to the decision of the Inspector which has already accepted a dwelling which would be contrary to Policy So/HN/1/. The potential for an additional bedroom in the position of the ground floor study (as appears to have been presented through the sales particulars seen by Officers) is not considered to be materially worse than the extant scheme to a degree which would warrant resistance of the current proposal. As discussed above, a four bed dwelling would actually better align with the housing need of the Sub Area than a three bed unit.

#### *Impact on Character*

As is identified above, the new dwelling has not been built in accordance with the plan considered by the Inspectorate in approving the development. The changes relate to the internal reconfiguration of the dwelling (which would not require planning permission in any case); the slight reconfiguration of fenestration details in respect to the positioning of windows; and an additional first floor window on the western gable end. The resultant character impacts of these changes would be unperceivable in comparison to the approved extant plan and therefore I have identified no reason to resist the application on the basis of Core Policy 9 or Policy DM5.

#### *Impact on Amenity*

As is identified by the site history section above, the applicant has already attempted to agree the changes sought through a non-material amendment application. However, the decision of the LPA was that the additional windows proposed at first floor on the western side gable could not be considered as non-material as it would be appropriate to seek consultation with potentially affected neighbouring parties. Unlike the non-material amendment application, the section 73 plans show that the window would be obscurely glazed at all times. I have nevertheless assessed the potential impact of this additional window in respect to neighbouring amenity.

The window serves a bedroom annotated to be the master bedroom built in the roof space. The neighbouring property has recently been converted from its previous use as a cattery to a residential dwelling. The planning permission for the conversion also allowed for minor extensions which have been built on site. There is a land level difference between the application site and the neighbouring property to the west such that the additional window is broadly set at single storey height when viewed from the neighbouring plot. The window is orientated primarily towards the roof of the neighbouring development such that it would not afford a direct line of sight (notwithstanding that it is obscurely glazed) to the neighbouring property. There may be some oblique line of sight to the side windows on the neighbouring extension (including a secondary bedroom window and garage windows) but owing to the hedged boundary treatments and aforementioned changes in land level, I do not consider that the window would lead to additional overlooking or loss of privacy which would warrant concern. On this basis I have identified no additional detrimental amenity impacts which would lead to a resistance of the proposal when taking account of the extant scheme which exists. In order to secure an appropriate amenity relationship for the lifetime of the development, I consider it would be appropriate to add an additional condition requiring that the window be retained as obscurely glazed.

As is discussed above, the window would be the sole window serving the additional first floor bedroom. In amenity terms for the occupiers, it is not ideal that the bedroom would be served by a single obscurely glazed window. However, the occupiers would be purchasing the dwelling on this basis and would therefore be aware of the amenity provision for this bedroom. I therefore do not consider this to amount to a reason to resist the application in this instance.

#### *CIL*

Development is CIL liable in this location. I note that CIL has been applied to the original permission and has been paid. Paragraph 007 of the NPPG states the following:

*If the section 73 permission does change the levy liability, the most recently commenced scheme is liable for the levy. In these circumstances, levy payments made in relation to the previous planning permission are offset against the new liability, and a refund is payable if the previous payment was greater than the new liability.*

A CIL liability form has been requested during the life of the application to confirm the floor space of the dwelling as built. The original liability paid can be off-set against the CIL payment.

#### *Conclusion*

The changes proposed through the Section 73 application are relatively minor in their physical form but nevertheless require careful consideration in respect to housing need; character; and amenity impacts. As identified by the appraisal above, the revisions are not considered to create additional harm above and beyond the extant approval which would warrant resistance.

Given that a Section 73 application forms a new planning permission it is necessary to impose all relevant conditions. The conditions rely on those imposed by the Inspector (with the additional condition in respect to obscure glazing as referred to above), where changes have been made this has been indicated through underlined text.

#### **RECOMMENDATION**

**That planning permission is approved subject to the conditions shown below:**

01

The development hereby permitted shall be carried out in accordance with the following approved plan: 514-01 Rev E.

Reason: To define the permission.

02

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.

03

Prior to occupation of the dwelling hereby approved, drainage installation shall be carried out in accordance with the details shown on the approved plan and shall thereafter be so retained.

Reason: To ensure that the site does not increase surface water flooding in the area.

04

No additional windows shall be added into any elevation of the dwelling hereby approved unless consent has first been granted in the form of a separate planning permission.

Reason: In the interests of residential amenity.

05

The first floor window on the side gable of the western elevation of the dwelling hereby approved shall be retained for the lifetime of the development as obscurely 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 1.7m above the internal floor level of the room in which it is installed.

Reason: In the interests of residential amenity.

#### 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 PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

02

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).

#### Background Papers - Application Case File

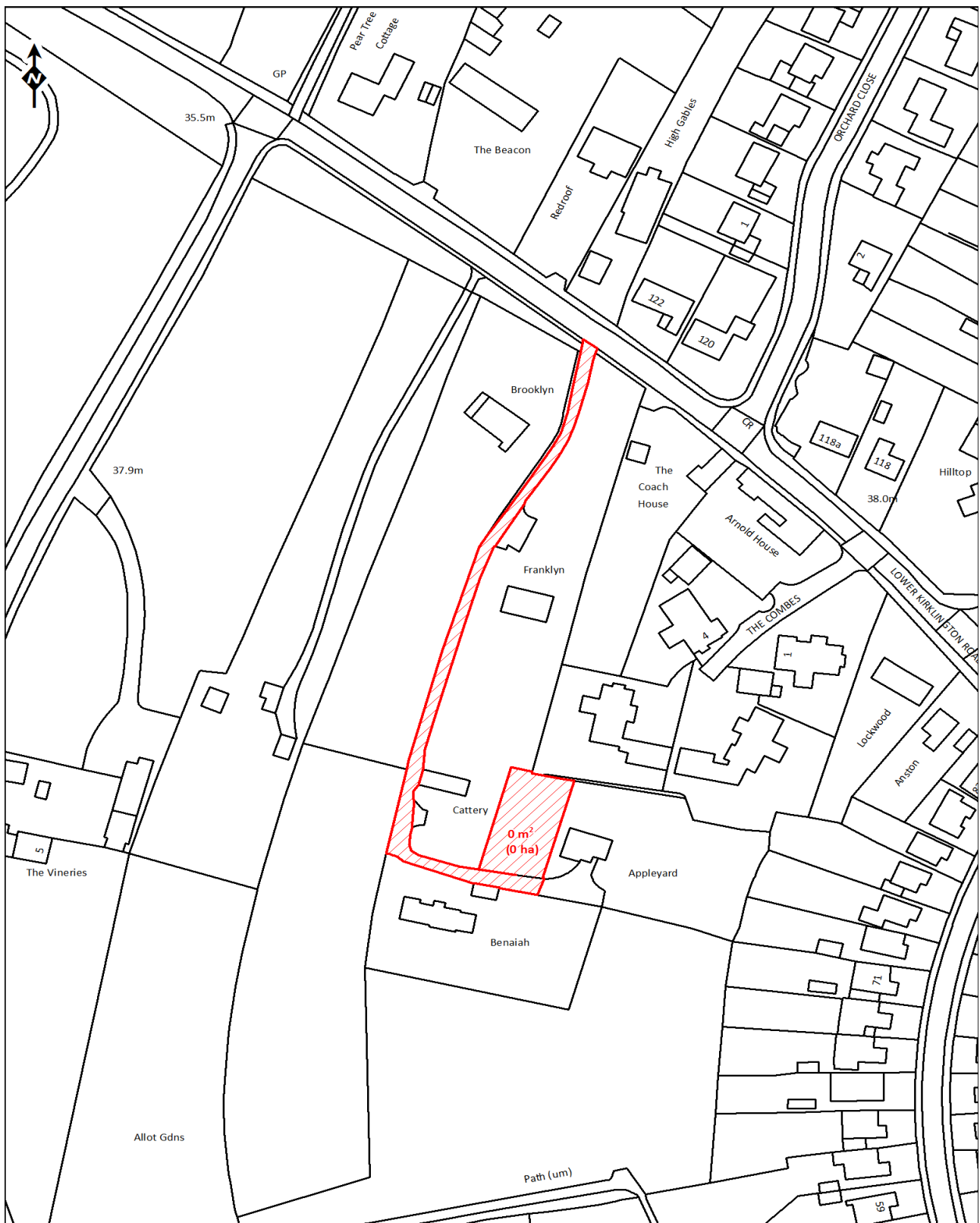
For further information, please contact Laura Gardner on ext. 5907.

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 and Regeneration**

Committee Plan - 18/01711/FUL



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## **PLANNING COMMITTEE – 6 NOVEMBER 2018**

### **APPEALS A**

#### **APPEALS LODGED (received between 12 September and 22 October 2018)**

- 1.0 Members are advised that the appeals listed at **Appendix A** to this report have been received and are to be dealt with as stated. If Members wish to incorporate any specific points within the Council's evidence please forward these to Planning Services without delay.

#### **2.0 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 appeal reference.

**Matt Lamb**

**Business Manager - Growth & Regeneration**



**APPENDIX A**

<b>Appeal reference</b>	<b>Application number</b>	<b>Address</b>	<b>Proposal</b>	<b>Procedure</b>
APP/B3030/W/18/3199422	17/02135/FUL	Old Manor Farm Main Street Farnsfield NG22 8EA	Proposed residential development of four new dwellings for the over-55's market. This application also includes for the Change of Use of the Grade II listed Threshing Barn, (from an annex for the farmhouse to an independent dwelling). The rear barn, which is currently used for storage, is proposed to be converted into an annex to the Threshing Barn dwelling.	Written Representation
APP/B3030/F/18/3200004		Burgess House Main Street Farnsfield NG22 8EF	Appeal against	Written Representation
APP/B3030/W/18/3200272	17/01797/FUL	The Farmstead Maplebeck Road Caunton Newark On Trent NG23 6AS	Construction of 5 no. ecological low carbon bungalows, including new car garage for existing dwelling, following demolition of existing farm buildings.	Hearing
APP/B3030/W/18/3203920	17/01986/FUL	Land Adjacent To Manor Farm Moor Lane East Stoke Newark On Trent NG23 5QD	Construction of new 2 bed bungalow and garage	Written Representation
APP/B3030/W/18/3205827	17/02303/FUL	Land At Orston House 109 Fosse Road Farndon NG24 3TL	Formation of New Vehicular Access to serve Existing Dwelling, Erection of New Dwelling to be served by Existing Vehicular Access	Written Representation

APP/B3030/D/18/3208432	18/00781/FUL	Bridleways Old Main Road Bulcote NG14 5GU	Householder application for proposed single storey rear and side extension	Fast Track Appeal
APP/B3030/W/18/3209387	18/00543/FUL	Primrose Cottage Mansfield Road Edingley NG22 8BE	Siting of 1 no. lodge (modular building) to form annexe to the main house	Written Representation
APP/B3030/W/18/3202735	17/02016/FUL	Garage House Great North Road South Muskham NG23 6EA	Proposed Bespoke Dwelling	Written Representation
APP/B3030/C/18/3196972		Land At Winthorpe Road Newark On Trent	Appeal against	Hearing

**PLANNING COMMITTEE – 6 NOVEMBER 2018**

**APPENDIX B: APPEALS DETERMINED (12 September and 22 October 2018)**

App No.	Address	Proposal	Decision	Decision date
17/01151/FUL	The Old Vicarage Holme Lane Langford NG23 7RT	Change of use and extension of dwelling (including demolition of existing outbuilding) to form C2 residential care home	ALLOW	17.09.2018
17/01863/TPO	1 Friary Gardens Newark On Trent NG24 1JH	Removal of 1No mature Yew tree (reference T8) protected by TPO N99 within G1	ALLOW	15.10.2018
18/00458/FUL	14 Caythorpe Road Caythorpe NG14 7EA	Householder application for proposed loft conversion	ALLOW	20.09.2018
17/00535/FUL	Manvers Arms Public House Mansfield Road Edwinstowe NG21 9PD	Conversion of the Manvers Arms Public House Class A4 to food Store Class A1 and the existing 3 bed flat to first floor to Two 2 bed flats, incorporating ATM machine and external works including new fencing and gates.	DISMISS	03.10.2018
17/01812/FUL	Land Near Woodlands Barn Mill Lane South Clifton NG23 7AN	Erection of detached dwelling	DISMISS	10.10.2018
18/00222/FUL	Manvers Arms Public House Mansfield Road Edwinstowe NG21 9PD	Resubmission of 17/00535/FUL: Conversion of the Manvers Arms Public House (Class A4) to a convenience store (Class A1). Convert the existing 3 bed flat at first floor level to two 2-bed flats.	DISMISS	03.10.2018
18/00067/FUL	The White House 23 Cottage Lane Collingham	Householder application for first floor residential extension above existing ground floor garage, utility room, wc and store.	DISMISS	27.09.2018
18/00599/FUL	Land To The Rear Of 8 Main Street Sutton On Trent	Erection of 4(No.) Dwellings and Associated Garages	DISMISS	10.10.2018
16/00033/OUTM	Land Adjacent Bleasby Railway Station Station Road Bleasby NG14 7FX	Proposed 6 market houses, 6 affordable houses, rail station car park, equipped children's play area, sports pitch, allotments and re-cycling centre.	DISMISS	21.09.2018

18/00374/FUL	8 Paddock Close Edwinstowe NG21 9LP	Householder application for proposed front, rear and side extension with internal alterations. New alternative vehicular access with new drop kerb.	PARTIAL	17.09.2018
	Bargain Booze Unit 3 2 Church Street Edwinstowe NG21 9QA	Appeal against	APPLICATION WITHDRAWN	05.10.2018

### **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**

## **PLANNING COMMITTEE – 6 NOVEMBER 2018**

### **QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT**

This report follows on from the report that was presented to Members on 7 August 2018 which highlighted planning enforcement performance during the first quarter of 2018. This report relates to the quarter from 1 July until 30 September 2018 and provides an update on cases where formal action has been taken. It also includes case studies which show how the breaches of planning control have been resolved through negotiation.

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

- Schedule A outlines the enforcement activity during the quarter which captures the overall split to show of the cases investigated, how many are found to be a breach of planning or otherwise.
- Schedule B (separate attachment) sets this (on a pro-rata basis) against the activity over previous quarters). Please note that cases closed exceed, on occasion, cases received as a case received in an earlier quarter may have been closed.
- Schedule C details a summary of formal action taken since the last report was compiled which in this case is for the quarter.
- Schedule D – provides examples of cases where breaches of planning control have been resolved without formal action having been taken.
- Schedule E – Notices complied with.

### **SCHEDULE A**

**Table 1**

<b>SCHEDULE A: ENFORCEMENT CASES</b>	<b>1 to 31 July</b>	<b>1 to 31 August</b>	<b>1 to 30 September</b>
Cases Received	30	41	35
Case Closed*	24	31	19
Notice Issued	2	3	4
Notice Complied With	0	1	0
Appeal Lodged**	1	1	1*
Prosecutions/Injunctions	1	0	0

\*\* Appeals lodged during Quarter3, 2018 are:

- 18/00039/ENFNOT – Barfield House, Greaves Lane, Edingley against the service of an Enforcement Notice (16/00356/ENF) on 28 June 2018 for the material change of use of land to residential use and the erection of wooden stables.
- 18/00043/ENFNOT - Lurcher Farm, Mansfield Road, Farnsfield against the service of an Enforcement Notice (17/00337/ENF) on 21 August 2018 for the use of land for storage of caravans
- 18/00015/ENFNOT – Burgess House, Main Street, Farnsfield against an Listed Building Enforcement Notice (17/00427/ENF) served on 15 March 2018 for the removal of metal pedestrian gates and installation of wooden gates between Burgess House and Main Street.

\*It should be noted that 'case closed' can include a number of outcomes, which are generally breach resolved (through planning application or removal), no breach identified (not development or permitted development), or that a breach exists but it is not expedient to pursue. Please note that 'Notice' for the purposes of these statistics does not include Planning Contravention Notices issued.

Of the cases closed, the reasons for these closures are detailed below in Table 2:

**Table 2**

<b>Month/Year</b>	<b>Total Number of Cases Closed</b>	<b>No Breach</b> (No Further Action required)	<b>Breach Resolved</b> (through negotiation, permission granted etc)	<b>Breach – No Further Action</b> (as not expedient)	<b>Other</b> (such as Duplicate Case)
July 2018	24	10 (41.66%)	6 (25%)	6 (25%)	2 (8.33%)
August 2018	31	20 (64.51%)	8 (25.80%)	2 (6.45%)	1 (3.22%)
September 2018	19	10 (52.6%)	4 (21.05%)	4 (21.05%)	1 (5.26%)
<b>Totals/Average</b>	<b>74</b>	<b>40 (54.05%)</b>	<b>18 (24.32%)</b>	<b>12 (16.21%)</b>	<b>4 (5.40%)</b>

**SCHEDULE B – SEE SEPARATE SHEET AT END OF THIS REPORT**

**SCHEDULE C. FORMAL ACTION TAKEN (1 JULY TO 30 SEPTEMBER 2018)**

Schedule C provides a more detailed position statement on formal action (such as enforcement notices served) since the report performance report was brought before Members. This table does not detail Planning Contravention Notices served.

**FORMAL ACTION TAKEN JULY 2018**

<b>Enforcement Ref:</b>	<b>14/00156/ENF</b>
<b>Site Address:</b>	<b>7 Victoria Street, Newark</b>
<b>Alleged Breach</b>	<b>Upvc Window installed in Grade II Listed Building</b>
<b>Date Received</b>	<b>04.06.2014</b>
<b>ACTION TO DATE:</b>	<b>Prosecution in Court for Non Compliance of a Listed Building Enforcement Notice on 31 July 2018</b>

**Background**

The installation of a plastic (upvc) window in a Grade II listed building was first brought to the Council's attention in June 2014. This was considered to be an alien and incongruous feature that causes harm to both the listed building and the wider Conservation Area.

Failed attempts at negotiation to resolve the breach resulted in the service of a Listed Building Enforcement Notice in July 2015. However this was ignored and the Notice was not complied with, nor was an appeal lodged. Correspondence to warn of the prosecution was also ignored and the Authority was left with no choice but to prosecute in the Courts for non compliance of the Notice.

On 31 July 2018, our legal department successfully prosecuted the landowner for breaching a Listed Building Enforcement Notice. A fine of £750 was imposed by Nottingham Magistrates Court, with total costs coming to £1060.

Whilst the prosecution was a success this does not remedy the breach. The Local Planning Authority will now look to work cooperatively with the landowner to resolve the matter.

**Enforcement Ref:** 17/00017/ENF

**Site Address:** Epperstone Manor, Main Street, Epperstone

**Alleged Breach** Untidy land - Concerns that development site left in a state which potentially raises Health and Safety concerns

**Date Received** 28.06.2018

**ACTION TO DATE:** Service of Section 215 Notices x 2 on 5 July 2018

#### Background

Members will be aware that following completion of a residential development, some two years on, portacabins, building equipment, skips, materials and debris etc were still present on site. These were considered to visually affect the amenity of the locality to its detriment. Given the time period this has been ongoing for, formal action was considered necessary in order to protect the Authorities position despite the owner beginning to cooperate with requests for site clearance.



Two separate Notices were served due to land ownerships matters. These notices relate to Manor Lodge, Manor Walk, Epperston & Land South of Epperstone Manor, Main Street, Epperstone.

They require removal of all items and machinery associated with the recent residential development of the land within 84 days from when the Notice takes effect as follows:

- A) Remove all site cabins, offices and other storage buildings - and any materials and equipment items stored within
- B) Remove all plant machinery, equipment and construction vehicles from the Land
- C) Remove all excess construction materials, products and storage containers including, but not limited to, any wood, bricks, pantiles, skips, storage containers, and pallets.

The Notice(s) take effect on 6 August 2018 requiring compliance by the end of October 2018. It is understood at the time of writing that good progress has been made and officers will continue to monitor progress.

#### **FORMAL ACTION TAKEN IN AUGUST 2018**

**Enforcement Ref:** 18/00199/ENF

**Site Address:** 19 Bridge Street, Newark, NG24 1EE

**Alleged Breach:** Unauthorised fascia signage attached to listed building

**Date Received:** 21.06.2018

**ACTION TO DATE:** Service of Listed Building Enforcement Notice on 03.08.2018

#### **Background**





The Local Planning Authority was made aware that an unauthorised and visually harmful fascia sign had been installed at 19 Bridge Street, Newark, a grade II listed building. Two letters were issued (on 26 June and 26 July 2018) to the owners and tenant, requesting the sign be removed. Compliance with this request was not forthcoming and so a Listed Building Enforcement Notice has been issued requiring its removal by the 1 October 2018. Although this has not been complied with to date, a decision has been taken not to prosecute at the current time given that the LPA are currently considering an LBC application for a revised fascia sign (which if approved would clearly include a condition for the existing signage to be removed in a timely manner which overall would save the costs associated with prosecution).

**Enforcement Ref:** 18/00107/ENF

**Site Address:** Apartment 5, Wesley House, Guildhall Street, Newark

**Alleged Breach:** Unauthorised erection of a means of enclosure attached to a listed building

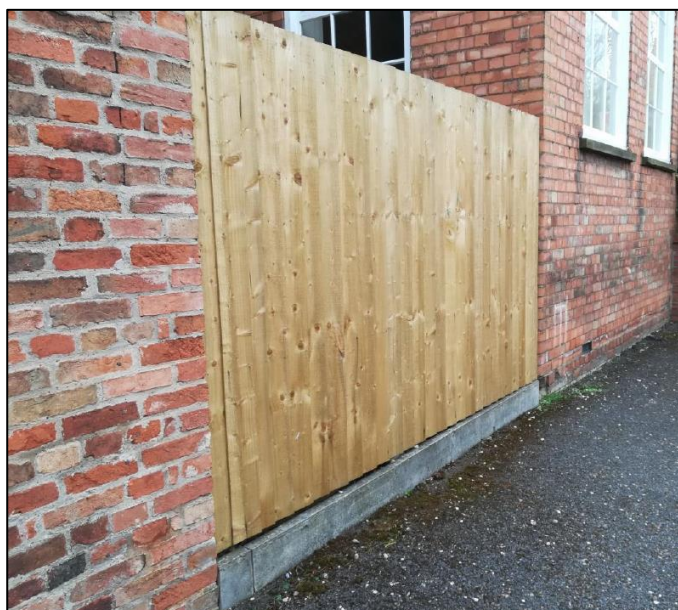
**Date Received:** 14.04.2018

**ACTION TO DATE:** Service of Listed Building Enforcement Notice 03.08.2018

#### Background

The Local Planning Authority was made aware that a timber fence panel and posts had been erected, enclosing a small courtyard area of a listed building. The posts are fixed to the listed building without planning permission or listed building consent having been granted.

Following a site meeting and a number of follow-up correspondences, no alternative scheme has been proposed to replace the fencing. A listed building enforcement notice has therefore been served, requiring the removal of the fence panel no later than the 29 October 2018 in order to account for the particular circumstances of the occupant. The latest site notice showed that works had commenced to comply with the notice.



**Enforcement Ref:** 18/00102/ENF

**Site Address:** Car Park to the north of 83-85 Appleton Gate, Newark, NG24 1LP

**Alleged Breach:** Change of use of car park associated with listed building to operate independently as a pay & display car park.

**Date Received:** 13.04.2018

**ACTION TO DATE:** Service of Listed Building Enforcement Notice 09.08.2018

### Background

The Local Planning Authority was made aware that the car park associated with a vacant listed building on Appleton Gate had been diagggregated from the building and was being operated as an independant pay and display car park. This was found to be correct and a planning application was submitted in an attempt to remedy the breach of planning control.

The application was considered and refused under delegated powers as it was found that the severance of the commercial Listed Building and from its associated car parking area would reduce the commercial attractiveness and viability of the retail use of the existing listed building. The unauthorised use therefore restricts the viability of the listed building by making it less desirable and more likely lead to its decline in the long-term to the detriment and harm of the heritage asset. It was also considered that the loss of appropriate parking provision for the retail unit in this location will exacerbate existing traffic congestion and on-street parking problems within the locality by increasing the likelihood of illegal on-street parking in the area or through an increased risk to other road users as distracted drivers seek on-street parking. As such it was considered to be contrary to the Development Plan and the NPPF.

The application was refused and an Enforcement Notice was issued given its retrsospetive nature.



The Enforcement Notice takes effect on 7 September 2018 and requires the owners/ccoupiers to:

- Cease using the land as an independent pay and display car park, and ensure its availability for staff and customers of the associated commercial premises; and
- Remove from the land the payment meter and security frame, as identified in Figure 1 below;

The time for compliance given was **56 days**.

#### **FORMAL ACTION TAKEN IN SEPTEMBER 2018**

**Enforcement Ref:** 16/00108/ENF

**Site Address:** Caravan Park, Boat Lane, Bleasby

**Alleged Breach:** Alleged unauthorised erection of chalet, and possible breach of planning condition regarding number of caravans stationed on site.

**Date Received:** 14.04.2016

**ACTION TO DATE:** Service of Breach of Condition Notice 10 September 2018

#### **Background**

Upon investigation of this complaint it was established that a breach of condition no. 3 of planning permission 15/01174/FUL was occurring. The permission was granted for 'The use of land for the siting of caravans on land with the benefit of existing certificates of lawfulness between 1 March and 31 October'. Condition 3 states:

"Not more than 33 caravans (30 touring caravans, 3 static caravans) at any one time shall be stationed within the site between 1 March and 31 March within any year only. Outside of this period, only the 3 static caravans on the site granted permission under W/33/102 April 1962 shall be stationed on site within field OS2819 only."

The breach of condition was considered harmful and despite attempts to negotiate with the perpetrator to comply with the condition, this did not happen and consequently it resulted in a Notice being served requiring:

- 1) The reduction in the number of carabans to no more than 33 caravans between 1 March and 31 March; and
- 2) Cessation of the storage of caravans other than the 3 granted permission under W/33/102 in April 1962 within the site between 1 November and 1 March.

The compliance period was 90 days for each element.

**Enforcement Ref:** 18/00283/ENF

**Site Address:** Land on the east side of Cover Point, Halloughton, Southwell

**Alleged Breach:** Breach of planning condition relation to tree protection

**Date Received:** 04.09.2018

**ACTION TO DATE:** Service of Breach of Condition Notice 11 September 2018

Background

It came to the attention of the Local Planning Authority that a number of planning conditions in relation to tree and hedgerow protection were being breached during the construction of a dwelling. This was ascertained on site and it was established that Conditions 4, 7 and 8 were not being complied with.

In order to remedy the harm identified a Breach of Condition Notice was subsequently served requiring (in summary);

The erection of tree/hedgerow protection fencing within 30 days and the replanting of a new hedgerow (hawthorn, holly and hazel) along the eastern boundary of the site within 170 days.

**Enforcement Ref:** 18/00204/ENF

**Site Address:** 43A Great North Road, Sutton-on-Trent

**Alleged Breach:** Unauthorised erection of tractor workshop and change of use of agricultural land to residential use

**Date Received:** 06.07.2018

**ACTION TO DATE:** Service of Enforcement Notice 26.09.2018.

Background

A complaint was raised regarding the unauthorised erection of a building on the site and the change of use of agricultural land to residential curtilage. Upon investigating the matter, the enforcement team confirmed the breach and an application was lodged in an attempt to regularise the matter.

The planning application was duly considered and refused on 26<sup>th</sup> September 2019 on the grounds that it constitutes unnecessary, unjustified development in the countryside that would encroach into the open countryside and be visually incongruous for the area and that in terms of flood risk, the application fails the Sequential Test, given the site lies in flood zone 2 and the development is not justified.

An Enforcement Notice was issued at the same time as the refusal of the planning permission for the same reasons. The Notice requires the perpetrators to:

- Cease using the land for domestic purposes, and only utilise the land for agriculture.
- Remove all residential 'paraphernalia', machinery, storage containers and items not associated with the agricultural use of the land.
- Dismantle and remove the structure referred to as a "tractor workshop and storage area" as part of planning application 18/01482/FUL

The period for compliance was given as 84 days from 24<sup>th</sup> October 2018 when the Notice takes effect.

**Enforcement Ref:** 18/00051/ENF

**Site Address:** Corner House Farm, Hawton Lane, Farndon

**Alleged Breach:** Unauthorised expansion of industrial storage site

**Date Received:** 08.02.2018

**ACTION TO DATE:** Service of Enforcement Notice 27.09.2018.

#### Background

It was brought to the attention of the Planning Enforcement Team that agricultural land adjacent to an existing premises in Farndon was being used for an unauthorised expansion of a commercial premises involving the storage of vehicles and equipment. The matter was investigated and it was established that the material change of use of the land had occurred within the last 4 years and is therefore not immune from formal action. Moreover the use was considered by officers to be a harmful encroachment into the countryside contrary to the Development Plan.

An Enforcement Notice was therefore issued on 27 September 2018 requiring the perpetrators to:

- A. Cease using the land for any purposes other than agriculture.
- B. Remove from the Land all items not associated with the agricultural use of the land. For the avoidance of doubt, this includes, but is not limited to, the following items and equipment as indicated in Figures 1, 2 and 3:

- (1) Articulated Trailers
- (2) Vehicles
- (3) Scrap and Waste Materials
- (4) Skips, Barrels and Pallets
- (5) Storage Containers



Figures 1 & 2



Figure 3



C. Remove the earth bund from the Land along the north-western and north-western boundaries of the land, as shown in Figure 4 and 5.

Figure 4 & 5



D. Remove all hard-surfacing and road planings from the ground, and return the land to its former agricultural condition as shown in Figure 6.



The period for compliance was given as 6 months from 29 October 2018 when the Notice takes effect.

#### **SCHEDULE D: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION**

Formal enforcement action is usually the last resort and where negotiations have failed to produce a satisfactory resolution of a breach of planning control. In the vast majority of cases negotiation, or the threat of formal action, is enough to secure compliance with planning legislation and the following are just a few examples of how officers have resolved breaches through negotiation during the last quarter.

**Enforcement Ref:** 18/00156/ENF

**Site Address:** Aldi Stores Ltd., North Gate, Newark

**Alleged Breach:** Unauthorised Billboard Sign

**Date Received:** 11.05.2018

**Status:** Breach Resolved by Removal of Sign Through Negotiation

#### **Background**

Whilst dealing with an application for renovations to the Aldi supermarket in Newark, it was established that the large billboard on the forecourt of the premises was unauthorised. Whilst this had been in place for a number of years it was considered to be harmful to the character and appearance of the Conservation Area of Newark.

Our Enforcement and Planning Officers have successfully negotiated its removal without the need to serve a Discontinuance Notice. The before and after pictures are below.



## Before



## After



It should be noted that the Totem Sign that can be seen within the photographs is subject to separate planning appeal.

**Enforcement Ref:** 18/00231/ENF

**Site Address:** Land opposite Tesco Filling Station, Edison Rise, Ollerton

**Alleged Breach:** Unauthorised hoarding sign

**Date Received:** 23.07.2018

**Status:** Breach Resolved by Removal of Sign Through Negotiation

### Background

Ollerton & Boughton Town Council raised concerns that an unauthorised hoarding sign was being displayed on land adjacent to the roundabout in front of the miners memorial garden.



It was established that temporary advert consent had been granted for a different sign in 2010 under reference 10/00090/ADV and Condition 3 of the consent required the advertisement to be removed from the site following a period of 2 years. It was established that this original advertisement was in place for considerably longer period of time. In any event this was replaced by the larger sign. As the display of this advert was unauthorised, officers contacted the agents responsible for the hoarding and requested its removal making them aware of the sensitive nature of the site. Those responsible for the hoarding eventually agreed to remove the sign when formal action was proposed. This has now been removed from the site.

**Before**



**After**



#### **SCHEDULE E – NOTICES COMPLIED WITH DURING QUARTER (01.07.2018 TO 30.09.2018)**

Members will note that one case reported resulting in the service of a formal Notice in December 2017 has been resolved as reported above in Schedule A. This relates to the following:

**Enforcement Ref:** 17/00326/ENF

**Site Address:** The Old Library, High Street, Edwinstowe

**Alleged Breach:** Breach consisting of the alteration of the building including the removal of the existing windows on the east facing front elevation consisting of the insertion of 2 no Aluminium double doors and the removal of existing central entrance door and sidelights and replacement with a new wider accessible entrance door with glazed sidelights installed.

**Date Received:** 11.12.2017

**ACTION TO DATE:** Complied with Enforcement Notice Issued.

### Background

Members might recall that this matter was previously reported to the Planning Committee. The matter involved the deviation from the approved plans which resulted in an Enforcement Notice being served on 12 December 2017. An appeal against the Notice was subsequently dismissed on appeal in May 2018.

It is noted that the windows have now been amended to the satisfaction of the conservation officer and in compliance with the Enf Notice and an application has been submitted to retain the door (which was installed to provide disabled access).

### **RECOMMENDATION**

**That Planning Committee considers the contents of the report and identifies any issues it wishes to examine further.**

### Background Papers

Enforcement Case Files

For further information please contact Clare Walker on Extension 5834 or [planning@nsdc.info](mailto:planning@nsdc.info)

**Matthew Lamb**

**Business Manager - Growth & Regeneration**

## SCHEDULE B - ENFORCEMENT PERFORMANCE REPORT – PERFORMANCE BY QUARTER

	Q1 2016/17 1 April to 30 June	Q2 2016/17 1 July to 30 September	Q3 2016/17 1 October to 31 December	Q4 2016/17 1 January – 31 March	Q1 - 2017/18 1 April to 30 June	Q2 2017/18 1 July to 30 September	Q3 2017/18 1 October to 31 December	Q4 2017/18 1 January – 31 March	Q1 2018/19 1 April – 30 June	Q2 2018/19 1 July – 30 September
Cases Received	108	94	65	80	140	119	106	94	101	106
Cases Closed	74	64	59	55	106	127	80	130	101	74

