



**NEWARK &  
SHERWOOD**  
DISTRICT COUNCIL

*Castle House  
Great North Road  
Newark  
NG24 1BY*

*Tel: 01636 650000*

[www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

**Monday, 25 February 2019**

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

**Members of the Committee:**

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

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

**MEETING: Planning Committee**

**DATE: Tuesday, 5 March 2019 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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There are none.	
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There are none.

NOTES:-

A Briefing Meeting will be held in Room F3, Castle House at 3.00 pm on the day of the meeting between the Director – Growth & Regeneration, the Chairman and Vice-Chairman of the Committee to consider late representations received after the Agenda was published.

# Agenda Item 4

## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 5 February 2019 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 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 ABSENCE: Councillor Mrs M Dobson (Committee Member) and Councillor P Duncan (Committee Member)

### 187 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor Mrs P. Rainbow declared a Personal Interest in agenda Item No. 5 – Land Adjacent Fish Pond Farm, Main Street, Eakring (18/02159/FUL) as she was known to the applicant.

Councillor J. Lee declared a Personal Interest in agenda Item No. 8 – 34 Castle Gate, Newark (18/01444/FUL) as he was known to the applicant.

Councillor F. Taylor declared Personal Interest in agenda Item No. 11 – Gibbet Wood, Brown Wood Lane, Thorney (18/01671/FUL) as he was known to the applicant.

Councillors D.R. Payne, I. Walker and B. Wells declared Personal Interests in Agenda Item No. 11 – Gibbet Wood, Brown Wood Lane, Thorney (18/01671/FUL) as they were known to the father of the applicant due to service as Members of the Trent Valley Internal Drainage Board. They asked that their personal interest be recorded for any further applications containing information relating to the Trent Valley Internal Drainage Board.

Councillor I. Walker declared a Personal Interest in agenda Item No. 12 – Land Adjacent Tu Pare, Low Street, Elston (18/01891/FUL) as he was known to the applicant.

Councillor R.V. Blaney declared a Personal Interest in agenda Item No. 13 – The Orchard, Middle Lane, Morton, Southwell (18/02146/FUL) known to one of the objectors.

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

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

### 189 MINUTES OF THE PREVIOUS MEETING

AGREED (unanimously) that the minutes of the meeting held on 5 February  
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2019 be approved as a correct record and signed by the Chairman.

190 LAND ADJACENT FISH POND FARM, MAIN STREET, EAKRING (18/02159/FUL)

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought planning permission for the conversion and extension of the existing barn/cart shed to form a dwelling and the erection of three further dwellings.

Councillor R. Ford representing Eakring parish Council spoke against the application in accordance with the views of Eakring Parish Council.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Planning Case Officer and local representation.

Members considered the application and it was commented that the land for the proposed development was untidy and was calling out for development. It was commented that there was not a need for four and five bedroom houses in the village, smaller more affordable homes were however required. The development would be in a conservation area and the land had been stripped before the application had been submitted which Members found disappointing. The treatment of the cart shed was commented as good and there was no problem with that. Plot 3 had an overbearing impact and loss of privacy on the amenity of the former Fish Pond Farm. It was suggested that the application be deferred to seek amendments to the scale, layout of the development and house type, plot 3 to be single storey in line with the cart shed.

AGREED (unanimously) that the application be deferred to seek amendments to scale, layout of development and house type, plot 3 to be single storey in line with cart shed.

191 34 CASTLE GATE, NEWARK ON TRENT (18/01444/FUL)

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought retrospective planning permission for the installation of a 1.8m high fence surrounding the beer garden.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Planning Case Officer. The Planning Case Officer recommended a change to Condition 1 to read as follows:

Within 56 days of the date of this permission the fencing including the trellis to be retained along the south eastern boundary of the site enclosing the outdoor area as shown on drawing no. 002 Rev AO1 deposited on the 23 January 2019 shall be stained a mid grey colour, a sample of which colour shall be submitted to and approved in writing by the Local Planning Authority and shall be retained as such for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Members considered the application acceptable. Comments were raised regarding

the picnic benches that had been placed in close proximity to the ten foot drop into the river.

AGREED (with 12 votes For and 1 Abstention) that planning permission be approved subject to the conditions contained within the report.

192 SHANNON FALLS, TOLNEY LANE, NEWARK (18/02167/FUL)

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the change of the site from scrubland to the creation of eight pitches each one housing a touring caravan each with its own associated amenity building, measuring 3.5m by 4m, 2.1 m to the eaves and 4.3m to the ridge, constructed of brick with tiled roof. One parking bay would also be provided within each pitch.

Members considered the application and some Members commented on the appeal decisions contained within the report and that the applicants never complied with the conditions set namely the removal of the unauthorised additional fill to raise the land levels. Other Members felt that the travelling community wanted to locate in this area and should be allowed to do so as they were aware of the risks from flooding and there was an evacuation scheme in place for the rest of the site. A Member commented that Planning Policy were undertaking a GTAA data gathering exercise which would be produced within two years and would help to determine need moving forward. Alongside this the Council was actively seeking additional sites to meet any likely need. It was suggested that a temporary three year permission may be acceptable given that within two years alternative sites within the district may come forward. It was further commented that no objections from the Town Council had been submitted regarding this application.

A vote was taken and lost with 4 votes For and 9 votes Against to refuse the application.

AGREED (unanimously) that contrary to Officer recommendation a temporary three year permission be granted subject to conditions regarding evacuation plan and landscaping.

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

<b>Councillor</b>	<b>Vote</b>
Mrs K. Arnold	For
R.V. Blaney	For
Mrs A.C. Brooks	For
R.A. Crowe	For
Mrs M. Dobson	Absent
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

193 LAND TO THE REAR OF BRIDGE COTTAGES, BARNBY ROAD, NEWARK (18/02049/FUL)

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought full planning permission for the erection of a detached one and half storey dwelling with a horse shoe shaped footprint.

Members considered the application acceptable.

AGREED (with 12 votes For and 1 vote Against) that planning permission is approved subject to the conditions and reasons contained within the report.

194 WOODSIDE FARM, NOTTINGHAM ROAD, THURGARTON (18/01299/FUL) AND (18/01300/FUL)

The Committee considered the two reports of the Director of Growth & Regeneration, following a site inspection. Application 18/01299/FUL sought for the retention of the mobile home approved on appeal in 2005 which continued to be used in association with the agricultural operation at Woodside Farm. Application 18/01300/FUL sought the removal of Condition 9 of planning permission 12/00604/FUL to allow retention of the mobile home in connection with established agricultural operation.

Councillor R. Jackson local Ward Member Dover Beck spoke in support of the application on the grounds that the applicant had lived there for twenty five years and had built an enterprise on this site. He had sought permission to build a house for his son to occupy with his wife and child. The farm was a large enterprise with cows, calves, ewes and 10,000 laying hens. This was a labour intensive family farm unit with grandchildren. The need for living on the farm was explained to Members. He asked that Members consider the hard working family unit which should be allowed to stay together and look after Mr Kirk senior later in life.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from Fisher German LLP (on behalf of Mr C Kirk).

Members considered the application and it was commented that the mobile home should have been removed after the house was built and occupied. There were a number of buildings on site that had potential for conversion for residential use as long as the buildings were connected for agricultural use which would be a fall-back position.

A Member commented on the history of this application which was contained within the report. The existing house was approved by the Local Planning Authority and the applicant was required to remove the existing mobile home. The house was required to be large enough to accommodate at least three family members. This would allow



Mr Kirk senior to be available on site. Within a few months of the house being completed an application was submitted for an annex to be converted for Mr R Kirk. At the time of the application 2014, the supporting statement confirmed that Mr R Kirk would reside in the annexe with his parents Mr and Mrs C Kirk residing in the main farm house. The committee has however been informed that Mr I Kirk is residing in the main house, which was contrary to the information provided for the 2014 application. It was felt that Mr C Kirk should have moved into the main farm house in 2012 and the mobile home removed within six months of the house being completed.

A Member commented that the Local Planning Authority had failed to pick up on this unauthorised use. It was commented that the report said that people were dependent upon one another and this was being looked upon from a financial perspective. Families help one another and the mobile home was still standing and was being used for residential purposes. If the occupier of that mobile home was helping on the farm it could be argued that the building was being used for agricultural use and had a purpose for serving that agricultural business. It was suggested that a temporary permission be granted.

Other Members commented that this application was retrospective; the mobile home had been there for six years more than it had permission for. This was not a sudden thing and the applicants had been given time to resolve their living accommodation.

AGREED (with 7 votes For and 6 votes Against) that:

- (a) planning permission be refused for the reason contained within the report; and
- (b) a Breach of Condition Notice be served at the same time to require the mobile home to be removed from the site within 6 months.

195 BULCOTE FARM, OLD MAIN ROAD, BULCOTE (15/00784/FULM), (17/02325/FULM) AND (15/00785/LBC)

The Committee considered the two reports of the Director of Growth & Regeneration, contained within the agenda together regarding Bulcote Farm, Old Main Road, Bulcote for applications 15/00784/FULM, 17/02325/FULM and 15/00785/LBC, the applications sought the following:

Application No. 15/00784/FULM

Full Planning Application and Listed Building Consent for a development comprising 56 residential units (Use Class C3) and community building (Use Class D1) through the conversion of a Grade II Listed Farm Complex "Bulcote Steading" and associated enabling residential development, with associated parking and landscaping. To be read in conjunction with application ref: 17/02325/FULM; and

Application No. 17/02325/FULM

Development comprising 16 residential units (Use Class C3) associated with Planning Application 15/00784/FULM and Listed Building Consent 15/00785/LBC for the Conversion of Grade II Listed Farm Complex "Bulcote Steading" and associated enabling residential development, with associated infrastructure, parking and landscaping.

Application No. 15/00785/LBC

Listed Building Consent for a development comprising 64 residential units (Use Class C3) and community building (Use Class D1) through the conversion of a Grade II Listed Farm Complex "Bulcote Steading" and associated enabling residential development, with associated parking and landscaping. To be read in conjunction with application ref: 17/02325/FULM.

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

Councillor K. Simpson representing Bulcote Parish Council spoke against the applications in accordance with the views of Bulcote Parish Council as contained within the report.

Councillor R. Jackson local Ward Member Dover Beck and adjoining Ward Member for this application was allowed to speak due to the impact this application would have on the Dover Beck Ward. Councillor R. Jackson spoke against the application on the grounds that the proposal was for 72 houses, approx. 140 plus extra cars which would have a large impact on the road network, especially the Lowdham roundabout which was full to capacity. There would be a big impact on local schools and the health service if the application was granted. It was reported that the level railway crossing was closed twice a year for maintenance; this would prevent any access to the development including emergency vehicles. It was commented that it would be good to see the building converted to houses, this proposed scheme however offered no S106, or CIL contribution and was a development for pure profit.

Members considered Application No. 15/00785/LBC and the application was considered acceptable.

AGREED (unanimously) that Listed Building Consent be granted subject to the conditions set out in the report.

Members considered applications No. 15/00784/FULM and 17/02325/FULM and whilst they were not against some development to bring back to use the old buildings the scale of development now proposed was called into question. The site values for this site were commented upon. The problems with the railway junction were discussed and the need for an emergency evacuation plan. Building in the green belt was also discussed. It was commented that the terrace block did not add any value to the development. Some Members were not in support of the proposals, feeling that levels of return and overall scale were too far. It was suggested that the application

be deferred to enable officers to discuss with the applicant a reduction in amount of enabling development.

AGREED (unanimously) that the application be deferred to enable officers to discuss with the applicant viability and provision of developer contributions and reduction in amount of enabling development.

*(Councillor J. Lee left at this point.)*

196 GIBBET WOOD, BROWN WOOD LANE, THORNEY (18/01671/FUL)

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought full planning permission for the erection of a rural workers dwelling in the form of a detached two-storey dwelling located approximately 115m to the SE of the poultry unit it is intended to serve.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from Parish Councillor J. Day representing Thorney Parish Council.

Members considered the application and it was commented that the proposed development was well positioned to the poultry unit and regulated and was less than 50 metres away from the permitted site. It was screened by woodland, would have its own access, although the highways comments were noted regarding the rise in the road over the drain, it was felt that given the low use for traffic, the highways comments should not be the reason for refusal.

AGREED (with 11 votes For and 1 vote Against) that contrary to Officer recommendation full planning permission be approved, subject to conditions to include an agricultural tie and S106 for non-implementation of previously approved dwelling

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

<b>Councillor</b>	<b>Vote</b>
Mrs K. Arnold	For
R.V. Blaney	Against
Mrs A.C. Brooks	For
R.A. Crowe	For
Mrs M. Dobson	Absent
P. Duncan	Absent
G.P. Handley	For
J. Lee	Absent
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

197 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 hour.

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

*(Councillor B. Wells left the meeting at this point.)*

198 LAND ADJACENT TU PARE, LOW STREET, ELSTON (18/01891/FUL)

The Committee considered the report of the Director of Growth & Regeneration, which sought full planning permission for the erection of a single storey two bed dwelling.

Members considered the application and commented that given Elston Parish Council had not submitted any comments and a site visit had not been undertaken, it was suggested that the item be deferred pending a site visit.

AGREED (unanimously) that the item be deferred pending a site visit.

199 THE ORCHARD, MIDDLE LANE, MORTON, SOUTHWELL (18/02146/FUL)

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought variation of condition 2 attached to planning permission 17/01861/FUL to vary the approved plans.

Members considered the application and it was confirmed that the variation of condition 2 was for two roof lights which had been installed without permission. The roof lights when opened and the Planning Case Officer was standing within the property provided a view over the front driveway to the host dwelling. A Member commented that if the roof lights were obscure glazed and non-opening that would address any overlooking. Members debated whether there was a need for the obscure glazing and non-opening of the windows and it was questioned whether this was a step too far, due to the height level and angle of the velux windows. It was therefore proposed that the additional rooflights would be obscure glazed to an appropriate level but could be opened.

AGREED (with 10 votes For) (Councillor G.P. Handley did not take part in the vote) that:

- (a) full planning permission be approved subject to the conditions contained within the report; and
- (b) the additional condition to the treatment of roof lights to be obscure glazed to a level 3 or higher on the Pilkington Scale.

200 STONEWOLD, GRAVELLY LANE, FISKERTON (18/02204/FUL)

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought full planning permission for the erection of a detached, one and half storey dwelling with integral single garage.

Members considered the application acceptable.

AGREED (unanimously) that planning permission is approved subject to the conditions and reasons contained within the report.

201 37 LAMBLEY ROAD, LOWDHAM (18/02317/FUL)

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the conversion of the annex building and carport range to a single residential dwelling

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Planning Case Officer. The Case Officer proposed a recommendation to add a condition regarding the new access point as follows:

Prior to the construction of the new access onto Lambley Road precise details of any retaining structures required shall be submitted to and agreed in writing to the Local Planning Authority (LPA). The development shall be carried out thereafter in accordance with the approved details.

Reason: In the interest of visual amenity.

Members considered the planning application acceptable.

AGREED (unanimously) that:

- (a) full planning permission is approved subject to the conditions contained within the report; and
- (b) the additional condition regarding details of any retaining structures required shall be submitted to and agreed in writing to the LPA.

202 LAND AT FERNWOOD SOUTH, NOTTINGHAMSHIRE (16/00506/OUTM)

The Committee considered the report of the Director of Growth & Regeneration, which sought outline planning application for a phased residential development of up to 1,800 dwellings; a mixed use Local Centre of up to 0.75ha to include up to 535sqm of A1 food retail (not exceeding 420sqm) and non-food retail (not exceeding 115sqm), A3 food and drink uses (not exceeding 115sqm), D1 community uses (not exceeding 1,413sqm); sports pavilion up to 252sqm; primary school (2.2ha) with school expansion land (0.8ha); formal and informal open space including sports pitches, pocket parks, structural landscaping / greenspace and drainage infrastructure;

principal means of access, internal roads and associated works. All other matters to be reserved.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from Sanderson Weatherall LLP (on behalf of Newark Steel) and drawing Members attention to the issues of relevance in this regard.

Members considered the planning application acceptable.

AGREED (unanimously) that outline planning permission be approved subject to the conditions appended at Appendix 4 of the report and the sealing of an associated Section 106 legal agreement on the basis of the contributions outlined in Appendix 5 contained within the report.

203 FORMER THORESBY COLLIERY, OLLERTON ROAD, EDWINSTOWE (16/02173/OUTM)

The Committee considered the report of the Director of Growth & Regeneration, which sought outline planning permission for a residential development up to 800 dwellings (Class C3), strategic employment site comprising up to 4,855 sqm Class B1a, up to 13,760 sqm Class B1c, and up to 13,760 sqm Class B2, a new Country Park, a Local Centre, "The Heart of the New Community" containing a mix of leisure (to include zip wire), commercial, employment, community, retail (up to 500 sqm), health, and residential uses, a Primary School, Open Space and Green Infrastructure (including SUDS), and associated access works including the details of the primary access junctions into the site from Ollerton Road.)

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the agent, which proposed revised wording to Condition 32 of the draft planning permission.

Members considered the planning application acceptable.

AGREED (unanimously) that outline planning permission be granted subject to:

- (a) the conditions which were contained with the Appendix to the report; (The draft decision notice was attached at Appendix 2 to the report);
- (b) the completion of a S106 Agreement to control the matters outlined in the report and as summarised in Appendix 1; and
- (c) delegated authority be granted to the Director of Growth & Regeneration to modify the conditions/S106 obligations in order to achieve the same objectives prior to the issuing of the decision notice as advised by legal representatives.

204 APPEALS LODGED

AGREED that the report be noted.

205 APPEALS DETERMINED

AGREED that the report be noted.

206 SOUTH KESTEVEN DISTRICT COUNCIL PLANNING APPLICATION

The Director of Growth & Regeneration provided a verbal update to the Committee regarding an application for a Designer outlet that had been considered and granted with 10 votes for and 3 votes against by South Kesteven District Council. The application was approved subject to the Secretary of State call in procedure.

The Council had previously commissioned work to Carter Jones to research whether the designer outlets north and south of Grantham would have an adverse impact on Newark Town Centre. It had been confirmed that such developments would have substantial impact.

The Committee were asked to determine whether they would like to write as a Planning Committee to the Secretary of State seeking a public enquiry. The Director of Growth & Regeneration confirmed that he had, had a meeting with the Council's Leader and he had stated that this development would have a substantial impact on Newark Town Centre.

AGREED (unanimously) that the Director of Growth & Regeneration be granted permission to write on behalf of the Planning Committee to the Secretary of State, requesting that the application be called in for public enquiry.

207 EXCLUSION OF THE PRESS AND PUBLIC

There were no exempt reports.

Meeting closed at 7.45 pm.

Chairman

## PLANNING COMMITTEE – 5 MARCH 2019

<b>Application No:</b>	<b>17/02043/FULM (MAJOR)</b>	
<b>Proposal:</b>	<b>Creation of a Fish Farming Facility at Wigsley from Agricultural Land as a Farm Diversification Business.</b>	
<b>Location:</b>	<b>Field Reference 7600 Off, North Scarle Road, Wigsley, Nottinghamshire</b>	
<b>Applicant:</b>	<b>Float Fish Farm - Mr Dale Hudson</b>	
<b>Registered:</b>	<b>29 March 2018</b>	<b>Target Date: 28 June 2018</b>
		<b>Extension of Time Agreed in Principle</b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Wigsley Parish Meeting has previously objected to the application (which has not been withdrawn) which differs to the professional officer recommendation. It has also been referred to the Planning Committee for determination by the local ward member (Cllr Dobson) due to villagers concerns on the traffic impacts.**

### The Site

The site lies in the open countryside to the south-east of Wigsley village, a small rural settlement to the north of our district. Located c4.3km west of the River Trent, the site lies within flood zone 2 and in an area prone to surface water flooding. The landscape is low lying and relatively flat. The site is located on the eastern side of the B1133 North Scarle Road and extends to the border with North Kesteven District Council.

The site comprises c26 hectares of arable fields and scrub land which was formally part of a former airfield and agricultural land to the east. Grassland in the north west of the site has areas of exposed hard standing; a large sedum mat has formed on one area. To the west of the strip there is a large (0.5 ha) spoil heap which has been wrapped in plastic. Scrubland in the central north of the site has developed on made ground with rubble piles; this is raised from the surrounding area. The scrub in the north west of the site is on the former air strip. There are trees and hedgerows within the site, mainly around the periphery of the site boundaries but also a hedgerow that runs east to west through the centre of the site.

A biological SINC (Site of Important Nature Conservation) known as ‘Wigsley Dismantled Airfield’ lies to the south-west with a very small part of the designation forming part of the application site. This is recognised as a mosaic of diverse habitats on an abandoned airfield.

There are a number of deep field drains and ponds in the local area, including Wigsley Drain which forms the eastern boundary of the site. This is a steep sided, 3m deep drain with slow flowing water. There is a broken hedge line along the top of the bank which is on the site side of the ditch.

The nearest property is approximately 200m away to the north.



## Relevant Planning History

**18/SCR/00012** - The application has been screened against The Town & Country Planning (Environmental Impact Assessment) Regulations 2017 and it has been determined that an Environmental Statement is not required in this instance.

**12/00757/FULM** - Replacement of an extant permission 08/02274/FULM for the creation of lake and growing ponds with utility building for use as a fish farm. Approved 3<sup>rd</sup> August 2012. The scheme has not been implemented and has now time expired.

**08/02274/FULM** - Creation of lake and growing ponds with utility building for use as a fish farm. Approved 3<sup>rd</sup> June 2009. This related to land that set back from the highway and approximately 1/3 of the land that forms this latest planning application.

**07/01794/FUL** - Erection of 3 utility buildings and excavations for ponds in connection with use of land as a fish farm. This application relates to a smaller part of the site now being considered to the site frontage. Application withdrawn 31<sup>st</sup> March 2008.

**06/01597/FULM** - Fish farm development for ornamental, angling and food purposes comprising erection of 3 utility buildings, new vehicular access, engineering works to provide fish stock pools and moat and landscaping. This matter was referred to the County Council given that it transpired that it would constitute a county matters application due to the amount of land being removed from the site.

## The Proposal

The applicant already operates a fish farm (Float Fish Farm, which started trading in 2007) which is now located at Farcet near Peterborough comprising 8 lakes on a 21ha site which has a mix use of fish farm and leisure fishing. The applicant has stated that business has outstripped capacity and a second site is needed in the East Midlands area to focus the core business (the fish farm) which would allow the Peterborough site to focus on the company's leisure arm.

Originally the application proposed a mixed use (based on a similar model of the existing business) but the applicant has now clarified that the leisure element is no longer included.

Full planning permission is now sought to create a fish farm. The fish farm would breed and rear freshwater species of fish to supply the ornamental and sport fishing market. The applicant has advised that once fully operational, at year 6 the facility would be capable of supplying around 11,500kg of live fish per annum.

Three single storey utility buildings towards to the site entrance would be located on site which would house breeding/hatching tanks and a water circulation plant. These would each measure approximately 15.56m in length by 5.58m in depth to a height of 5.38m to ridge and 2.48m to the eaves.

This development would involve the creation of a range of engineered growing ponds, fish stock ponds/lakes and a reed bed filtration pond which would act as a natural water cleaning system.

Four fishing lakes (from 9,251m<sup>2</sup> to 1.89ha) to depths of 1.5m with varying bank gradients and eleven fish growing ponds (for rearing the fish bred on site) ranging from 2450m<sup>2</sup> to 484m<sup>2</sup> in size with depths of between 0.9m and 1.5m are proposed. The development would involve engineering operations to dig and clay line the growing ponds that can be filled, drained and netted and sterilized each season. The applicant indicates that no minerals or waste material will need to be exported from the site and only excess topsoil will be sold off with the income used to balance the cost of excavation and earth moving around the site.

Access to the site is from the B1133. Stone access tracks would be laid that weave around the proposed engineered lakes and ponds with the provision of hardstanding areas provided for car parking around the site.

A range of enhanced and new habitat, including woodland is proposed as part of this proposal which equates to c20% of the site.

The applicant has now indicated that the farm would take four years to complete.

The applicant envisages that once fully operational the farm would provide employment for around 8 people; 5 full time people and 3 additional part time seasonal workers during busy summer months.

A phasing plan shows the scheme would be developed in 4 phases (in broad quarters);

- Phase 1 would comprise of the access point and access road leading centrally through the site to the south-eastern part of the site where two open water fish ponds would be created along with reed beds, 3 areas for vehicle parking plus the 3 x utility buildings towards the site frontage;
- Phase 2 to the north eastern part of the site would comprise retained scrubland habitat, 10 growing ponds and one area of parking;
- Phase 3 to the southwestern part of the site would comprises of an open water pond and associated reed bed, scrub habitat and a fish stock pond;
- Phase 4 to the north-west part of the site would comprise an open water fish pond (FP2) with reed bed, car parking area and a growing pond.

The application is accompanied by the following plans and additional information which has been updated on several occasions during the application. For the avoidance of doubt the application has been assessed on the basis of the following list of submissions:

- Site Location Plan DH/400.17, Date 06.09.2017
- Typical Elevations of the Proposed Buildings DH/402/17, as submitted 29.11.2018
- Site Layout, DH/401.17 Rev B, As submitted 29.11.2018
- Phasing Plan, DH/408/17, submitted 29.11.2018
- Supporting Statement (including Design and Access Statement), last amended 19<sup>th</sup> November 2018
- Flood Risk Assessment, by Geoff Beel Consultancy, updated May 2018, submitted 29.11.2018
- Ecological Scoping Survey, PRJ423 Rev 1 by Prime Environment January 2018 (re-submitted 29.11.2018)
- Eco-overlay with Badger Sett Marked, submitted 29.11.2018

- eDNA Survey Report by Prime Environment, Date 08.08.2018
- Technical Report Analysis, Sure Screen Scientifics Date 08.08.2018
- Arboriculture Survey and Impact Assessment, PRJ423 Rev 1 by Prime Environment, re-submitted 29.11.2018
- Topographical Survey, DH/405/17 (re-submitted 29.11.2018)
- Cross Sections 1 to 4, DH/403/17 (re-submitted 29.11.2018)
- Cross Sections 5 to 7, DH/404/17 (re-submitted 29.11.2018)
- Cross Sections 8 & 9, DH/407/17 (re-submitted 29.11.2018)
- Material Calculations, DH/406/17 (re-submitted 29.11.2018)
- Additional Statement in respect of Materials to be retained and moved off-site (submitted 29.11.2018)
- Wigsley Muck Balance Spreadsheet (revised and submitted on 29.11.2018)
- Emails of 13/03/2018 regarding soil exportation and 29/03/2018
- Landscape and Visual Impact Assessment, by Collington Winter (March 2018) submitted in June, re-submitted 29.11.2018
- Additional Statement in respect of Materials to be retained and Moved off site, 29.03.2018
- Land Classification Plan (02/10/2018)
- Agricultural Land Classification, Soil Environment Services Ltd, November 2018, submitted 29.11.2018
- Figure 1 – Land classification outline in blue, submitted 29.11.2018
- Figure 2 – Tree Location and Quality Plan, submitted 29.11.2018
- Figure 3 – Protection barrier, submitted 29.11.2018
- Key Emails responding directly to queries raised during the application process received 02/10/2018, 04/02/2019
- Document entitled ‘Wigsley Site Lorry Movements Proposed’, submitted 17.12.2018
- East Midlands Regional Land Classification Plan, submitted 29.11.2018.
- Construction Management Plan, submitted 29.11.2018
- Great Crested Newts – Technical Report, DNA testing results, submitted 29.11.2018
- Great Crested Newt Mitigation Report, by Prime Environment dated October 2018, submitted 29.11.2018
- Letter from John Foulkes-Arnold Associates Ltd (Chartered Quantity Surveyor) dated 15.10.18
- Submitted 29.11.2019
- Cut & Fill Calculation, submitted 29.11.2018
- Drone views/google map images of fish farm at Peterborough

#### Departure/Public Advertisement Procedure

Occupiers of four 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. Public re-consultation has also taken place in respect of amended/additional information.

#### 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 6: Shaping our Employment Profile  
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

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

Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM8 – Development in the Open Countryside  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance
- Landscape Character Assessment SPD
- Publication Core Strategy
- Agricultural Land Classification: protecting the best and most versatile agricultural land, Natural England, TIN049, 19/12/2012

### **Consultations**

#### **Wigsley Parish Meeting – (03/01/2019)**

“Wigsley Parish has been asked to further comment on this application.

The Arboriculture Survey and Impact Assessment, whilst reasonably comprehensive, makes no direct reference to the raising of site levels nor the very limited scope for frontage landscaping given the proposed site layout. Moreover, there are excavations very close to retained trees and vegetation in some instances.

We are not expert on cut and fill calculations but it is projected that only 1 lorry-load of top soil will be taken off site each week which is relatively insignificant (if accurate) both in highway safety terms and through possible noise and disturbance. However, the potential noise impact of lengthy excavations over a 4 year period on the residential amenities of nearby residents is still not properly assessed. A proposed soil mound/bund to offer screening and noise attenuation is referred to in the Construction Management Plan but its location is not obvious on the referenced drawing DH/408/17.

Again, we are expert in flood risk/surface water drainage so we will have to rely on the expertise of the Environment Agency in this regard. The proposed use however is not strictly recreational as it principally involves fish farming not fishing lakes.’

**Previous comments (02/09/2018) -**

‘Wigsley Parish Meeting objects to the proposals unless the following points are satisfactorily addressed:

1. Supporting Statement

- a. There is no detail about numbers or sizes of vehicles required on a daily basis for topsoil removal. This is essential to assess the potential noise and disturbance.
- b. Contrary to comments in the Supporting Statement, North Scarle Road on the former Wigsley Airfield has a long history of surface water flooding during heavy rain and standing water on adjacent fields is commonplace during Autumn and Winter.
- c. It is not tourism development.
- d. Great Crested Newt mitigation measures are required.

2. Construction Management Plan

- a. The construction period is long at an estimated 2-3 year period so the potential for noise and disturbance adversely impacting on residents is high.
- b. The site is not remote from the village, it is on the very outskirts of the village.
- c. There is no detail about the types of machinery to be used for excavation.
- d. a 12 hour working day during weekdays will encroach into hours where residents can reasonably expect to be able to sleep and enjoy their gardens in the evening. 8am to 6pm is far more appropriate.
- e. There is nothing stated about not working on Bank Holidays, which would be entirely inappropriate.
- f. There are no details of the routes HGV's will take to travel to and from the site. A route through the village could cause significant disturbance and inconvenience to residents. HGVs should be routed away from the village.

3. Flood Risk Assessment

- a. The Assessment references both the Sequential and Exception Tests but undertakes neither.
- b. It is not for the District Planning Authority to carry out these tests, rather it is the responsibility of the applicant.’

**09.02.2018** - ‘The village support the application providing it remains of under agricultural heading and there is no gravel extraction. Our concerns are traffic in the village and possible noise.’

**NCC Highways Authority – (17.12.2018):** “I am happy with the number of lorries and profile is not excessive and does not raise concern.

The conditions suggested in my formal comments dated 10 December remain valid and no objection is raised subject to these being applied.”

**(10/12/2018):**

Further to comments dated 6 February 2018 new information has been provided, but access details are still required in line with the suggested condition below.

Also (to) allay fears over traffic movements a lorry routeing arrangement should be agreed.

Whilst it is suggested that over the 4 year construction period, there will be an average of one HGV movement per week on the public highway, it would be helpful to know what the peak level of movements might be. Perhaps a profile of estimated HGV movements over time could be provided?

Subject to the above matter being clarified, the following conditions are suggested:

No part of the development hereby permitted shall commence until details of the vehicle access have been first submitted to and approved in writing by the Local Planning Authority and thereafter constructed in accordance with the approved details prior to the approved development being brought into use. Such details shall include visibility splays, access width, drainage, and radii.

Reason: In the interests of highway safety.

No part of the development hereby permitted shall commence until details of construction lorry routeing have been first submitted to and approved in writing by the Local Planning Authority, and such details adhered to during the construction period.

Reason: In the interests of highway safety.

Note to Applicant:

In order to carry out the 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 Highway Authority authorisation to carry out the works and such works will need to comply with Highway Authority standards/specification. Please contact [hdc.north@nottscc.gov.uk](mailto:hdc.north@nottscc.gov.uk) for further details.”

(15.06.2018) – Comment that a lorry routing agreement would be wise. (In response to comments made by Minerals & Waste on 14.06.2018 see below)

**(06/02/18)**

“This proposal is unlikely to have significant impact on the public highway and is similar to previously approved applications. The Highway Authority is confident that acceptable access can be achieved off North Scarle Road and subject to agreeing the details no objections are raised.

Suggested Condition:

No part of the development hereby permitted shall be commence until details of the vehicle access have been first submitted to and approved in writing by the Local Planning Authority and thereafter constructed in accordance with the approved details prior to the approved development being brought into use. Such details shall include visibility splays, access width, drainage, and radii.

Reason: In the interests of highway safety

Note to Applicant:

In order to carry out the 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 Highway Authority authorisation to carry out the works and such works will need to comply with Highway Authority standards/specification. Please contact [hdc.north@nottscc.gov.uk](mailto:hdc.north@nottscc.gov.uk) for further details."

**NCC Planning; Minerals and Waste/Ecology (21.12.2018) –**

“Minerals

Following concern raised in the previous consultation response in relation to Minerals and Waste-extraction activity and the now additional information the County Council now has the following comments to make.

In relation to excavating material, the supporting statement and muck balance calculation/spreadsheet/lorry movements set out the quantities of materials that would be excavated and how they would be used within the development. It confirms that most materials would be retained for re-use within the application site with approximately 2,511 tons of top soil removed from the site which would be sold. It confirms sand and gravel (mineral) would not be removed from the site. For the purposes of mineral planning, the soils removed from the site are a surplus spoil material and not a mineral resource. Cross sections have also been supplied which identifies the depths of the excavation which was previously unclear.

On the basis of this information the County Council is satisfied that the development does not need a separate planning application for minerals extraction, but the County Council would recommend that Newark and Sherwood District Council impose a planning condition to ensure that the level of material excavation/re-use and off-site disposal accords with the information that has been submitted.

It is considered the additional information addresses the concerns that have previously been raised by Nottinghamshire County Council and therefore consider we can withdraw our mineral planning objection to the development.

Ecology

Some, further, ecological information has been provided, specifically in relation to great crested newts. Comments as follows:

A Great Crested Newt Mitigation Report (dated October 2018) has been submitted, which proposed a precautionary approach in the absence of surveys of 'Pond B', to which access was not obtained. It is unclear if it is proposed that further surveys of this pond are expected to take place (which could negate the need for a mitigation strategy). However, the approach set out in the Great Crested Newt Mitigation Report appears to be appropriate.

However, it is assumed that no further ecology report has been provided to address the other, previous comments about gaps in the original ecology report – it cannot be seen on the NSDC website. Questions remain about the presence (or otherwise) of reptiles on the site, and it is unclear whether the existing badger setts are to be directly affected by proposals or not.

The site layout has been amended, showing the retention of the existing hedgerow which bisects the site in an east-west direction, which is welcomed.

It remains unclear about the raising of land in areas that currently support scrub (to be retained) – the note on the Site Layout plan does not really clarify this.

As before, standard conditions will be required in relation to the control of vegetation clearance during the bird nesting season, and the use of temporary protective fencing to protect retained areas of vegetation and watercourses during construction.

A condition should be used to require the submission of a detailed landscaping scheme, to include the use of native species of tree and shrub, establishment methods, and the provision of a wildlife pond (in the event that a great crested newt pond is not required)."

**(14.06.2018)** - 'Additionally, I would also note that in regard to the statement that (in respect of vehicle movements) 'On the basis of a four year project the top soil sales will create just under four loads via 8 wheel lorries per working day, being Monday to Friday', it is our experience that the movement of inert material is conducted on a campaign basis. Therefore, though 4 loads (8 vehicle movements) per day may well be accurate as an average, in practice this figure may fluctuate greatly, with movements being much higher during some periods than others (where there may be no movements at all). Therefore this figure may not fairly reflect the number of vehicle movements during certain periods.'

**(19.04.2018)** 'I have been forwarded a link to the supplementary information provided in connection with the Wigsley Fish Farm planning application incorporating data on muck shifting associated with the development.

I note the email dated 29th March confirms that the development will result in the movement of soils upon the site and sets out that top soils will be removed/sold from the site to off-set the cost of the works. I am satisfied that the removal of soils from the site, including their sale as a product for use elsewhere does not represent a mineral extraction activity and therefore consider the appropriate authority to deal with this planning application is Newark and Sherwood District Council.

If you were minded to grant the development planning permission can I suggest you impose a planning condition to make it clear that only top soils and no minerals (particularly sand or gravel) shall be removed from the site.'



**(28/02/2018)**

The additional information demonstrates that the applicant has now undertaken a more comprehensive assessment of the cut and fill across the site and used this information to calculate the amount of materials which would be retained on site and the amount of materials that would need to be removed from the site. I have not reviewed the methodology of the calculations but I would assume the volumetric count comes from a computer programme. It may be worth clarifying how the figures have been calculated but I have some confidence that the figures are now accurate and enable a decision to be made in terms of whether this is a County or District planning application.

The key question in terms of whether this is a County planning application is whether the development involves minerals extraction. On this point I note that the applicant has confirmed with you that they will not be digging into the mineral reserve areas below the ground and therefore only soil and spoil will be recovered from the excavation process. The removal of surplus soils from the site would be considered as an engineering waste and therefore not a minerals development, thus the application can be considered as a district matter. I would suggest this needs regulating by planning condition.

In terms of the removal of material from the site, it would be helpful to know what the applicant intends to do with this. To put some context to the quantities being proposed

- 113,147m<sup>3</sup> of soil equates to around 190,000 tonnes of material (using a 1m<sup>3</sup>=1.7t converter). – The current output of Besthorpe Quarry is around 175,000tpa!
- If this material was disposed of in an inert landfill site it would probably incur a cost of around £5 a tonne (£2.70 tax + site gate fees). If the soil was used in landscaping works (the most likely use of soils) then there is potential for such sites to operate on a tax exempt basis.
- Using a £5 a tonne fee, disposal costs for 190,000 tonnes is nearly £1million.
- These costs also do not include haulage costs – I would expect haulage to use 20 tonne tippers which equates to 9500 HGV's.
- Delivery cost for these HGV's is likely to be around £1 a mile and therefore add significantly to the £1m disposal costs.

These costs clearly impact the economic viability of the project. I expect the applicant has given consideration to this in his business plan. Clearly if the applicant can recover some value from the engineering works (for example by selling mineral), this would offset some/all of this cost. If costs are not properly considered at this stage there is potential for the scheme to not proceed to completion with potential to leave a despoiled site with consequential environmental harm – something we would not want to see. I would suggest you obtain from the applicant a clearer understanding of what he proposes to do with the material including a viability report to ensure that the scheme is financially sustainable.

I would ask the applicant to confirm where he proposes to dispose of the soils.

I am concerned that the operator may over dig the excavations to a greater depth to allow the removal of the underlying sand (which could be sold) and then backfill with waste soils to achieve the restoration contours – The imposition of a planning condition restricting excavation depth would therefore be prudent to guard against this occurring and ensure the application does not incorporate mineral extraction.

Lastly, I am sure you will want to give consideration to the suitability of the highway network to accommodate the proposed level of haulage both in terms of highway safety, capacity and highway amenity. A clearer understanding of traffic impacts presumably in the form a traffic statement therefore appears to be necessary so that these impacts can be assessed.

### **NCC (Strategic Policy) – (05/02/18)**

‘Thank you for your letter dated 19 January 2018 requesting strategic planning observations on the above application. I have consulted with my colleagues across relevant divisions of the County Council and have the following comments to make.

Please note that, on the basis of the information provided by the applicant, Nottinghamshire County Council objects to the proposed development, due to the lack of information supporting the application detailing mineral extraction and handling. NCC’s concerns are detailed in the relevant section of this response dealing the application’s County Planning Context. The County Council would also draw attention to concerns raised in this response in respect of Ecology.

### **National planning context**

In terms of the County Council’s responsibilities the following elements of national planning policy and guidance are of particular relevance.

#### **Waste**

The National Planning Policy for Waste (NPPW) sets out the Government’s ambition to work towards more sustainable and efficient resource management in line with the waste hierarchy. Positive planning is seen as key to delivering these waste ambitions through supporting sustainable development. This includes ensuring that waste management is considered alongside other spatial planning concerns and helping to secure the re-use and recovery of waste wherever possible.

Paragraph 8 of the NPPW states that:

*‘When determining planning applications, all planning authorities should ensure that:*

*- the likely impact of proposed non-waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities;*

*- new, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development, and, in less developed areas, with the local landscape. This includes providing adequate waste storage facilities at residential premises, for example by ensuring that there is*

*sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service;*

*- the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities and minimises off-site disposal.’*

In Nottinghamshire, relevant policies are set out in the Nottinghamshire and Nottingham Replacement Waste Local Plan: Part 1 – Waste Core Strategy (December 2013).

## Minerals

Section 13 of the National Planning Policy Framework (NPPF) covers the sustainable use of minerals. Paragraph 142 points out that minerals are *'essential to support sustainable economic growth and our quality of life.'*

Paragraph 143 requires that, in preparing Local Plans, local planning authorities should:

- *'define Mineral Safeguarding Areas and adopt appropriate policies in order that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-minerals development, whilst not creating a presumption that resources defined will be worked; and define Mineral Consultations Areas based on these Minerals Safeguarding Areas;*
- *set out policies to encourage the prior extraction of minerals, where practicable and environmentally feasible, if it is necessary for non-mineral development to take place'.*

In terms of the role of local planning authorities in planning for minerals, paragraph 144 of the NPPF states that:

*'When determining planning applications, local planning authorities should:*

- *not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes'.*

The national Planning Practice Guidance provides further information on the role of district councils in this regard, stating that *'they have an important role in safeguarding minerals in 3 ways:*

- *having regard to the local minerals plan when identifying suitable areas for non-mineral development in their local plans. District Councils should show Mineral Safeguarding Areas on their policy maps;*
- *in those areas where a mineral planning authority has defined a Minerals Consultation Area, consulting the mineral planning authority and taking account of the local minerals plan before determining a planning application on any proposal for non-minerals development within it; and*
- *when determining planning applications, doing so in accordance with development policy on minerals safeguarding, and taking account of the views of the mineral planning authority on the risk of preventing minerals extraction.'*

## Transport

Paragraphs 29-41 of the NPPF address the issue of sustainable transport. The NPPF requires all developments which generate significant amounts of movement to be supported by an appropriate Transport Assessment and a Travel Plan. It also states that it should be ensured that such developments are *'located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'.*

## Education Provision

Paragraph 72 states that:

*'The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*

- *give great weight to the need to create, expand or alter schools; and*
- *work with schools promoters to identify and resolve key planning issues before applications are submitted.'*

## **County Planning Context**

### Transport and Flood Risk Management

The County Council as Highway Authority and Local Lead Flood Authority is a statutory consultee to Local Planning Authorities and therefore makes separate responses on the relevant highway and flood risk technical aspects for planning applications. In dealing with planning applications the Highway Authority and Local Lead Flood Authority will evaluate the applicants proposals specifically related to highway and flood risk matters only. As a consequence developers may in cases where their initial proposal raise concern or are unacceptable amend their initial plans to incorporate revisions to the highway and flood risk measures that they propose. The process behind this can be lengthy and therefore any initial comments on these matters may eventually be different to those finally made to the Local Planning Authority. In view of this and to avoid misleading information comments on planning applications made by the Highway Authority and Local Lead Flood Authority will not be incorporated into this letter. However should further information on the highway and flood risk elements be required contact should be made directly with the Highway Development Control Team and the Flood Risk Management Team to discuss this matter further with the relevant officers dealing with the application.

### Minerals and Waste

#### *Extraction activities*

The development site is likely to be underlain by a sand and gravel mineral resource which the construction scheme appears to excavate. The application does not incorporate specific details regarding the amount of excavation at the site and the quantities of soil and sand & gravel that would be excavated and only indicative information regarding how it would be used. NCC recommends that further plans are received from the developer including excavation/fill contour plans, cross sections and accurate calculations of materials excavated and quantities retained or removed from the site. It is unclear whether the depths identified on the plan are water depths or excavation depths. The developer should also explain what is the character of the materials taken off the site, where these will be transported and what they will be used for. Consideration could then be given to potential impacts from these activities (such as traffic, noise, dust, hydrology etc).

Planning permission was granted for a much smaller development of a fish farm at this site a few years ago. At this time there was correspondence between NCC and NSDC which resulted in the developer confirming that no materials were to be taken off the site (as referenced in the officers report) and therefore there was no minerals interest in the development. NCC would like to obtain a greater understanding of the materials generated by this development so that it can determine whether a separate planning application needs to be made to NCC for mineral extraction, but based on the information that has been provided it appears likely that there may be a mineral interest which may require a separate permission from the Minerals Planning Authority.

The Minerals Planning Authority therefore **raises an objection** to the planning application based on the submission that has been made on the basis that it potentially involves the extraction of mineral for which planning permission has not sought/been requested, nor the potential environmental impacts fully assessed.

### *Minerals & Waste Safeguarding*

Nottinghamshire County Council would like to draw attention to the position of the site in relation to the County Boundary, which the site adjoins to the east. In the areas beyond this point Lincolnshire County Council are the appropriate minerals and waste planning authority and NCC would defer to colleagues at Lincolnshire County Council in respect of any potential safeguarding concerns within that local authority area.

In relation to the Minerals Local Plan, the site is within a Minerals Safeguarding and Consultation Area for sand and gravel. Given that the site is located at a distance from settlements, with surrounding land use being predominantly agricultural, there is the potential for areas surrounding this site (and the site itself, as previously covered in the 'Extraction Activities' section of this response) being subject to future extraction of an economically important minerals resource.

The nature of this development is unlikely to unnecessarily sterilise surrounding areas of resource and therefore it is unlikely that the development of this site would raise additional safeguarding concerns in respect to the sand and gravel MSA/MCA. There are no current or permitted minerals sites close to the application site. Though as mentioned in the preceding section of this response, there are concerns in respect to extraction on the site itself as a result of this development.

In terms of the Waste Core Strategy, there are no existing waste sites within the vicinity of the site whereby the proposed development could cause an issue in terms of safeguarding existing waste management facilities (as per Policy WCS10). As set out in Policy WCS2 'Waste awareness, prevention and re-use' of the Waste Core Strategy, the development should be 'designed, constructed and implemented to minimise the creation of waste, maximise the use of recycled materials and assist the collection, separation, sorting, recycling and recovery of waste arising from the development.' In accordance with this, as the proposal is likely to generate significant volumes of waste through the development or operational phases, it would be useful for the application to be supported by a waste audit. Specific guidance on what should be covered within a waste audit is provided within paragraph 049 of the Planning Practice Guidance.

### *Ecology*

Nottinghamshire County Council has the following comments on this application in respect of Ecology:

#### *Site survey*

The application is supported by an Ecological Scoping Survey, dated January 2018. This presents a number of issues:

- No desktop study has been carried out, on the basis that the scale of the proposals is too small to merit one. However, the site is 25ha in size, and a desktop study is necessary to help scope what further field surveys may be required and to identify the presence of designated sites (see next bullet point).

- The existence of a Local Wildlife Site (Wigsley Dismantled Airfield), which partly covers the application site, has not been identified and impacts on that site have not been considered.
- No proper description of the habitats present on site has been provided; for example, a hedgerow runs east-west across the site, but this is not even mentioned.
- The report recommends various further surveys, including for great crested newts and reptiles. NCC would query whether the former is required, as aerial photos suggest that the pond to which access was not obtained is used for fishing – if this is the case, then a survey can probably be ruled out. NCC agrees that a reptile survey is necessary, noting that such a survey cannot be commenced until the spring, and the results will be required prior to the determination of this application.

If it can be confirmed that no works will take place within 5m of a watercourse, then water voles surveys are not required.

- It appears likely that two badger setts will be affected by the proposals, due to excavations taking place in close proximity to them; this should be confirmed, and the need to close these setts under licence clearly identified.
- Standard controls will be required in relation to vegetation clearance and the bird nesting season.
- Temporary protective fencing should be used to protect retained areas of vegetation and watercourses during construction.

#### *Site layout and landscaping*

The Supporting Statement takes a considered approach in relation to wildlife and landscaping, which is welcomed, and what is proposed is generally supported. In any event, a detailed landscaping scheme, to include details of species mixes, establishment methods and maintenance regimes will be required through a condition attached to any permission granted.

It is stated that the scrub in the centre north of the site is to be retained, which is welcomed. However, in relation to the Site Layout plan, areas marked as 'retained scrub habitat' (including the aforementioned area) are also labelled as 'raised up 0.5m' – it is unclear what this means, and how scrub can be retained if the land is to be retained (assuming this is what is proposed).

It is additionally requested that:

- The three utility buildings are re-sited slightly, so that the existing mature scrub that currently exists in this location can be retained.
- Efforts are made to retain the existing hedgerow which runs east-west across the middle of the site; it appears that this can be accommodated within the existing layout.
- A wildlife pond (i.e. a pond that does not get stocked with fish or used for fish rearing) is accommodated within the site layout, perhaps next to the area of retained scrub in the centre north of the site (where there is a square bite out of it).
- Existing boundary hedgerows are gapped up where necessary, and new boundary hedgerows planted along the redline boundary.

#### Conclusion

It should be noted that all comments contained above could be subject to change, as a result of ongoing negotiations between the County Council, the Local Planning Authority and the applicants. These comments are based on the information supplied and are without prejudice to any comments the County Council may make on any future planning applications submitted for this site.'

**NCC Lead Local Flood Authority – (11.12.2018, 29.08.2018 & 18.06.2018)**

“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.”

**Natural England – 05.12.2018**

‘Natural England has previously commented on this proposal, our ref 237116, and made comments to the authority in our letter dated 8 February 2018. The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.’

Previous comments:

(23/08/2018) refer to previous comments as below.

(01/06/2018) - “Natural England has previously commented on this proposal and made comments to the authority in our letter dated 8th February 2018.

The advice provided in our previous response applies equally to this proposal, although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.”

(08/02/18)

The Wildlife and Countryside Act 1981 (as amended)  
The Conservation of Habitats and Species Regulations 2017

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites – no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published [Standing Advice](#) on protected species.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.



## Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

## Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “Development in or likely to affect a Site of Special Scientific Interest” (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](https://data.gov.uk) website’

### **Nottinghamshire Wildlife Trust – 07.12.2018:**

“Thank you for consulting Nottinghamshire Wildlife Trust on the planning application detailed above. We note that additional ecological information has been submitted. We would like to make the following comments.

We fully support the mitigation proposed for great crested newts in the ecological report Prime Environment, Float Fish Farm (October 2018). Mitigation is required because in the event that it’s not possible to survey a pond, Pond B in this instance, it has to be assumed that a small population of great crested newts could be present. Mitigation is required to ensure that newts are not harmed during works and that the newt population can be sustained in the long term. Great crested newts are a European Protected Species (EPS) and are protected under the Conservation of Habitats and Species Regulations 2010, and the Wildlife and Countryside Act 1981, as amended by the Countryside & Rights of Way Act 2000. The legislation provides protection to great crested newts, their breeding ponds and terrestrial habitat. The methodology given in Section 3 of the report should be secured by way of planning **condition**, should the application be approved. You may wish to use the following wording:

“All mitigation works shall be carried out in accordance with the details contained in Section 3 of Prime Environment, Float Fish Farm (October 2018) already submitted with the planning application and agreed in principle with the local planning authority prior to determination.”

The newt mitigation should ideally be incorporated into the Construction Plan or attached to it so that all site personnel are familiar with it.

### **Previous Comments: (22.08.2018)**

‘Thank you for consulting Nottinghamshire Wildlife Trust on the planning application detailed above. We note that additional information on ecology has been submitted. We would like to make the following comments.

The eDNA survey report has confirmed that great crested newts are absent from Pond A. No survey was undertaken, however, of Pond B and we therefore support the view of the applicant's ecologist that it must be assumed that newts are present in Pond B. Ideally, it should be determined whether great crested newts are present in Pond B prior to works commencing as there are habitats within the site that are suitable for great crested newts and in the unlikely event Pond B supports great crested newts, mitigation will be required.

We fully support the comments by the applicant's ecologist that appropriate mitigation is therefore still required to reduce impacts of the proposed works (unless a survey can be undertaken to demonstrate that newts are absent from this pond). Mitigation will be required to ensure that newts are not harmed during works and that the newt population can be sustained in the long term. Great crested newts are a European Protected Species (EPS) and are protected under the Conservation of Habitats and Species Regulations 2010, and the Wildlife and Countryside Act 1981, as amended by the Countryside & Rights of Way Act 2000. The legislation provides protection to great crested newts, their breeding ponds and terrestrial habitat.'

**(05/02/18)**

Thank you for consulting Nottinghamshire Wildlife Trust on the planning application detailed above. We welcome an updated ecological survey for the site. Having carefully studied the Ecological Scoping Survey (Prime Environment January 2018) we have the following comments.

#### Protection of Local Wildlife Site

By not undertaking consultation with the Nottinghamshire Biological & Geological Records Centre (NBGRC) the applicant's ecologist failed to identify the presence of a locally important site, Wigsley Dismantled Airfield Local Wildlife Site (LWS 5/205). It would appear however from reviewing the location plan that the location of the fish farming facility will not have a direct impact on the LWS. We ask the LPA to ensure that this is the case because if this proposal will result in loss or damage to the LWS then we would have to reconsider our position. There are however, possible indirect effects that will need to be addressed to ensure protection of the LWS. We are concerned about the potential impacts from run-off from areas of impermeable surface. Run-off from roads and hard standing can be contaminated by oil, rubber, chemicals, etc. We request assurances that the issue of run-off from the site will be thoroughly assessed and appropriate mitigation put in place as it is of the utmost importance that contaminated water does not enter and degrade nearby water courses, ponds and the adjacent LWS. LWS are selected for their substantive nature conservation value. Their selection takes into consideration the most important threatened species and habitats within a national, regional and local context. LWS receive protection within Newark and Sherwood's Local Development Framework. The District Council expects proposals to take into account the need for continued protection of the District's ecological, biological and geological assets. With particular regard to sites of international, national and local significance, Ancient Woodlands and species and habitats of principal importance identified in Section 41 of the Natural Environment and Rural Communities Act 2006 and in the Nottinghamshire Local Biodiversity Action Plan.

We strongly recommend the production of a Construction Environment Management Plan (CEMP) to ensure the protection of retained habitats within the site, the adjacent LWS and to ensure that development work is carried out in accordance with protected species legislation. Light pollution should be reduced to a minimum. Security lighting during construction should be controlled by passive infra-red detectors and low powered lights should be used and targeted to where it is

needed most on the completed development. No construction materials, extracted soils, chemicals or plant machinery should be stored on the LWS and retained habitats. These areas should be clearly demarcated. Ideally, a permanent buffer zone should be established between the new development and the LWS. The production and implementation of the plan should be secured through the planning system by way of a suitably worded condition.

### Protected species

#### *Great Crested Newts*

A second pond, 39m North West of the site on private land could not be accessed during the ecological scoping survey. We fully agree with the applicant's ecologist, therefore, that a survey for great crested newts should be undertaken in spring to determine the presence or absence of newts. In the event that ponds in proximity to the site support great crested newts, mitigation will be required to ensure that newts are not harmed during works and that the newt population can be sustained in the long term. Great crested newts are 'European Protected Species (EPS) and are protected under the Conservation of Habitats and Species Regulations 2010, and the Wildlife and Countryside Act 1981, as amended by the Countryside & Rights of Way Act 2000. The legislation provides protection to great crested newts, their breeding ponds and terrestrial habitat.

#### *Reptiles*

The applicant's ecologist considers the site suitable for grass snake, slow worm and common lizard. In order to establish whether reptiles are present at this site a survey to industry standard should be undertaken prior to the commencement of work. If reptiles are found, mitigation will be required. Surveys should be undertaken between March and September and require a minimum of seven survey visits (and one visit to set up survey refugia across the site). These species are protected via part of Section 9(1) of the Wildlife & Countryside Act 1981 (as amended) against intentional killing and injuring.

#### *Water Vole*

The applicant's ecologist considers that the bank and watercourse of Wigsley Drain and the wet ditch to the north of the site could support a population of water voles. The internal ditches were not considered suitable for water vole at the time of survey, but it is stated that they could be colonised if they regularly hold water. If work is proposed within 5m of the bank, a survey should be conducted to establish whether water vole burrows are present. If they are, appropriate mitigation may be required. Water voles and their places of shelter are protected under the Wildlife and Countryside Act 1981 (as amended).

#### *Badgers*

Signs of badger activity were recorded within the Site. Sett 1 (Figure 2) was recorded on the site-side bank of the ditch in the north east corner (SK 86665 69554). One of the sett holes had fresh earth around it with scrapings and 'snuffle holes' close by. Sett 2 was recorded in the south west corner (SK 85813 69532), where the applicant's ecologist considers that badgers have been using a wide drain pipe as a sett. Several latrines were noted in the field close by and a significant number of tracks were recorded through the long grass at this location, plus scrapings and snuffle holes. In order to protect badgers from disturbance 30m buffer zones are required around both setts to provide protection to them. Prior to works commencing, the site should be subject to a further

survey for active badger setts because it is possible that animals will dig new setts, or abandon existing ones. Where a sett is within 30m of the proposed works (including movement of vehicles, storage of materials and excavation work) the applicant should consult their ecologist and Natural England because a protected species licence may be required. Under the Protection of Badgers Act 1992 it is a criminal offence to wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so; to intentionally or recklessly interfere with a sett. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it. In future we strongly recommend that the LPA redacts all reference to active badger setts from documents in the public domain to avoid drawing unwanted attention to them.

### *Bats*

All trees within the site were considered to have low bat roost potential. However, this does not mean that they have no potential for roosting bats and further inspection of these trees will be necessary should they be impacted by the development. All bat species are statutorily protected from reckless killing, injuring and disturbance, and damage and obstruction to roost sites by the Wildlife and Countryside Act 1981 (as amended) and by the Conservation of Habitats and Species Regulations 2010 (as amended). Note that even if bats are not present, their roosts are protected all year round. The Countryside and Rights of Way Act 2000 strengthens the protection afforded to bats by covering 'reckless' damage or disturbance to a bat roost.

### *Breeding Birds*

No vegetation clearance works to be conducted during the bird breeding season (March to mid-September inclusive) except under the guidance of a suitably qualified ecologist. All birds, their eggs and nests are protected by the Wildlife and Countryside Act 1981 (as amended).

This level of survey work is required in order to allow the LPA to make a fully informed decision, as stated in Paragraph 99 of Government (ODPM) Circular 06/2005 (which accompanied PPS9, but remains in force):

'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.' The Natural Environment & Rural Communities (NERC) Act 2006 places a duty on authorities to have due regard for biodiversity and nature conservation during the course of their operations.

### Landscape Proposals (General)

A Site Layout plan (Drg No. DH/401/17) has been submitted and general landscaping proposals are included in the Supporting Statement. (See sections 2.2.10 – 2.2.31). In Section 2.2.16 it states '*Float Fish Farm Ltd propose to provide an establishment aftercare provision for the woodlands, wetlands and species rich grassland. These habitats will be managed sensitively for nature conservation for 5 years.*' We are of the opinion that a detailed "Landscape Design Plan" and "Ecological Management Plan (EcMP)" are required so that it is absolutely clear what landscaping will be implemented and the management work that will be undertaken in the future. Within the

EcMP we would expect to see details of habitat retention, creation (including methodology and species), any additional enhancements, as well as detailed information of the long term management of these habitats to a high standard in order to maximise biodiversity opportunities. Critical to the scheme delivering real biodiversity benefits is that retained and created habitats should be managed in perpetuity in accordance with the agreed EcMP and that a monitoring strategy be implemented that includes a summary of management undertaken to date, an assessment of the effectiveness of the management against plan objectives, together with any recommendations for any amendments to the management prescriptions. We are happy to discuss the precise level of effort required for monitoring with the applicant's ecologist. Production and implementation of the EcMP should be secured through the planning system by way of a suitably worded condition.

Plant stock used in the landscaping scheme should be of guaranteed native genetic origin and ideally of local provenance, in order to maximise the nature conservation benefits of the proposal. The following species are suitable for this part of the county;

Woodland – Pedunculate oak *Quercus robur*, silver birch *Betula pendula*, Scots pine *Pinus sylvestris*, crack willow *Salix fragilis*, rowan *Sorbus aucuparia*, small-leaved elm *Ulmus minor*, wych elm *Ulmus glabra*. Shrub layer – blackthorn *Prunus spinosa*, hawthorn *Crataegus monogyna*, dogwood *Cornus sanguinea*, holly *Ilex europaeus*, hazel *Corylus avellana*, guelder rose *Viburnum opalis*

Carr woodland – goat willow *Salix caprea*, grey willow *Salix cinerea*, Osier *Salix viminalis*, hawthorn *Crataegus monogyna*, guelder rose *Viburnum opalis*, dog wood *Cornus sanguinea*

Reed bed establishment could be aided through the introduction of rhizomes/plant material that could be obtained through the local Internal Drainage Board as a result of their routine ditch management work. This strategy would hasten the benefits to wildlife and the operation of the reedbed filter system. We are of the opinion that plant material from garden ponds is not suitable as this may contain non-native invasive plant species that could colonise rapidly to the detriment of native species.

We also request that newly created grassland areas are seeded with a grassland/wildflower mix in order to enhance the biodiversity of the site. The following seed supplier will be able to provide an appropriate native wildflower seed mix of local provenance for this part of Nottinghamshire.

### **Environment Agency**

(21.12.2018) – No further comments.

Previous comments:

(12.06.2018, 31.01.2018) Environment Agency position:

“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) dated January 2018, reference GCB/HUDSON, compiled by Geoff Beel Consultancy and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set no lower than 6.31 m above Ordnance Datum (AOD).
2. Resilience measures must be utilised to a minimum of 6.61m AOD.

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

1. To reduce the risk of flooding to the proposed development and future occupants.
2. To reduce the risk of flooding to the proposed development and future occupants.

We strongly advise that an evacuation plan is devised and available flood warning services utilised. This site is within the River Trent at Spalford, Wigsley and Harby Flood Warning Area which can be signed up to at: <https://www.gov.uk/sign-up-for-flood-warnings>.

Information regarding appropriate flood resilience measures can be found here: <https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>.

### 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.

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

05/12/2019 – No further comments

Previous comments: (17.08.2018 & 29.01.2018) “The site is outside of the Trent Valley Internal Drainage Board district but within the Board’s catchment. There are no Board maintained watercourses in close proximity to the site. Surface water run-off to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage must be agreed with the Lead Local Flood Authority and Local Planning Authority.”

**Upper Witham Internal Drainage Board - (03/08/2018, 14/08/2018) No comments**

(19.06.2018) 'Thank you for the opportunity to comment on the additional information for the above application. The site is within the Upper Witham Internal Drainage Board district.

The Board has no objection to the proposed development provided it is constructed in accordance with the submitted details and Flood Risk Assessment. However should anything change in relation to the method of surface water disposal and/or in relation to the flood risk assessment etc then this Board would wish to be reconsulted.

It is noted:

- an access strip of at least 6m has been left adjacent to Wigsley Pump Drain (Board maintained watercourse, 23000)
- any discharges will be limited to the greenfield rate
- Board Byelaw consent will be required for any proposed temporary or permanent works or structures in, under, over or within the byelaw distance (6m) of the top of the bank of a Board maintained watercourse (Wigsley Pump Drain)'

(31.01.2018) "I refer to the above application which is within the Upper Witham Internal Drainage Board district, the site is adjacent to the Board maintained Wigley Pump Drain. The Board has been consulted by the applicant prior to the submission of the planning application and the comments have been incorporated into the Flood Risk Assessment. The comments where;-

The Board would have no objection to the proposed fish farm.

The Eastern boundary is adjacent to the Board maintained Wigsley Pump Drain (23000) and is therefore subject to the Board Byelaws (6m from the top of the bank), the full 6m width will need to be kept clear of all obstructions to allow for future maintenance, repairs and improvements. The plans do not show anything but if you intend to do anything connect us to discuss it.

Any connections to watercourses for overflow arrangements and culverts will also be subject Board consent, please forward any details so we can comment if there are any proposed works. If there are any discharge points they will need to be restricted to the greenfield rate.

The site is within the flood zones on the Environment Agency flood map and is there potentially at risk of flooding."

**North Kesteven District Council – 21/12/2018 – 'No objections'**

**Previous comments** (09/02/2018) - "The Council has no objection to the principle of the development, however notes that the supporting statement makes reference to a 2-3 year time period for completion of works. Given that excavations can generate significant levels of noise and disturbance during construction, that the topography towards the closest parts of the North Kesteven District (Swinethorpe and Low Moor Farm, North Scarle) is generally flat and background noise levels are low, it is suggested that noise generating activities are subject to an hours-limitation condition to minimise the potential disturbance to nearby residential amenity which may result. The Council would recommend this requirement forms part of a Construction Environmental Management Plan (CEMP) which addresses this holistically with other amenity/pollution control measures such as a dust management/suppression. The details should be agreed with your Environmental Health Officer."

**NSDC (Environmental Health)** – No observations in relation to contaminated land.

**NSDC (Environmental Health)**

(10.12.2018) – ‘I have looked at the Construction Management Plan and provided they implement it, I do not for see any problems.’

Previous comments (in respect of earlier CMP) 24.09.2018 – ‘I would comment that section 2.3.6 deals with construction hours, the quoted hours are too long. We would expect 07:30 till 18:00 Monday to Friday, 08:00 till 13:00 Saturday with no Sunday or bank Holiday working.’

**Representations from two local residents (1 objection and 1 making observations/raising questions) were received (before the amended/additional information was submitted) which can be summarised as follows:**

- Whilst the application has the potential to tidy up an often unkempt area, the frontage of which is regularly used for dumping, we have to object to the application in its presently submitted form;
- Noise and disturbance: The supporting statement refers to a 2-3 year period for completion of works. Excavations to create lakes, raise ground levels and so on are generally noisy and the site is close to the village. No noise assessment has been submitted to quantify the impact. A condition limiting the hours of noise generating activities is essential.
- Ecological Impact: The absence of an existing topographical plan makes the full impact unclear but the proposal to raise site levels will mean that all existing habit will be lost. There is a large stand of trees relatively close to the road which will be removed, which seems wholly unnecessary on a large 26 hectare site. The applicant's own ecology report recommends extensive further survey work, because it was carried out at the wrong time. April/May onwards is the appropriate time to begin such survey work and it is very bad practice to grant consent subject to conditions requiring later surveys as then any adverse impact on protected species can only be mitigated rather than the scheme being amended to take the species into account. Does the Planning Authority have their own ecological consultant to review submissions?
- Surface Water Drainage: The Wigsley Airfield road has suffered major surface water flooding in recent years and still carries standing water when it rains notwithstanding the recent repair of the original airfield drainage. The accompanying Flood Risk Assessment makes no reference to these surface water issues nor to the implications of raising site levels. Soakaways are suggested, but the high water table for at least 4 months of the year precludes this as a suitable method of drainage. The standing water on local fields provides evidence and even back in the day septic tanks never worked for this reason and sewage from the village was discharged to local watercourses;
- Vehicle Movements: Lining the proposed lakes with clay will require significant importation of soil with associated heavy vehicle movements. No effort is made to quantify the volume of clay to be imported and the number of vehicle movements required to transport that volume. Again there are potential residential implications here which have not been explored;
- Landscaping: The proposed layout leaves very limited scope for landscaping to the front of the site, which on a site of 26 hectares seems illogical and makes the proposed less likely to be sympathetically assimilated into the flat landscape which surrounds it especially given land levels are to be raised;



- Removal of Soil/Gravel from the Site: The supporting statement indicates that all excavated material will be retained on site. However, it is known from lost papers on the airfield that gravel extraction has been considered on this site and other nearby land. In the event of planning permission being granted, it is important that a condition is imposed requiring all excavated material to be retained on site so that the scheme does not become gravel extraction by the back door;
- As there is likely to be heavy plant/machinery just outside the village, will the road be reinstated & any damage or potholes be repaired following completion of the works?
- Will there be any flooding prevention installed, considering the poor drainage & bad flooding already experienced along the road by the airfield?
- Will there be any odour from the fisheries? Or an increase in flies?
- Will there still be the need for lorries/plant to & from the fisheries on a regular basis following completion of the development?

### Comments of the Business Manager

#### The Principle of Development including the Loss of Agricultural Land

Policy DM8 makes clear that development in the countryside will be strictly controlled and limited to certain types of development including agricultural and forestry development and rural diversification.

The proposal seeks full planning permission for a fish farm at the site. According to the information submitted by the applicant the outfit would produce fish for sports fishing, angling and ornamental purposes.

Section 336 of the 1990 Act defines agriculture to include “...*the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins, fur, or for the purpose of the farming of the land)...*”.

It therefore appears to me that the proposal is not an agricultural use as defined by the Act. In terms of rural diversification (which is listed as being appropriate in the countryside) DM8 says ‘*Proposals to diversify the economic activity of rural businesses will be supported where it can be shown that they 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 existing site does not appear to form an active farming business, albeit some of the land is arable. Part of the land is a former airfield which has assimilated back to agricultural use over a number of years. There is no existing business as such to diversify. On the face of it, the proposal fails this element of the policy. However the NPPF, which is a material consideration (at paragraph 83) supports both the ‘sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings’ and ‘the **development** and diversification of agricultural and other land-based rural businesses’ (emphasis added).

Clearly agricultural land is an important natural resource and how it is used is vital to sustainable development. The Agricultural Land Classification system classifies land into 5 grades, with Grade 3 subdivided into sub-grades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a (as defined by the NPPF) and is the land which is most flexible, productive and efficient in

response to inputs and which can best deliver food and non-food crops for future generations. This is a method of assessing the quality of farmland to assist decision makers.

Estimates in 2012 suggest that Grades 1 and 2 together form about 21% of all farmland in England; Subgrade 3a also covers about 21%. The vast majority of land within the Newark and Sherwood District is Grade 3. There is no Grade 5 land and very limited amounts of Grade 4 land which is located north of Girton and Besthorpe and near North Clifton. Of the Grade 3 land, there is no database to distinguish between whether a site is formed by Grades 3a or 3b land. However the applicant has at our request undertaken a soil analysis which shows the site to be within Grade 3a, falling within the best and most versatile land.

The NPPF sets out at paragraph 170 that planning decisions should contribute to the natural and local environment by ‘ (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – *including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland..*’ emphasis added.

The loss of c26ha of Grade 3a agricultural land is a negative factor in the overall planning balance. However without knowing what proportion of other land within the district is 3a and 3b it is difficult to quantify its true impact. On the other hand, the proposal is a new business which is supported by the NPPF and is a land based business requiring a rural area which would contribute to the local economy through providing jobs and diversifying the rural economy which in my view accords with the spirit of both national and local level policy objectives. The loss of c26ha of farmland to the operation of the proposal fish would also have ecological implications which will be discussed later in this report and the matter will need to be weighed in the planning balance.

#### Excavation Impacts/Viability/Engineering Operations

The application site is large-scale with the need to dig into the ground to create the fish and growing ponds.

Based on the latest information provided by the applicant, NCC have confirmed that they are satisfied that the proposal would not constitute a minerals or waste operation but rather given the depths involved would amount to an engineering operation that is a district planning matter. I concur. However it is important that the depths of the digging is controlled to avoid extraction of minerals such as sand and this could be through a planning condition if Members are minded to support the scheme.

The material (top soil) that is being dug out to provide the lakes will, according to the application submission, be largely retained on site. Members will note that officers have challenged the details provided initially by the applicant and various iterations of this have been provided. The various submissions have provided vastly different volumes of material quoted as needing to be removed from the site. For example previous versions suggested this would be c102,454 tons and c77,000 tons based on the same plans. The applicant has been advised that the accuracy of this information is crucial. The latest details submitted on 29 November 2018 (corrected on 4<sup>th</sup> February 2019) now say the amount of top soil to be removed is 1663.5 tons which has been endorsed by a Quantity Surveyor. Officers from NCC Minerals and Waste have also assisted with calculating the volume of materials to be removed and a broadly satisfied that these are correct.

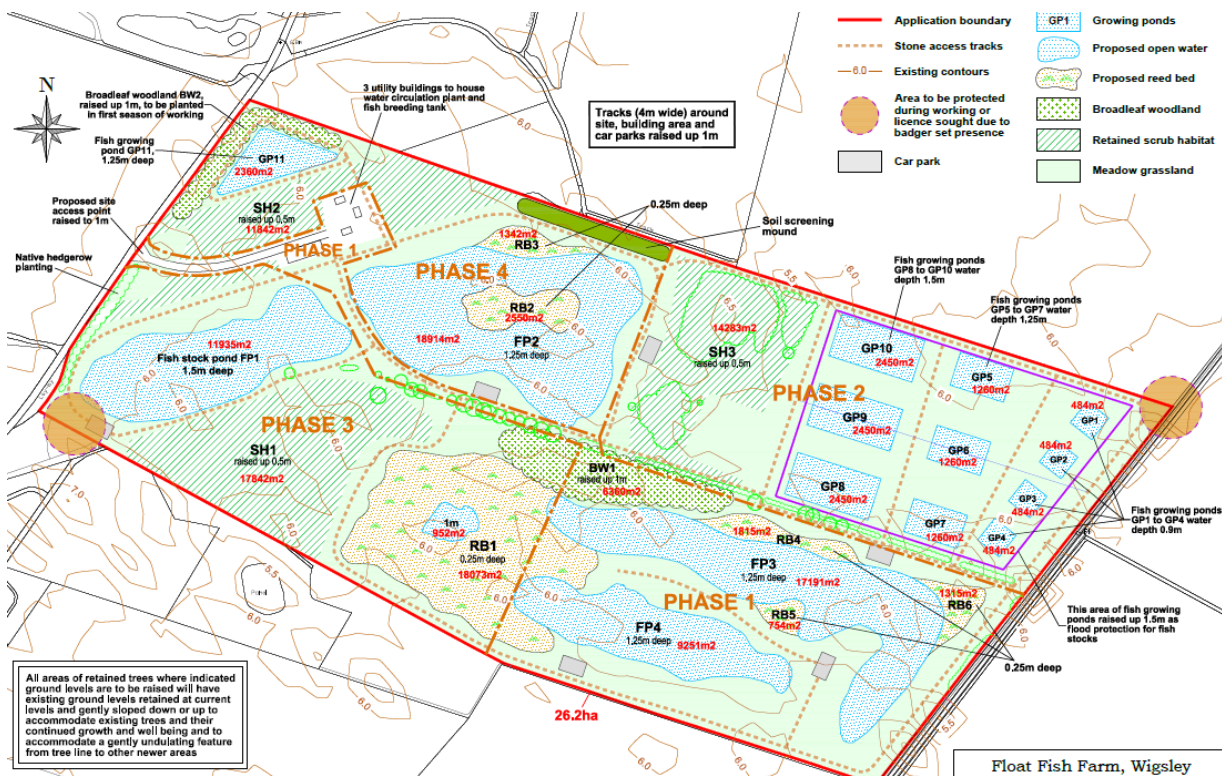
The submission previously suggested that approximately 77,000 tons of surplus material that would have to be disposed of, to be sold off to help cover the cost of muck moving within the site. However as noted above this has now been clarified as being 1,663.5 tones (2,511 tonnes, minus 847.5 tones that was missed off the spreadsheet as confirmed on 4<sup>th</sup> February 2019). I am mindful of the comments made by NCC Minerals and Waste colleagues in ensuring that the development has been planned on a financially sound basis to avoid the scheme not being completed which would have the potential to leave a despoiled site which would be harmful to the environment. These comments were made in the context that disposal costs for what was originally said to be 190,000 tonnes which would almost £1million plus haulage costs. However the application now proposes that none of the material will need to be removed, other than sold which would reduce the cost and risk. More importantly I consider that controlling the development through development in phases (with not more than one phase being developed until the previous is substantially complete unless otherwise agreed) would decrease the risk identified. This is a matter that could be controlled by condition.

The applicant previously suggested that the level of material leaving the site would amount to just under 4 HGV movements per day over a four year period. The QS summary indicates that the total amount of material would result in 167 tipper lorry loads (with each tipper having a 15m<sup>3</sup> capacity) over the four year construction period with 1 load expected per week. When factoring in the correction (arising because no allowance was made for works to the broad leaf woodland area) this would be lessened further to c111 tipper loads. I am mindful that NCC Minerals and Waste previously advised that *'...it is our experience that the movement of inert material is conducted on a campaign basis. Therefore, though 4 loads (8 vehicle movements) per day may well be accurate as an average, in practice this figure may fluctuate greatly, with movements being much higher during some periods than others (where there may be no movements at all). Therefore this figure may not fairly reflect the number of vehicle movements during certain periods.'*

Whilst the quantities are now shown to be far less, it remains the case if the topsoil is removed on a campaign basis there may be more than 1 lorry load per week. However given the total number of lorry loads over the entire 208 week construction period and given controls that would be in place to deal with phasing, this is unlikely to be significant.

### Phasing

A phasing plan shows the scheme would be developed in 4 phases (in broad quarters);



Developing in phases is sensible in order to control the level of excavation. However I have some concerns that Phase 1 is spread across a large area of the site. For example the broadleaf woodland (BW2 on the plan) that would assist in screening the utility buildings the site frontage would not be delivered for several years as it falls within phase 4. Further, if for any reason development stopped after phase 1 and the future phases were not developed, land forming phases 2, 3 and 4 could be prohibited from being used to its potential as it would have the access road severing it from adjacent arable land. In order to safeguard the land, I consider that notwithstanding the phasing shown, a revised phasing plan will be necessary which can be controlled via condition. For example, Officers envisage that it would be more appropriate for what is now Phase 4 to come forward first (with perhaps the service buildings and necessary road infrastructure). Furthermore part (the tip) of Fish Pond 3 (FP3) is also shown to cross from Phase 2 into Phase 3 and I doubt that one could construct part of a pond so this will need to be rectified.

### Traffic implications & Highway Impacts

SP7 requires development to provide safe and convenient accesses, be appropriate to the highways network in terms of the volume and nature of traffic generated, ensure that the safety of, convenience and free flow of traffic using the highway are not adversely affected, provide appropriate and effective parking provision and ensure that the traffic generated would not create or exacerbate existing issues amongst other things. Policy DM5 reflects this.

The number of lorry loads taking soil off the site is set out in the section above and this is not considered to be significant. In terms of materials to be brought on to the site, the applicant has confirmed that the ponds do not require clay lining as the soil composition is heavy and clay enough to adequately line the ponds commenting further that the water table in the whole area is relatively high and as such there would not be excessive downward pressure enticing water to escape and therefore the retained on site sub soils will hold water.

Visitors to the site for sport fishing have not been quantified but are not expected to be significant. Once fully operational the development is expected to employ around 5 full time members of staff plus additional seasonal workers when required. Deliveries would likely be made by courier two or three times a week. Deliveries out by their own vehicle will be two or three times a week increasing to four times a week during spring, when demand is higher. Parking for visitors would be made within each phase at appropriate points off the access track around the site such adequate parking provision on site would be provided.

NCC Highways Authority have commented the number of lorries and profile is not excessive and they raise no objection subject to lorry routing being agreed and details of the vehicular access including visibility splays. The suggested lorry routing condition has been reworded from a pre-commencement condition, which are to be avoided where possible given the applicant does not need to bring materials on to the site and that it would still achieve the required outcome by agreeing the routing prior to any materials from being taken off site.

Overall I do not consider that the volume of traffic created by this development is likely to be excessive or to cause disturbance and annoyance to village occupiers by HGV's travelling through the village. The Highways Authority have raised no objections to the scheme and overall I consider that the traffic implications are acceptable in line with Policy SP7 and DM5.

#### Impacts on the Countryside and Landscape

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 the scale, form, mass, layout, design materials and detailing of 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.

The landscape character of the area is very flat and open. A key consideration is therefore the impact of the development upon the character of the area visually. The site falls within the East Nottinghamshire Sandlands. Policy Zone 02 (Wigsley Village Farmlands with Plantations) of CP13 applies which gives landscape condition as poor with low sensitivity resulting with a policy action of 'create'.

The materials dug out of the proposed ponds are largely to be re-used on the site by raising land levels across the site. A number of sectional drawings have been provided to show the impacts on this. These show that much of the regrading and levelling works will be imperceptible across such

a large site. Previous schemes have shown the use of bunding and moats around the site for security purposes. Concerns were raised about the extent of these as they were considered rather alien features in the landscape. This scheme has taken on board the various concerns previously expressed. From long distance views this will barely be noticeable. Given that the landscape is poor and its sensitivity is low, there is scope to develop the site in this way. The areas of woodland and habitat that will be created also comply with the policy action of 'create' for this area. Overall I am satisfied that the development would have an acceptable visual impact upon the landscape character and appearance of the area in compliance with the above identified policies.

The applicant has submitted a Landscape and Visual Assessment Impact in support of the scheme. This concludes that *'whilst the sensitivities of the visual public receptors are considered to be high from the public rights of way to the west of the site, the site is seen within the context of its wider landscape setting and once developed, it is considered that the nature of the development and proposals to reduce likely visual effects by the planning of native tree and hedgerow species within the site and along the boundary, will reduce any adverse effects upon public visual amenity.'* I concur.

The scheme proposes three single storey utility buildings to be grouped together from the roadside. The applicant advises that these are required to house the site office, breeding/hatching tanks (of varying shapes and depths) and a water circulation plant. These buildings are domestic in scale and further information as to why 3 such buildings are required was requested. The applicant has advised that 3 separate areas are required for bio security reasons, needed to keep and maintain brood fish so that they can be conditioned over the winter spring period. Three separate systems are required so that brood fish can be conditioned temperature wise at different times as otherwise spawning is a one off event and if something goes wrong the whole years production is lost. A separate section for the eggs and fry is required so they can be moved once ovulation takes place as the eggs are hatched separately for bio security reasons. A section of the building for smaller fish for growing on and brood fish not yet old enough to spawn but will do the following years is required as well as an area for dry goods and farm equipment as well as a small laboratory facility.

The applicant has confirmed they would be willing to amend the scheme to a single commercial/agricultural style building if it is considered more appropriate as they would be able to sub-divide the building internally to create the 3 spaces they require.

The appearance and scale of the 3 buildings, subject to the use of appropriate materials, is considered acceptable per se. However I am concerned that given these buildings are needed within phase 1 and they are of domestic scale that should the business fail for any reason, there would be 3 domestic scale buildings in a countryside location that could be converted to dwellings in an unsustainable location where they would normally be resisted. If Members are minded to approve the scheme I consider that either the application should enter (1) into a Section 106 Agreement to agree that in the event that the scheme is no longer operational or where there has been no activity on site within a 6 month period that these buildings are removed from the site; or (2) that the scheme is amended to propose a single agricultural-style building instead.

#### Impact on Trees

Policy CP12 and DM5 seeks to protect and enhance natural features where possible. CP9 requires proposals *'to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District.'*

An Arboricultural Survey and Impact Assessment has been submitted in support of the scheme. This identifies that 40 individual trees and 25 groups of trees or hedgerows are present on site with a good native species diversity and a mix of ages. Of these 1 is categorised as retention category 'A' (very high quality and value with good life expectancy) 20 are 'B' category (good quality and value with significant life expectancy) and 44 are category 'C' (low or average quality and value).

The vast majority of the trees and hedgerows would be retained as part of this scheme. One tree (T4 – an early mature Hawthorn) plus sections of two groups of wooded vegetation; G45, an early mature hedgerow of Hawthorn & Elder and G63 semi-mature Willow Oak Elm would be lost as a direct result of the proposals. However in all 3 cases the wooded vegetation are categorised as C, of little significance and in the case of the group vegetation only small sections are to be removed, to allow for access roads for example. I consider that these small losses are acceptable in the context of such a large site area and can adequately be compensated for with appropriate re-planting elsewhere to be controlled through a soft landscaping scheme.

Clarification has been sought from the applicant regarding the grading works that will take place around the retained trees, given no existing sections have been provided. My understanding is that the health of trees can suffer if soil is placed around the trunk and roots. The applicant has advised that:

*“The track next to the main tree line through the centre of the site is proposed to be raised by 1 metre and the new Broad Leaf Woodland BW1 is also raised. The tree line will carry raised soil areas and this will be carried through seamlessly. If any large trees are not likely to thrive with a raised area then we utilise soil barriers around the trunks of trees where required. We will seek the advice of professional landscapers at the time of site finish to advise on this so as to achieve optimal conditions for all trees.”*

It is clear to me that some form of mitigation in the way of barriers or protection will be necessary to ensure the longevity of the retained trees. I consider that this can be dealt with by way of a suitable condition.

In order to protect the retained trees, root protection fencing is proposed during the construction phase and a no-dig type of construction method with porous surface is also suggested in order to safeguard the trees from the laying of the proposed stone access roads where they encroach close and to the edge of retained trees. I agree that these matters are reasonable and necessary and are matters that can also be controlled by condition.

### Impact on Ecology

Policy DM7 of Newark and Sherwood's Adopted Allocations & Development Management DPD specifies that: “On sites of regional or local importance, including previously developed land of biodiversity value, sites supporting priority habitats or contributing to ecological networks, or sites supporting priority species, planning permission will only be granted where it can be demonstrated that the need for the development outweighs the need to safeguard the nature conservation value of the site. All development proposals affecting the above sites should be supported by an up-to date ecological assessment, involving a habitat survey and a survey for protected species and priority species listed in the UKBAP.” This is reflected by DM7.

The proposed construction works will disturb most of the site. Although the hedgerow and most trees will be retained, areas of scrub and grassland will be lost. Meadow grassland as denoted on the plans is not intended to be disturbed. Most of the scrub falls within areas where the levels will be raised. The proposed plans show areas labelled 'retained woodland' yet this is to be raised. Clarification was sought and as suspected, the retained woodland is actually best described as reinstated woodland.

Natural England have raised no objections in terms of any impacts upon statutory nature conservation sites and advises that the proposal is unlikely to affect any statutorily protected sites or landscapes. Protected species have been assessed as per the standing advice by officers.

The site currently comprises arable fields, scrub, rough grassland, hedgerows and trees as well as some exposed hardstanding with Wigsley Drain (3m deep with slow flowing water) to the eastern boundary. As such an ecological scoping survey was submitted with the application.

Mitigation is proposed by removing the habitat that would be lost during construction (such as removal of long grass, scrub, shrubs and trees) outside of the bird breeding season and also by replacing this, which would also need to be secured through condition. Subject to this I would have no objection to this and overall the scheme would in time bring about some ecological enhancements as more habitat (as opposed to arable fields) would be created.

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The impact on protected species has been considered. Of particular note is the potential for Great Crested Newts to be present on site. Best practice requires consideration of ponds within 500m of a development that may be able to support a population of newts. In this case two ponds are within 250m of the site; an accessible pond 25m to the south and a pond 39m north-west on third party land.

The southern pond was considered to be unlikely to be a suitable habitat given it is well stocked with fish. An eDNA test of the water within this pond has been provided which shows the pond does not support GCN, a matter accepted by myself and NWT. However the north-western pond could not be ruled out as providing suitable habitat and as such further information was requested resulting in the submission of a Great Crested Newt Mitigation Report (dated October 2018) which proposes a precautionary approach and mitigation strategy in the absence of surveys for this pond. The County Ecologist has confirmed that the approach set out in the Great Crested Newt Mitigation Report appears to be appropriate which should be conditioned. Subject to this I am satisfied that impacts upon GCN have been adequately mitigated. Reptiles could be present on the site and it is recommended that further surveys are undertaken of the site prior to commencement of development.

Water voles and otters have also been considered, given the wet habitat of the Drain to the north of the site. Water voles could be supported although was not present at the time of the survey. In order to ensure that adequate protection is made, it is recommended that before any works are undertaken within 5m of the bank, a survey should be conducted to establish if water voles are present which could be controlled by condition. This is acceptable and can be secured by planning condition.

The impact on badgers has been found to be acceptable. It is recommended that prior to works commencing on site, a fresh survey be undertaken for active badger setts which can be secured by a suitable condition which also requires mitigation where necessary.



The trees on site were assessed for bats and found to have low potential.

The creation of wetlands within the arable landscape is likely to result in a net gain in biodiversity. The ponds themselves will be well stocked with fish, which will naturally reduce the ecological benefit of the ponds, but measures can be undertaken to provide genuine benefits to wildlife from the scheme. For example, the open water areas of the ponds will provide opportunities for natural colonisation by a variety of aquatic flora and fauna. This process could be augmented by the addition of indigenous plant material generated from the routine maintenance of local ponds. The wetlands will be shaped to provide a range of bank angles and heights. Gradients will vary from 15°-35° from horizontal and will be enhanced by the excavation of embayments and spurs. This will create differing conditions of light and temperature and will thus encourage diversification in the flora and associated fauna. Water depth will vary thus warm shallows for the developing larvae of amphibians created. The shallowest areas will grade into an expanse of seasonally wet mud that may encourage feeding by a variety of wildlife.

In line with Core Policy 12 and DM7 it is recommended that the landscaping and management plan is written with a wildlife conservation focus which can be conditioned. The project provides an opportunity to secure a net biodiversity gain once impacts are mitigated and compensated, by providing additional wildlife habitats and sensitive management. Therefore in summary I am satisfied that the impact of the tree and vegetation loss to be low and is one that can be mitigated through the planting of native species elsewhere. The impact on ecology is also found to be acceptable and in fact such deliver enhancements which is a positive for the scheme.

#### Impacts on Residential Amenity

Core Policy 9 sets out an expectation that development is of a high standard and that contributes to a compatible mix of uses. Policy DM5 requires that all proposals be assessed to ensure that the amenity is not adversely affected by surrounding land uses and where this cannot be mitigated should be resisted.

The nearest residential dwelling is located north of the site c185m away from the nearest point of the site. Once fully operational, there would be a small number of deliveries of per week and I would not anticipate that the activities would have a detrimental impact on residents. I would not anticipate there to be any odour from live fish at this farm.

The main amenity impacts that are likely to arise from the development related to the construction phase from noise and general disturbance. To this end the applicants have been asked to provide a Construction Report. A section of the Supporting Statement now includes a section entitled Construction Management Plan.

This sets out the proposed construction practices with the construction hours indicated as 0700 to 1900 Mondays to Fridays and 0800 to 1300 Saturdays with no construction work to take place on Sundays or Bank Holidays.

Our Environmental Health Officers have commented that the construction hours are too long and one would expect these to be 0730 until 1800 on weekdays. I agree and consider that notwithstanding the CMP submitted, a condition can be imposed to restrict construction to during these hours.

The application is proposed to be constructed over a 4 year period in phases. There is concern from local residents that there would be noise from heavy plant machinery on site. These are all matters I have given careful consideration to. The depth of the ponds means that there would be no minerals extraction and the material will mostly be kept on site. The nearest property are located approximately over 200m from where the excavations will take place and I consider that this is sufficient distance to ensure that there would be no significant adverse impacts on residential properties in terms of general disturbance and noise associated.

No external security lighting is proposed such that there would be no light impacting on amenity. Overall I therefore consider that the scheme accords with CP9 and DM5 in terms of amenity and allowing existing residents acceptable living conditions during both construction and operational phases.

### Flood Risk

Core Policy 9 requires new development proposals to pro-actively manage surface water. Core Policy 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD along with the revised NPPF set out a sequential approach to flood risk.

At paragraph 155 of the NPPF states that: 'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'

Paragraph 158 of the NPPF states that 'The aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding. Development should be not allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide a basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.'

The site now lies within Flood Zone 2 (being at medium risk of flooding) according to the Environment Agency Flood Maps. The applicant has submitted a Flood Risk Assessment (FRA) in support of their application. This is silent on the Sequential Test as advocated by planning policy. However upon request the applicant has provided the following information:

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*"I can confirm that we did undertake a Sequential Test and our conclusions were this; the site, the subject of this planning application has previously had planning permission granted for the exact same application currently in with the difference being the size of the site being larger than the original granted permission. We have taken the view that if the site has in its history been granted planning for a Fish Farm then this adds weight to the current use of the site and its proposed Fish Farm use as per application.*

*We have had this land held under option for some 8 years and as such this makes the site financially viable. Alternative sites in the locality do not offer any substantial improvements in flood risk and therefore we concluded there were no benefits in looking for alternative land availability locally.*

*Finally whilst looking for land and sites capable of accommodating the proposed Fish farm enterprise, no land of the size required has been for sale and discussions with local farm agents state that land in this area does not often come up for sale.*

*We therefore concluded that the land proposed currently provides the best resource and option for this project.”*

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These comments are all noted. Whilst a significantly smaller fish farm was approved in 2012, this has time expired without having been implemented and carries no weight. The site is also now in flood zone 2, a material change in circumstance that needs to be considered afresh. It is clear that the applicant has not adopted a sequential approach to site selection for the reasons set out.

The majority of the district is located within flood zone 1, at lowest risk of flooding. However it is unclear as to whether there would be such a large site available for development as a fish farm. I can only conclude that the applicant has failed to properly demonstrate that the site passes the sequential test, a matter which must be weighed in the planning balance.

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In determining whether a failure to pass the sequential test should hold determinative weight I have carefully considered the flood risk vulnerability of the end use.

In instances where the sequential test has been passed, the NPPF advises local planning authorities in their decision making to take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

In terms of flood vulnerability, I consider that this would fall under the ‘less vulnerable’ category of developments which relates to land and building used for agricultural or forestry where development in FZ2 is considered appropriate and the Exception Test is not required. Notwithstanding this, the development needs to be safe for its lifetime.

A flood risk assessment has been submitted with the scheme. The proposal has been assessed in relation to flood risk with the EA raising no objections to the proposal subject to conditions. Upper Witham Drainage Board have requested a condition to ensure that drainage does not contribute to flooding which is reasonable. I therefore conclude that the development would be safe for its lifetime in terms of flood risk and it would not increase flood risk elsewhere.

### Planning Balance and Conclusions

It is acknowledged that the loss of c26ha of Grade 3a agricultural land is a negative that weighs against the scheme. The application has also failed to demonstrate that it passes the Sequential Test in terms of flood risk which also must weigh against the scheme. I am however satisfied that given the proposed use is ‘less vulnerable’ in flood risk terms, that the exception test is not required and that the scheme would be safe for its lifetime as demonstrated through a FRA.

On the other hand the proposal is a new business which is supported by the NPPF and is a land based business requiring a rural location. The business would contribute to the local economy through providing jobs and diversifying the rural economy which in my view accords with the spirit of both national and local level policy objectives. I give substantial weight to the economic role of sustainability. Whilst the loss of grade 3a agricultural land is a negative, I am also mindful that the scheme will bring about some ecological gains which weigh in favour of the scheme. No other harm that cannot be mitigated has been identified. Together the positives just tip the balance towards an approval and I recommend that the permission is granted subject to the attached conditions.

### **RECOMMENDATION**

**Approve, subject to the following condition(s) and the applicant either:**

**a) entering into a Section 106 Agreement to agree that in the event that the scheme is no longer operational or where they has been no activity on site within a 6 month period that the 3 utility buildings are removed from the site;**

**or**

**b) that the scheme is amended to propose a single agricultural-style building instead. It is requested that officers to be given delegated authority to resolve this issue with the applicant, and impose suitable associated conditions as appropriate.**

### **Conditions**

#### **01 (Time for Implementation)**

The development hereby permitted shall be begun within 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 (Require Revised Phasing Scheme)**

Notwithstanding the submitted Phasing Plan, DH/408/17 submitted 29.11.2018, this is not approved and prior to commencement of development, a revised phasing plan shall be submitted to and approved in writing by the Local Planning Authority which secures phasing from west to east. The development thereafter shall be implemented in accordance with the approved phasing plan with not more than one phase being implemented until the previous phase is substantially complete unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to safeguard the land against being blighted by the development in the event that the scheme is not completed and in order to show fish pond number 3 being within a single phase.

### **03 (Details of the Access)**

No part of the development hereby permitted shall commence until details (to include visibility splays, access width, drainage, and radii) of the vehicle access have been first submitted to and approved in writing by the Local Planning Authority. The approved access shall thereafter be constructed in accordance with the approved details prior to the development being brought into use. The visibility splays shall thereafter be kept free from obstruction for the lifetime of the development.

Reason: In the interests of highway safety.

### **04 (Lorry Routing – Phase by Phase)**

No material shall be removed from any phase of the development (pursuant to Condition 2) until details of construction lorry routing has been first submitted to and approved in writing by the Local Planning Authority, and such details adhered to during the construction period.

Reason: In the interests of highway safety.

### **05 (Levels of Excavation)**

The level of excavation of the site shall not exceed the details and depths as shown on drawing number Site Layout, DH/401.17 Rev B.

Reason: In order to ensure that no minerals are extracted from the site in the interests of amenity and to ensure that the impact upon the highway network is as has been mitigated for.

### **06 (Bird Breeding Season Restrictions)**

There shall be no pruning, the removal of hedgerows, vegetation or trees during the bird breeding season (March to September inclusive) unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to afford protection to breeding birds which are protected by the Wildlife and Countryside Act 1981 (as amended).

### **07 (EA Flood Risk Condition)**

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated January 2018, reference GCB/HUDSON, compiled by Geoff Beel Consultancy and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set no lower than 6.31 m above Ordnance Datum (AOD).
2. Resilience measures must be utilised to a minimum of 6.61m AOD.

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:

1. To reduce the risk of flooding to the proposed development and future occupants.
2. To reduce the risk of flooding to the proposed development and future occupants.

### **08 (EA Evacuation Plan)**

No part of the development shall be brought into use until a flood warning and action plan has been submitted to and approved in writing by the local planning authority. 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 users of the site would be evacuated.

Reason: To safeguard residents against the risk of flooding.

### **09 (Construction Hours)**

Notwithstanding the Construction Management Plan contained within the Supporting Statement received 19<sup>th</sup> November 2018, construction or development (including excavations) shall only take place between the hours of 0730 until 1800 on Mondays to Fridays inclusive and between 0800 and 1300 on Saturdays and not all at on Sundays or Bank/Public Holidays unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential amenity.

### **010 (Construction Environmental Management Plan)**

No development within each phase of the site pursuant to Condition 2, shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. This shall include:

- Details of any lighting required during the construction phase;
- Details of how areas of retained habitats will be demarked on site and safeguarded (with relevant buffer zones) to prevent extracted soil from being stored within these areas;
- Details of the precise areas and their extent of where extracted soil from each phase will be stored so that it is not located on the local wildlife site, SINC or affects any existing habitat.

The development shall thereafter be carried out in accordance with the approved CEMP.

Reason: In order to ensure the protection of retained habitats within the site, the adjacent LWS and to ensure that development work is carried out in accordance with protected species legislation.

### **011 (Water Vole Survey)**

No development shall take place within 5 meters of the bank of the water body/drain to the north of the site until a Water Vole Survey has been carried out by a suitably qualified person or body to establish if water voles and their burrows are present. The Survey, its findings together with the means of any required mitigation and its timings shall be submitted to and approved in writing by the Local Planning Authority prior to development within 5m of the bank taking place. The mitigation measures approved shall be carried out in accordance with the agreed details and timetable.

Reason: To protect the water vole and its habitat within and adjacent to the development site and in accordance with the Ecological Scoping Survey, PRJ423 Rev 1 by Prime Environment January 2018, which forms part of the submission.

#### **012 (Reptile Survey)**

No development shall commence within any phase pursuant to Condition 2 until a Reptile Survey has been carried out by a suitably qualified person or body to establish if reptiles are present. The Survey, its findings together with the means of required mitigation and its timings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development within that phase. The mitigation measures approved shall be carried out in accordance with the agreed details and timetable.

Reason: To protect the reptiles that may be present on site and in accordance with the Ecological Scoping Survey, PRJ423 Rev 1 by Prime Environment January 2018, which forms part of the submission.

#### **013 (Great Crested Newts Survey)**

In the event that Great Crested Newts are found to be present on site, development shall cease immediately and not recommence until the mitigation measures set out in the Great Crested Newt Mitigation Report by Prime Environment V1 October 2018 have been carried out in full on site, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to provide adequate protection adopting a precautionary approach to GCN.

#### **014 (Badger Survey)**

No development shall commence within any phase pursuant to Condition 2 until a Badger Survey has been carried out by a suitably qualified person or body to establish if any active badger setts are present on site. The Survey, its findings together with the means of required mitigation for any development within 25m meters of proposed works and its timings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development within that phase. The mitigation measures approved shall be carried out in accordance with the agreed details and timetable.

Reason: To protect the badgers that may be present on site and in accordance with the Ecological Scoping Survey, PRJ423 Rev 1 by Prime Environment January 2018, which forms part of the submission.

#### **015 (Ecological Enhancements)**

Prior to the development within each phase pursuant to Condition 2 being first brought into use, an Ecological Enhancement Strategy together with timings for implementation shall be submitted to and approved in writing by the Local Planning Authority. This could include but is not limited to

- Creation of vegetated shallows within the ponds where invertebrates and amphibians may be safe from large fish

- Light management of areas of the Site to create a mosaic of rough grassland and scrub (in particular in the areas which will be raised to compensate for losses during construction).
- Seeding and management of areas at the periphery of the Site for wildflowers.
- Selection of native species for all landscape plants.
- Erection of bird and bat boxes on retained trees and / or on ancillary buildings (12 of each). Boxes should include a range of shapes made from long lasting materials (i.e. Woodcrete or Stonecrete).

The development shall be implemented on site in accordance with the approved details and timetable embedded within it.

Reason: In order to provide ecological enhancements which are required and which have been given weight to in the determination of this application, without which permission may not have been granted.

### **016 (Arboricultural Method Statement)**

No works or development within each phase that contains retained trees, pursuant to Condition 2, shall take place until an Arboricultural Method Statement and scheme for protection of the retained trees/hedgerows identified within the Arboriculture Survey and Impact Assessment, PRJ423 Rev 1 by Prime Environment 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 measures (including sections where necessary) to protect the trees from soil being tipped onto tree roots working methods to protect the 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 (such as no-dig type) 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 timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

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All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme. The protection measures shall be retained during the development of the site.

Reason: To ensure that existing trees and hedges to be retained are adequately protected, in the interests of visual amenity and nature conservation.

### **017 (Surface Water Disposal)**

No development shall be commenced within any phase pursuant to Condition 2 until a scheme for the provision, implementation and maintenance of regulation system for any surface water discharge to the surrounding drains/watercourses has been submitted to and approved by the Local Planning Authority.



- The development should not increase flood risk to existing properties or put the development at risk of flooding.;
- Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.;
- SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development;
- Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.

The maximum discharge rate should not exceed that of a green field site. The approved scheme shall thereafter be implemented on site to an agreed timescale. All drainage routes through the site should be maintained both during the works on site and after their completion.

Reason: To prevent an increased risk of flooding and to prevent adjoining land and property from having an increased risk of flooding.

### **018 (Hard & Soft Landscaping and Long Term Management Regime)**

Prior to the development being first brought into use within each phase pursuant to Condition 2 , a hard and soft landscape scheme together with an associated management plan including the long-term design objectives, management responsibilities and maintenance schedules for all areas of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- Detail the extent of new native planting (to include the proposed species, their numbers, density, disposition and establishment measures);
- Be designed having considered all of the sites external ground surfaces, and the treatment proposed for these surfaces (including any materials);
- Detail the treatment of site boundaries and/or buffers around water bodies;
- Detail the maintenance/management regimes
- Detail all hard landscaping (which should be permeable where possible) including vehicle parking areas and boundary treatments;
- Detail minor artefacts and structures for example, any furniture, refuse bins, signage, etc.

The scheme shall be implemented on site in accordance with the timetable set out in Condition 19 and shall thereafter be maintained for the lifetime of the development in line with the regime, which shall also be agreed as part of this condition.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with the NPPF and CP12 and to enhance the appearance of the development.

### **019 (Landscaping Implementation)**

The soft landscaping for each phase shall be completed during the first planting season following the first occupation/use 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. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use of that phase unless otherwise agreed in writing by the LPA.

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

#### **020 (DRAFT Materials of proposed building)**

No development above damp proof course shall take place until details of all external facing materials (including colour/finish and manufacturers details) of the approved building(s) 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.

#### **021 (Storage of Material)**

No excavated materials shall be stored on site for a period of more than 12 months unless otherwise agreed in writing by the Local Planning Authority.

Reason: Should works cease on site, the material should be removed in the interests of visual amenity.

#### **022 (DRAFT - Approved Plans, TO BE AMENDED UPON CONCLUSION OF UTILITY BUILDING)**

Unless otherwise specified within a separate condition, the development hereby permitted shall not be carried out except in accordance with the following approved plans, reference

- Site Location Plan DH/400.17, Date 06.09.2017
- **Typical Elevations of the Proposed Buildings DH/402/17, as submitted 29.11.2018**
- Site Layout, DH/401.17 Rev B, As submitted 29.11.2018
- Supporting Statement (including Design and Access Statement), last amended 19<sup>th</sup> November 2018
- Construction Management Plan, submitted 29.11.2018

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.

#### Note to Applicant

01

In order to carry out the 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 Highway Authority authorisation to carry out the works and such works will need to comply with Highway Authority standards/specification. Please contact [hdc.north@nottsc.gov.uk](mailto:hdc.north@nottsc.gov.uk) for further details.

02

This site is within the River Trent at Spalford, Wigsley and Harby Flood Warning Area which can be signed up to at: <https://www.gov.uk/sign-up-for-flood-warnings>. Information regarding appropriate flood resilience measures can be found here: <https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>.

03

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

04

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

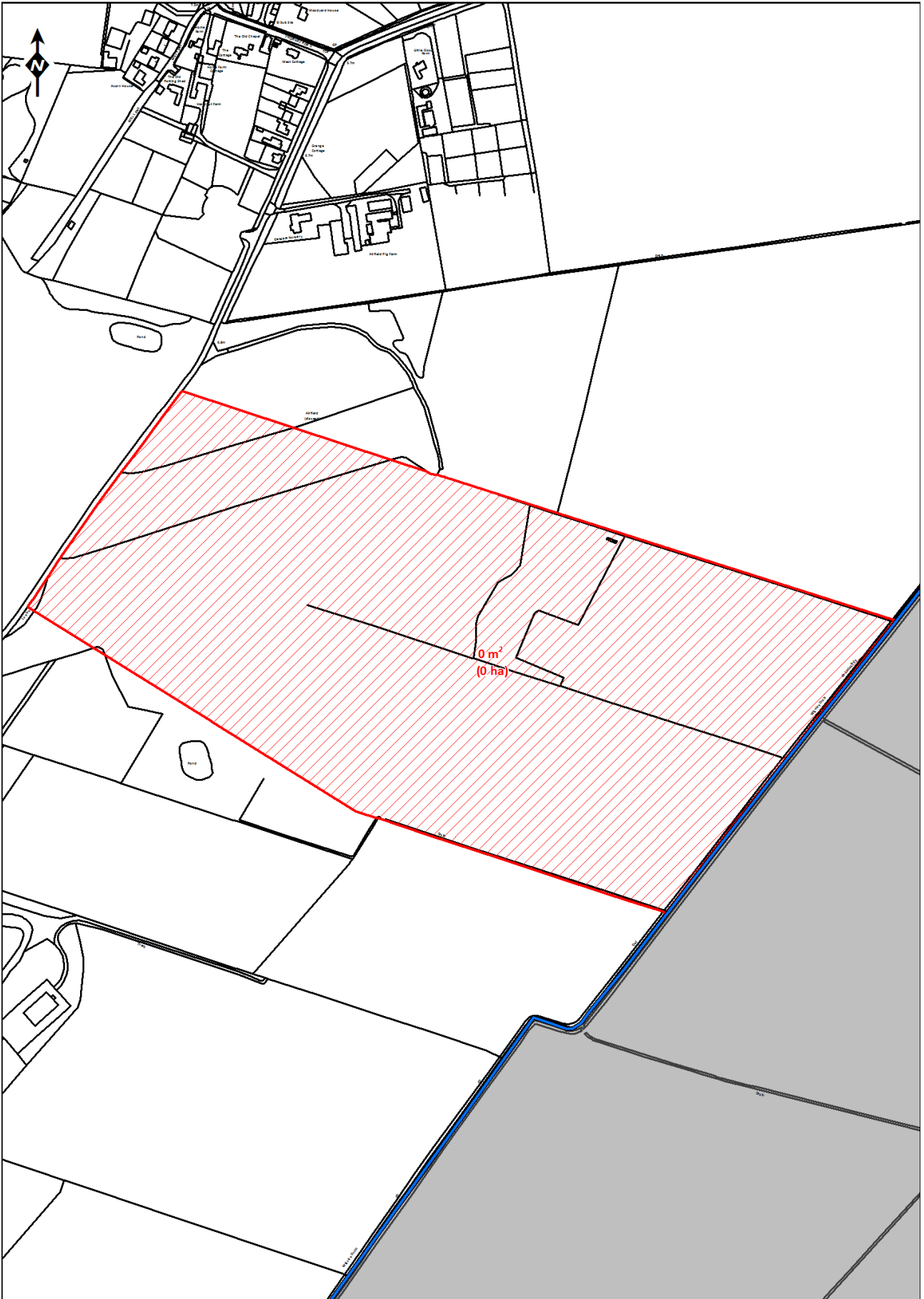
#### Background Papers

Application case file.

For further information, please contact 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**  
**Director – Growth & Regeneration**



## PLANNING COMMITTEE – 5 MARCH 2019

<b>Application No:</b>	<b>18/02236/FUL</b>	
<b>Proposal:</b>	<b>Change of use from A1 use to A1, A2, A5 &amp; B1 uses and Alterations to convert the existing former food store into three independent units.</b>	
<b>Location:</b>	<b>Co Op Supermarket, High Street, Collingham, Newark On Trent, Nottinghamshire, NG23 7LB</b>	
<b>Applicant:</b>	<b>Lincolnshire Co-Operative Limited</b>	
<b>Registered:</b>	<b>13.12.2018</b>	<b>Target Date: 07.02.2019</b>

**This application is presented to the Planning Committee for determination as it has been referred by Cllr M Dobson on behalf of Collingham Parish Council on the grounds of the A5 use class resulting in unacceptable impact on residential amenity and detrimental impact on health and wellbeing.**

### The Site

The site lies within the heart of the defined built-up area of Collingham, a principal village, as defined by the adopted Core Strategy. The site comprises the former Co-Op Supermarket (A1 Use Class) that was replaced by a purpose built Co-Op Superstore located c. 120 m further east within the site. The former Co-Op building is currently unoccupied and is located c.23 m back from the edge of the highway.

The surrounding area comprises a mix of residential and commercial units. Adjacent properties at the Collingham Centre include Collingham Doctors Surgery (SE), a dental practice (S), offices (S), a Hot Food Takeaway (SW) and library (W). Residential properties lie c. 30 m to the NW, c. 45 m to the NE and c.70 m to the SW. This part of the site also lies within the Collingham Conservation Area and the Collingham Local Centre.

There is a car park area located directly to the S of the application building, as well as a larger car park (c.165 spaces) to the E beyond the Health Centre, all of which are accessible off the High Street. Access into the site is taken from the High Street to the west. There is a bus stop within 100 m of the application site to the W which provides regular connections to Newark.

The unit is red brick with concrete roof tiles and comprises two perpendicular set gable fronted projections. The southern projecting gable end has the existing entrance into the building with a service entrance also in the elevation further west. A pedestrian service entrance also exists on the eastern side elevation. The rear and western side elevations are blank.

Boundaries to the site include a c. 1.5-2 m high close boarded fence to the west (behind which is an established hedgerow and vegetation. To the N the boundary comprises a 2.5 m high close boarded fence with trellis top and an established hedgerow with a number of large overhanging trees to the rear. To the south of the site the boundary is open. Car parking spaces exist to the front and to the SW there is a planting bed and a community notice board.

### Relevant Planning History

94/50389/FUL - CHANGE OF USE OF GRASSED AREA TO CAR PARK – Permitted 15.02.1995

98/50417/FUL - ERECT RETAIL STORE WITH ASSOCIATED SERVICE AREA AND CAR PARKING - Permitted 6.10.1998

99/50375/ADV - PROJECTING SIGN – Refused 26.01.2000

99/50374/ADV - SHOP SIGN TO NEW CO-OP STORE - Permitted

00/01321/FUL - Installation of a 24 hr ATM cash machine – Permitted 02.11.2000

00/01322/ADV - Illuminated sign around the ATM Machine – Permitted 02.11.2000

01/00204/FUL - Proposed installation of a 1.0M diameter satellite antenna on a wall mount – Permitted 05.04.2001

### The Proposal

The application seeks permission for the change of use of the one large unit from A1 into three independent units, to be used for A1 (Retail), A2 (Professional Services), B1 (Business) and A5 (Hot Food and Takeaway). End users for the units have not been secured.

Existing Gross Internal Area – 262.6 sq m.

Proposed:

Unit 1 – 88.6 sq m

Unit 2 – 87 sq m

Unit 3 – 87 sq m

The applicant wishes to divide the existing premises into three separate units with independent entrances and services. The alterations to the existing structure would see the creation of two internal dividing walls to provide three independent units. Two new WC's and separate service connections are to be installed to ensure the three units are independent from one another.

The proposal will not alter the total size of the existing building.

Alterations to the external appearance of the building includes the installation of three new shop fronts (S elevation) with overhanging glazed canopies and two new fire escape doors through the rear and side elevation (W). Three fascia areas are proposed above the glazed shop fronts although ADV consent is not sought at this time.

All boundaries are to be retained as existing.

Materials:

Windows: Grey Powder coated Aluminium

Doors: Glazed doors with grey powder coated Aluminium frames. Flush metal doors in green and blue.

Fascias: Powder coated Aluminium fascias to match proposed window and door finishes. Glazed canopies with stainless steel supports over three new shop front entrances.

Documents submitted with this application:

- B1164 Design and Access Statement
- B1164 Location Plan
- B1164 Site Plan
- J1819 00102 Existing Site Layout
- J1819 00105 A Proposed Site Layout
- J1819 00101 Existing Plans and Elevations
- J1819 00106 B Proposed Plans and Elevations

#### Public Advertisement Procedure

Occupiers of 11 properties have been individually notified by letter.

A site notice has been displayed close to the application site and an advert has been placed in the local press.

Earliest decision date: 31.01.2019

#### 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 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 6 – Shaping our Employment Profile

Core Policy 8 – Retail Hierarchy

Core Policy 9 - Sustainable Design

Core Policy 14 – Historic Environment

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

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM5 – Design

DM9 – Protecting and Enhancing the Historic Environment

DM11 – Retail and Town Centre Uses

DM12 – Presumption in Favour of Sustainable Development

Co/LC/1 – Collingham Local Centre

#### Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014
- Householder Development SPD 2014
- Public Health England “Health People, Healthy Places Briefing: Obesity and the environment: regulating the growth of fast food outlets” (November, 2013)

#### Consultations

**Collingham Parish Council** – *Additional comments received 12<sup>th</sup> February 2019:*

The Parish Council would like to object to the whole application on the basis that “A5” use has been included within the application. The A5 use in this location is not acceptable due to the environmental impact on the local community, particularly with regard to noise, smell and pollution, which are already very evident from the existing A5 establishment in the vicinity.

If the A5 use was to be excluded from the application, it would be supported. There is a need for such a prominent building in the village centre to once again be occupied and provide necessary, but appropriate services to the Parish and surrounding villages.

*Original comments received 28<sup>th</sup> January 2019:*

“The Parish Council considered this application at the meeting of 24 January 2019

The Parish Council voted unanimously to SUPPORT this application, however there are a number of concerns/queries which they have requested be considered before a decision is made.

- The application includes the change of use to A5. The Parish Council do not wish this use to be included within any permission which may be granted. There are a number of material planning considerations for this and these are based on evidence from the existing takeaway facility located at the village centre. These considerations are:
  - *noise/smell/pollution* – takeaway food outlets generate large amounts of waste, which despite the vast number of bins located in and around the area are always full/overflowing and cause a disproportionate amount of work for others to clear up. Odours for residents in close proximity are an issue as the filters do not eliminate these.
  - *Access/traffic* – the village centre car park is well used and is generally full as this is shared with the Medical Centre/pharmacy and dentists. There is evidence that users of take away premises like to park as close as possible to the door with little/no regard for any other users of the highway or the car park. This is therefore likely to lead to problems for the existing premises which are provided for the benefit and wellbeing of the whole community and should not be disadvantaged.
  - *Economic Impact* – There is already a food take away in the village centre and any additional provision would have a negative impact on this current business
  - *Planning History/related decisions* – planning has not been supported for change of use application 18/00966/FUL, upon which NSDC have not made a decision as yet, the Parish Council are therefore being consistent in its response.
- There is concern about the parking which may be required/permitted for staff of the 3 units, please see comment above with regard to the material planning consideration *Access/traffic*”

**NSDC Conservation** – “The application site is located within the commercial centre of Collingham. It is located in the eastern edge of the conservation area.

#### 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(s)

The conservation area was originally designated in 1973. The boundary has been reviewed and amended in 1989 and 2006. There is a current appraisal of the conservation area as a result on the 2006 review.

As a large residential village with some historic commercial properties along the High Street. Off the High Street, there is a modern commercial centre, where the application is located. The commercial centre includes a few modern buildings that do not contribute to the historic character of the area.

The commercial unit is located at the front of the site, just off the High Street, this is an opportunity to approve a high quality design that could make a contribution to the overall character of the area.

### Assessment of proposal

The current building is a single commercial unit and the proposal is to subdivide it into three units with separate shop fronts. As a modern building, the submission proposes a contemporary design approach to the shopfronts. Although in principle this can be supported, it is recommended that there should be some minor amendments to the design.

As outlined in the Councils Shopfront and Advertisements Design Guide SPD, it is important to have a high quality design and appropriate proportioning. In its current form the shopfronts are predominantly glazing with a strong horizontal emphasis. It is recommended that the height of the stallriser is increased and the large glazed windows are broken up with appropriately spaced mullions. It is also recommended that the canopy is removed. A much higher quality design will be achieved with these amendments, making a more appropriate contribution to the character of the conservation area."

**Additional Verbal Comments:** Given the applicants justification regarding the commercial viability and building regulations requirements the CO concluded that, whilst their recommendations would greatly improve the appearance of the resultant units, they would not object to the scheme if these were not included within the final design.

**Access and Equalities Officer** – "As part of the developer's considerations of access to and use of buildings for everyone, with particular reference to access and facilities for disabled people, it is recommended that the developer's attention be drawn to BS8300:2018 - Design of an accessible and inclusive built environment. Buildings and external environment - Codes of practice contains useful information in this regard in addition to Approved Documents M and K of the Building Regulations.

The entrance door arrangements, including threshold details should be carefully considered to ensure that the doors provide level access and suitable clear unobstructed width for disabled people. Vision panels should also be carefully considered, as appropriate. The entrance doors should be clearly identified. Non-powered manually operated entrance doors, fitted with a self-closing device capable of closing the door against wind forces and the resistance of draught seals, are unlikely to be openable by many people, particularly those who are wheelchair users or who have limited strength. As a consequence a powered door opening and closing system is the most satisfactory solution for most people. The opening force of any door, when measured at the leading edge, should not be more than 30N from 0° (the door in the closed position) to 30° open, and not more than 22.5N from 30° to 60° of the opening cycle.

Easy access and manoeuvre for all, including wheelchair users, should be considered throughout the proposals including accessible facilities and features, aids to communication (loops) as appropriate and clear signage throughout. The internal layouts should be carefully designed to allow easy access by wheelchair users, turn and manoeuvre without restriction or obstructions. Sanitary accommodation should be carefully considered in respect of access for all. Car parking provision for disabled motorists should be examined. It is recommended that the developer make separate enquiry regarding Building Regulations matters. It is further recommended that the developer be mindful of the provisions of the Equality Act."

**NCC Highways** – "The proposal will have little impact on the public highway. The access arrangements are generally unchanged and the small scale diversification of uses is unlikely to generate any significant issues regarding congestion and parking. Therefore no objections are raised."

**NSDC Environmental Health** – "were the application to proceed we would need detail of the odour abatement intended in respect of the A5 use. As this is a use class change application, presumably this could be conditioned on any consent given".

## Comments of the Business Manager

### Principle of Development

The NPPF supports sustainable economic growth and places significant weight on the need to support economic growth through the planning system. Core Policy 6 requires the economy of the District to be strengthened and broadened – providing most growth, including new employment development, at the Sub-Regional Centre of Newark, and to a lesser extent within Collingham which is considered to be a principal village.

The Core Policy accepts commercial development subject to an assessment of numerous factors including satisfactory provision of access for parking and servicing, protection of the amenities of adjacent neighbouring areas, which are also required by Policy DM5 of the ADMDPD.

Policy Co/LC/1 of the ADMDPD states that to promote the strength of Collingham as a Principal village a Local Centre has been defined on the Policies Map – the application site falls within this local centre. Development of retail and other town centre uses within the Local Centre will be considered against the general policy requirements in the Core Strategy and the Development Management Policies in Chapter 7, with particular reference to DM Policy 11 Retail and Town Centre Uses.

Part 3 of policy DM11 covers development of retail and town centre uses in local centres such as Collingham, within these areas new and enhanced convenience retail development that serves the community in which it is located and is consistent with its size and function will be supported.

This application proposes the division of an existing commercial unit to three smaller units with independent entrances and services. The applicant claims that this is to meet with the local requirement for smaller commercial premises, although a formal case supporting this has not been provided. The applicant seeks to obtain consent for the change of use from A1 (Retail) to A1 (Retail), A2 (Professional Services), B1 (Business) and A5 (Hot Food and Takeaway). End users have not yet been identified for these units and it is the purpose of the application to retain flexibility for prospective occupiers.

The applicant has advised that the property has been market since August 2015 as an entire A1 unit which has had no interest expressed given the size of the unit. The agent has advised that the preference has always been to let the property as a single unit as this would require less capital expenditure and provide greater returns, however, the current market and feedback from prospective tenants has led the agent to develop this proposal as an effective way to bring the premises back into use. In addition, the agent explains how the retail market is generally very challenging, particularly in smaller centres – I would add that the competition for retail businesses within Collingham and particularly the Local Centre is high, with the large Co-Op superstore close to the site that replaced the loss of this functioning A1 use historically. Since the construction of the new store the application site has not operated, I therefore consider the use of this building, in any of the town centre appropriate uses is better than having a unit vacant within the local centre. As such I consider the change of use of this building and the sub-division will contribute to the vitality and viability of the local centre. I do not consider the application will result in a fundamental loss of the A1 use as a community facility as it is possible that the units could operate in A1 use following this application. The uses classes sought are appropriate within town centre locations and as such I consider the application to be acceptable in principle.

The proposal will not alter the total size of the existing building. Alterations to the external appearance of the building are limited to the installation of three new shop fronts and two new fire escape doors through the rear and side elevation. Para 83 of the NPPF advises that in order to support a strong, competitive economy planning decisions should enable the sustainable growth and expansion of all types of businesses [...] both through the conversion of existing buildings and well-designed new ones. Given the location, within a Principal Village and the Collingham Local Centre I consider the A1, A2, B1 and A5 use classes to be appropriate in principal in this local centre location, subject to a detailed assessment.

In addition, given that the site is located within the Collingham Conservation Area, regard must be given to the impact of the proposal on the character and appearance of the CA – this will be considered in the *Impact on Character* section below.

Overall, it is considered that the proposed change of use of the building is acceptable in principle as it would support the local economy of a Principal Village and defined Local Centre, and would satisfy the above policy requirements subject to the assessment of the below constraints.

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

The site is located within the Collingham Conservation Area – as such, regard must be given to the distinctive character of the area and seek to preserve and enhance the conservation area in accordance with Policy DM9 of the DPD and Core Policy 14 of the Core Strategy.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. The objective of preservation is to cause no harm. The courts have said that this statutory requirement operates 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 16 of the National Planning Policy Framework (NPPF).

Paragraph 194 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 8.c). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas (paragraph 200).

The site is located close to other commercial and residential units and the building itself is discernibly modern in appearance. The unit to the south comprises a two storey linear range that houses the dental surgery and a number of local businesses; this is modern in appearance with elements of timber cladding, glazed shop fronts and roof lights. Collingham Local Centre comprises a number of contemporary buildings and appears to be distinct from the historic core of the village given it is set back within a precinct and car parking area. The submitted design proposal has been designed to reflect the appearance and proportions of surrounding shopfronts, particularly the unit opposite, which benefits from full height glazing in parts. The three new shop fronts on the southern elevation are proposed to be glazed with projecting glazed canopies over the front doors.

The CO initially commented that the principal of a contemporary design approach to the shopfronts could be supported given the modern nature of the building, although they recommended that some minor amendments were made to the design such as a more vertical emphasis to the shopfront - recommending that the height of the stallriser was increased and the large glazed windows broken up with appropriately spaced mullions. It was also recommended that the canopies were removed. In addition, the CO has advised that in the event that the units become occupied as A5 use and require flue/ventilation/extraction units installed we would require further details of these to be submitted and approved prior to their installation, so ensure there would be no adverse impact on the character and appearance of the CA.

In response, the agent advised that the design was taken from surrounding contemporary shopfront influences and the new shopfronts have been designed and proportioned to reflect existing shopfronts within the Collingham Centre which is considered to create a uniformed appearance, sitting in contrast with the historic core of the village.

The agent responded to the CO's comments regarding the proportions of the glazed shopfront and the more vertical emphasis and advised that the design was also steered by the consideration of ongoing maintenance liability and cost association with manual doors over automated doors and the cost pressure on small local businesses to upkeep automated units which would be required should the canopies be removed and design revised. In order to comply with Building Regulations canopies must be provided over the door entrances and as such the agent did not wish to revise the design of the scheme. The agent commented that the desire is to bring a vacant building back into use by providing three smaller units and a greater employment opportunity for local residents that would have a positive impact on the overall area. He added that the margins associated with delivering the scheme were tight and that any fundamental design changes which could increase costs could jeopardise the feasibility of the scheme.

The CO noted the comments made by the agent and advised verbally that whilst their comments on the design were advisory and would enhance the appearance of the scheme, given the modern nature of the building and the surrounding commercial properties, they would not fundamentally object if these comments were not taken on board. As such I consider that, given the surrounding properties and the contemporary approach taken that the proposed design would not unduly harm the character and appearance of the area to the detriment of the appearance of the Conservation Area. In addition to this, the business case for the viability of the scheme being compromised if the design were to be altered fundamentally also weighs in favour of this application as the preference is for the building to be occupied rather than to remain as a large vacant building within the defined local centre.

As such I would conclude that the proposal would have a neutral impact upon the character and appearance of the conservation area and as such the proposal accords with Core Policy 14 of the CS and policy DM9 of the ADMDPD and the provisions of Section 16 of the NPPF (2018).

#### Appropriateness of proposed use in this location

The site is situated within the designated Local Centre (Policy Co/LC/1) for Collingham, within this area new and enhanced convenience retail development that serves the community in which it is located and is consistent with its size and function will be supported. The site is surrounded by a mix of use class businesses and residential properties. Adjacent properties at the Collingham Centre include Collingham Doctors Surgery (SE), a dental practice (S), offices (S), a Hot Food Takeaway (SW) and library (W). Residential properties lie c. 30 m to the NW, c. 45 m to the NE and

c.70 m to the SW. There is also car park area located directly to the S of the application building, as well as a larger car park (c.165 spaces) to the E beyond the Health Centre, all of which are accessible off the High Street.

The premises is currently vacant but previously operated as A1 retail use as the former Co-Op. Given the construction of a Co-Op superstore further E within the precinct the unit ceased trading and no interest has been shown since closure in 2015. The agent states in the D&A statement that this application proposes the division of an existing commercial unit to three smaller units with independent entrances and services. The applicant claims that this is to meet with the local requirement for smaller commercial premises, although a formal case supporting this has not been provided. The applicant seeks to obtain consent for the change of use from A1 (Retail) to A1 (Retail), A2 (Professional Services), B1 (Business) and A5 (Hot Food and Takeaway), and end user has not yet been identified for these units and it is the purpose of the application to retain flexibility for prospective occupiers.

I consider the different use classes to be acceptable uses for this local centre area; the site is close to existing facilities such as a foodstore, library, health centre, local small businesses, officer and other A1 use buildings with a newsagent, butchers and hairdressers further north on High Street, the mixed use nature of the area leads me to the conclusion that the proposed uses would be acceptable in this location and will not result in a dominant use along High Street in accordance with Policy DM11. The NPPF defines appropriate uses in town centre locations which include the use classes sought in this application, given the location and the size of the settlement I consider all of the use classes sought to be appropriate for this local centre.

The Parish Council originally commented in support of this application but raised concerns regarding the A5 use class which they wish to be omitted from the proposal. They have commented on neighbouring amenity impacts and highways safety which will be covered in subsequent sections of this report. They have also commented on the appropriateness of this use within the Collingham Local Centre, commenting that there is already a food takeaway in the village centre and that any additional provision would have a negative impact on this current business – to this I would note that considerations of commercial competition are not planning matters and as such will not be discussed further.

The local ward member has also discussed concerns regarding the A5 use and the impact this could have on the health of local people in terms of contributing towards obesity – Section 8 of the NPPF discusses promoting healthy communities but does not go as far as to discuss permission of A5 uses. Para 91 c. states that planning decisions should enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of [...] local shops, access to healthier food [...], the application, whilst seeking permission for A5 uses does not specify the type of hot food takeaway this would include. As such I must consider how a *'healthier'* takeaway business could also locate within these premises. In any event, I note that the "Health People, Healthy Places Briefing: Obesity and the environment: regulating the growth of fast food outlets" (November, 2013) discusses the increase of fast food businesses and goes on to direct to the LPAs development plan to assess the accumulation of fast food outlets. In this instance I note that NSDC Development plan does not directly refer to the control of A5 use classes, nor is there an SPD which refers to the accumulation of this use. As such I must consider how this use class is an appropriate town centre use that would be suitable in this local centre location, and whilst acknowledging the concerns relating to health there is currently no policy restriction that would be relevant to this application.

Comments of the PC also refer to a pending application ref. 18/00966/FUL which they state the planning department do not support. I would note that this application is pending consideration because of concerns regarding odor abatement to which we are awaiting additional information. I would also note that the relationship in this case with residential properties is closer than in the application at hand and as such I do not consider the status of this neighbouring application to materially impact the determination of this application.

Opening hours have not been specified as part of the current application however it is relevant to refer to this matter in the context of surrounding premises. Application ref. 09/01460/FUL which considered the change of use of the unit directly to the south of the application site (60 High St, currently Fish and Chip Shop) detailed the opening hours of this hot food takeaway and referred to an appeal decision in which the inspectorate concluded that appropriate opening times for this location, even as a restaurant/food premises would be from 07:00 hours to 24:00 hours seven days a week. Given that this has been found to be appropriate in a neighbouring unit and in the interest of consistency I consider it appropriate to impose these opening hours on the three units in this application.

With regards to the appropriateness of the proposed uses in this location I note that the Collingham Local Centre is vibrant and that existing uses in the locality include residential, retail, offices and hot food takeaway premises.

#### Impact upon Residential Amenity

Criterion 3 of policy DM5 outlines that regard should be given to the impact of proposals on amenity or surrounding land uses and should not cause unacceptable loss of amenity.

The proposed change of use would see the introduction A1 (Retail), A2 (Professional Services), B1 (Business) and A5 (Hot Food and Takeaway) use classes. Given that no new building is required and purely the subdivision of an existing unit to create three smaller commercial units I consider the scale to be appropriate within the local centre for Collingham where appropriately sized convenience retail development that serves the community will be supported. I note that this use is not solely retail, but consider that either use class would serve the local people to a scale that is commensurate with the size of Collingham.

I consider the main issues with this proposal to be whether the change of use would cause unacceptable harm to nearby residents. I consider that the main use that would have the potential to impact neighbouring residents to be A5 (Hot Food and Takeaway) - residential properties lie c. 30 m to the NW, c. 45 m to the NE and c.70 m to the SW. The Environmental Health Officer has been consulted on the appropriateness of this use in this proximity to residential premises and they have advised that, in the event that the A5 use was to be implemented they would require further details on the odor abatement intended for the premises. As this is a use class change application and an end user has not yet been established it would be appropriate to attach this as a condition should permission be granted.

I note that whilst the Parish Council have submitted comments in support of the application they have requested that the A5 use class be rejected on the grounds that there would be unacceptable noise and odor pollution which would impact surrounding neighbours. Whilst I appreciate the Parish's concerns, this point has been commented on above and can be controlled via a condition to any permission.

The Parish also comment that the waste generated from patrons using an A5 use results in overflowing waste bins in the village and work for local residents – whilst also acknowledging this concern of the local people I must consider material planning considerations in the assessment of this application. It is not possible for the applicant to control the behavior of patrons accessing the site. I am satisfied that there are a number of waste bins in close proximity to the site which could help control this issue, but overall this does not impact my assessment of the acceptability of the proposal. It is sometimes the case that conditions are imposed on an applicant to provide litter bins within the vicinity to ensure customers dispose of their packaging in a suitable way. I have considered imposing such a condition, however I noted onsite that there are litter bins in close proximity to the building which could be utilised by the building should such a use require it. I therefore do not consider the imposition of an addition bin is required within the public space.

Overall I am satisfied that given the separation distances and subject to odor abatements being secured to the satisfaction of the EH officer, which will be controlled via condition, there would be no unacceptable impact upon the amenity of neighbouring residents.

### Highways Safety and 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. There are no proposed changes to the access arrangements to the site.

The site is situated within a precinct with an existing car park provision to the south and east where there would be in excess of 160 car parking spaces. In addition, given the proposal does not include any alterations that would impact the public highway or change the access arrangements I am satisfied that there would not be a detrimental impact upon the public highway as a result of this application.

The Parish Council have submitted comments objecting to the A5 use on the site due to concern over the parking provision in the area. They state that the village centre car park is well used and is generally full as it is shared with the Medical Centre/pharmacy and dentists. They also state that “...there is evidence that users of take away premises like to park as close as possible to the door with little/no regard for any other users of the highway or the car park. This is therefore likely to lead to problems for the existing premises which are provided for the benefit and wellbeing of the whole community and should not be disadvantaged.” I consider these comments, pertaining to the behaviour of future patrons to the site, would not be possible for the applicant to control and do not constitute material planning concerns that can impact the assessment of the application. Whilst I appreciate that highways safety is an important consideration I am satisfied that there is ample parking provisions within and around the site to provide for these three proposed units and in any event, given the site is accessible by different modes of public transport, that the volume of additional traffic would not be so sufficient to warrant the refusal of this application.

I am of the view that there is ample provision for public parking within the Collingham centre and that there are a number of public bus services that operate through the area to serve the application site. I am satisfied that a large proportion of the customer base in Collingham could walk, utilise public parking facilities or public transport and therefore conclude that the proposal will not result in any adverse impact upon highway safety in accordance with Spatial Policy 7 of the Core Strategy and Policy DM5 of the DPD.



## Conclusion

In conclusion the proposed change of use of the site to incorporate A1 (Retail), A2 (Professional Services), B1 (Business) and A5 (Hot Food and Takeaway) use classes is not considered to detrimentally impact upon the Collingham conservation area, the highway network nor neighbouring amenity. There are appropriate and reasonable conditions that will be attached to ensure that the function of the premises would not unduly impact the surrounding neighbouring properties. There are no further material considerations which would warrant refusal.

## **RECOMMENDATION**

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

### Conditions

01

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

- Site Location Plan (13.12.18)
- J1819 00105 A Proposed Site Layout
- J1819 00106 B Proposed Plans and Elevations

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 premises shall not be open to members of the public outside the following hours:-  
07:00 to 24:00 Monday – Sunday (including Public and Bank Holidays)

Reason: In the interests of residential amenity.

04

Prior to the commencement of any A5 use hereby permitted, a scheme for the installation of equipment to control the emissions and fumes and smells from the premises shall be submitted and approved in writing by the local planning authority. The scheme shall include details of the design, specification, fixing and finish of any equipment in the form of drawings and sections at a scale of not less than 1:10. The scheme shall thereafter be retained for the lifetime of the operational development and operated and maintained in accordance with the manufacturer's instructions and approved details.

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

### Notes to Applicant

01

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1<sup>st</sup> 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 there is no increase in gross internal area as a result of the application.

03

It is recommended that the developer be advised to consider inclusive access to, into and around the proposal to ensure that it is equally convenient to access and use throughout.

In this regard, BS 8300: 2018– 'Design of an accessible and inclusive built environment - Code of Practice' contains useful information in addition to Approved Documents M and K of the Building Regulations.

A separate enquiry should be made regarding any Building Regulations matters and it is further recommended that the developer be mindful of the provisions of the Equality Act.

### Background Papers

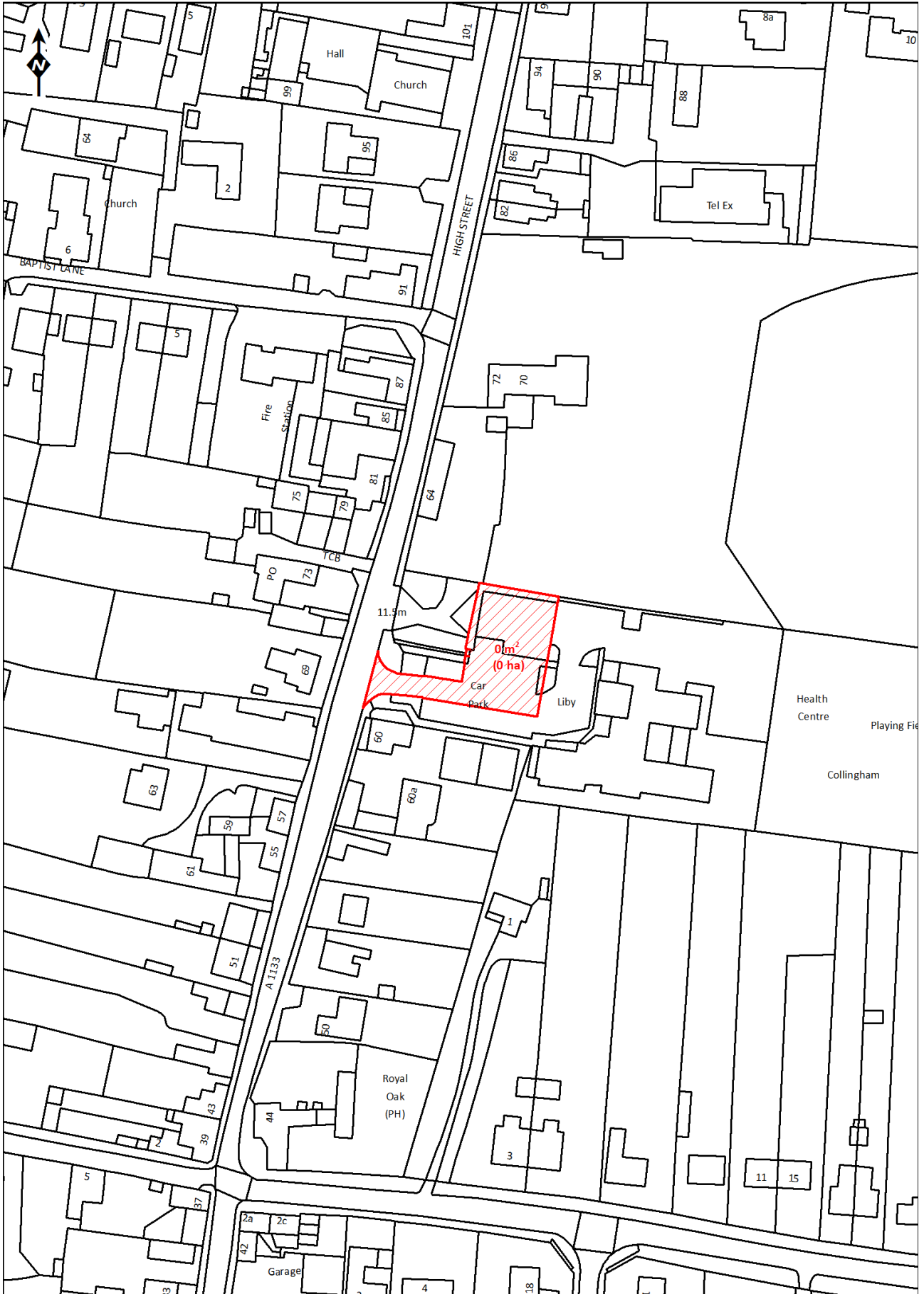
Application case file.

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**  
**Director – Growth & Regeneration**

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## COMMITTEE REPORT - 5 MARCH 2019

<b>Application No:</b>	<b>18/02292/FUL</b>		
<b>Proposal:</b>	<b>Erection of Dwelling, Demolition of Two Existing Outbuildings, Removal of Front Wall and Realignment of Front Boundary to Create Visibility Splay</b>		
<b>Location:</b>	<b>Land at Sunny View, 2 Grassthorpe Road, Sutton on Trent</b>		
<b>Applicant:</b>	<b>Mr &amp; Mrs Chris &amp; Sarah Pike</b>		
<b>Registered:</b>	<b>13.12.2018</b>	<b>Target Date: 07.02.2019</b>	<b>Extension of time agreed until 08.03.2019</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Sutton-on-Trent Parish Council has supported the application which differs to the professional officer recommendation.**

### The Site

The application site relates to a parcel of land between Sunny View at no. 2 Grassthorpe Road and no. 6 Grassthorpe Road. The site lies within the defined built up part of the village, within the designated Conservation Area and within Flood Zone 2 according to the Environment Agency maps.

The site is level in nature and predominately laid to grass, although there is an area of hard standing close to the boundary with 6 Grassthorpe Road. The site is currently used as a garden area associated to Sunny View and also contains a number of cars. There are 2 outbuildings positioned hard on the boundary with the highway as well as a traditional stone wall running along the frontage. A block work wall runs along the boundary with 6 Grassthorpe Road and a hedgerow runs along the rear boundary of the site, with open countryside beyond.

This section of Grassthorpe Road is characterised by detached dwellings, set within generous size plots and vary in the depth that they are set back from the adjacent highway. The existing property of Sunny View at no.2, is a traditional property which is orientated with the side gable facing the highway with a large garden that wraps around the property.

### Relevant Planning History

No relevant planning history.

### The Proposal

The proposal seeks planning permission for the erection of one 3-bedroom detached dwelling and a detached workshop/outbuilding to the rear of Sunny View. The proposed development would utilise the existing vehicular access to the site. The existing outbuilding close to the entrance into the site would be demolished, and the outbuilding close to the north-western corner would be part demolished as well as a section of the existing front boundary wall in order to create a visibility splay at the entrance point.

Following discussions with the case officer over the plan form of the proposed dwelling, revised plans have been submitted during the course of the application. The plans now show the proposed dwelling to be single storey with a U-shape plan form, with a footprint that would measure 190m<sup>2</sup> in total area. The roof design would be dual pitched and measure 5m to the ridge. The external finish would be red facing brickwork on the elevations and clay pantiles on the roof.

The proposed associated workshop building would measure 5.5m in depth and 8.3m in width. The roof design would be dual pitched and measure 5m to the ridge. A large glazed door and a pair of double timber doors would be positioned within the north elevation.

### Submitted Documents

For the avoidance of doubt, the following appraisal is based on the plans listed below;

- Revised Block Plan Ref. 1804.A.2B
- Revised Elevations and Plan Ref. 1804.A.1
- Site Location Plan Visibility Splays – Ref. 1804.A.3
- Tree survey plan Ref BA5335TS
- Survey of relevant Features GR060418-001
- Flood Risk Assessment by Town-planning.co.uk dated December 2018
- Planning Statement, Design and Access Statement and Heritage Impact Assessment by Town-planning.co.uk dated December 2018

### Public Advertisement Procedure

Occupiers of four 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

#### **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 10 - Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 14 – Historic Environment

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

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) 2019
- National Planning Policy Guidance (NPPG) 2014
- Housing Market Needs Sub Area Report (2014)
- Newark and Sherwood Amended Core Strategy DPD
- Section 72 of the Planning Act

## **Consultations**

**Sutton on Trent Parish Council** – ‘I write to advise that at a meeting of the Sutton on Trent Parish Council last night all members voted to support this application. Thank you for extending the deadline on this one.’

**NCC Highways Authority** – ‘The applicant has followed pre-application advice to provide adequate and safe access. Therefore there are no objections subject to the following conditions:

The shared private driveway shall be laid out to a width of not less than 4.25m for at least 10 metres back from the nearside edge of carriageway and surfaced in a bound material for this length as a minimum.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, and; to reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

The dwelling hereby approved shall not be occupied until the 2.4m x 43m visibility splays shown on drawing no. 1804.A.3 are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6 metres in height.

Reason: In the interests of highway safety.’

**Environment Agency** – ‘Thank you for your consultation which was received 16th January 2019. This proposal is located in flood zone 2 and classed as a 'more vulnerable' use in the planning practise guidance. Therefore this development falls within the Environment Agency's Standing Advice which the applicant should follow to ensure the development is secure in the event of a flood, please follow the below link for more information.

<https://www.gov.uk/guidance/flood-risk-assessment-standing-advice>’

**NCC Flood team** - ‘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.'

**Conservation Officer – (Comments received on the 5<sup>th</sup> February 2019)**

'The amended plans have reduced the footprint of the proposed dwelling, however it is still deemed as an inappropriate form of development due to the scale and plan form.'

There have been a number of modern developments in Sutton-on-Trent, including to the north of this site, the fact it is a modern development is not the concern. However it is due to its location, scale, bulk and form.

This part of the conservation area is low density, with a range of long vistas, generally towards the open countryside to the north. Sutton-on-Trent is a rural settlement and its connectivity with the open countryside that surrounds is a significant characteristic of the conservation area. In regards to this site in particular, when viewing north along Grassthorpe, you are drawn to the cottage, Sunnyside, and the open site to the northeast and glimpses of the open countryside beyond.

Although the 'U' shape plan form is typical for a traditional agricultural building, it is not at the correct orientation. The open elevation would be orientated to towards the farmyard and farmhouse. In this case, you would expect it to be orientated to the west, not as proposed.

The proposed scale of the development will greatly impact this view and connectivity with the open countryside, along with the inappropriate plan form it is considered that the proposal contradicts Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'), desirability of preserving or enhancing the character and appearance of the conservation area. In addition policies CP14 and DM9 of the Council's LDF DPDs that seeks to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.'

**Original Comments received 8<sup>th</sup> January 2019**

'The application is a backland development within the setting of a non-designated heritage asset and within the boundary of Sutton-on-Trent Conservation Area.'

Legal and policy considerations

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development within conservation areas are proportion, height, massing, bulk, use of materials, use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 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).

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). In addition, ‘Historic England Advice Note 2: making changes to heritage assets’ advises that it would not normally be good practice for new development to dominate the original asset or its setting in either scale, material or as a result of its siting.

#### Significance of heritage asset(s)

Sutton-on-Trent Conservation Area (CA) was designated in 1992. The boundary covers the historic core of the rural settlement and some of its surrounding open setting. It is characterised by a linear pattern of buildings along a grid of lanes adjacent to the Old Great North Road. The significant water course of the River Trent is situated to the east.

Sutton has associations with its namesake, one of the oldest and most influential of the District’s historic families, giving Earls to Warwick and Leicester, and Lords to Lexington and Dudley. There is evidence of prehistoric settlement in the area. Finds dredged from the river at Sutton-on-Trent include fossilized mammoth’s teeth and tusks. Spot finds on the NMR include Roman and Anglo Saxon pottery. The former medieval village at Meering on the opposite side of the Trent appears to have been lost during the medieval period, perhaps as part of a change in course of the Trent (there was a ferry crossing on the Trent to the southeast of the village). Crop marks within the proposal site are suggestive of early settlement.

The Grade I listed medieval church is an important landmark building within the Parish and provides a historic link to the medieval origins of Sutton-on-Trent. Traditional historic farms and cottages within the village typically vary from remnants of post-medieval timber frame buildings to 18th, 19th and early 20th century vernacular buildings.



Overall, the Sutton-on-Trent CA contains a variety of historic buildings and spaces considered to contribute positively to its character and appearance. The historic layout and form of the CA is predominantly characterised by rectilinear buildings that either front onto or are gable-end facing the street, often directly onto or close to the highway. The spaces and remnants of older enclosures between buildings is often an important element of significance, providing setting to historic buildings as well as contributing to the significance of the layout of the CA. Along with its listed buildings, the conservation area contains numerous unlisted buildings that contribute positively to the special interest of the conservation area.

The proposal site is situated on garden land behind Sunny View, 2 Grassthorpe Road. Due to its age and architectural appearance, Sunny View is considered to contribute positively to the character and appearance of the CA.

Sunny View is a good example of a post-medieval farm cottage and barn range, probably originating from the early 19th century following Enclosure (1808). Although remodelled in the 20th century (to include rendering, concrete roof tiles and mock-stone cladding), the narrow gables, steep roof pitch, decorative tall chimneys and cottage detailing retains legibility of its older architectural interest, and its plan-form close to the road makes it an attractive receptor when viewed along the main road. The garden setting of the cottage combined with remnants of historic barns makes it a positive example of historic vernacular within the CA.

The former Wesleyan Chapel opposite, which is 1841, also contributes to the significance of the CA, and is considered to form a visual group with Sunny View.

#### Assessment of proposal

The proposal is for a single storey dwelling with a 'H' planform. The DAS outlines that the design approach to the scheme is 'a simple farm range outbuilding form and appearance' located within the area to the north of the host property that historically had an agricultural function and more recently a storage use.

Historic maps reveal that the site forms part of an old enclosure comprising garden and farm curtilage to Sunny View. The enclosure probably dates to the early 19th century at least (the Sutton Enclosure map is dated 1808). In broader terms, the green space forming the proposal plot contributes positively to the street-scene, noting the setting it provides to the historic cottage and the reference to open rural landscape beyond.

In principle this design approach for a modest agricultural style building, or possible reuse/extension of the existing historic outbuilding on the site could be supported. However the design principles is not reflected in the final submitted scheme.

An agricultural building associated with a modest farmhouse of Sunny View's scale would also be modest in scale. The width of each bay is approx. 5.5 meters, the length of the building at its longest point is approx. 20 meters. This is a building of significant scale and will not be subservient to the host building. The 'H' planform does not reflect a traditional agricultural building.

It is considered that due to the scale, form and design of the proposed dwelling will harm the historic setting of Sunny View, a building that makes a positive contribution to the character of the conservation area. In addition the proposal is not in keeping with the general character of the conservation area of modest outbuilding to the rear of dwellings ancillary in scale form and design.'

**Trent Valley Internal Drainage Board - No objection.**

**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 inclusive 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.’

**NSDC Emergency Planner** – ‘Both the Environment Agency and the Flood Risk Assessment note the proposed dwelling is within a flood risk zone. The EA note the general area is flood zone 2 whilst the Risk Assessment document suggests closer detail should indicate flood zone 1. In either case there is some risk of flooding and the applicants should refer to the guidance provided by the EA.

The risk assessment refers to the availability of safe access and the ability to seek refuge within the dwelling. Both are important to protect potential vulnerable residents and avoid any increased demand upon emergency responders.’

**No other representations have been received**

Comments of the Business Manager

The Council is of the view that it has a demonstrable 5 year housing land supply and for the purposes of decision making the development plan is up to date.

## Principle of Development

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that the determination of planning applications must be made in accordance with the development plan *unless* (emphasis added) material considerations indicate otherwise.

The site is located within the main built up area of Sutton on Trent which is defined as a Principal village within Spatial Policy 1 of the Core Strategy and where the provision of housing is permissible. As such, there is no objection to the principle of the development at the site. However the application is also required to satisfy all other relevant sections of the Development Plan in terms of impacts etc. This includes matters such as heritage, character, and amenity impacts, as well as flood risk.

## Impact on Flooding

Core Policy 9 requires new development proposals to pro-actively manage surface water. Core Policy 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD along with the revised NPPF set out a sequential approach to flood risk (paras 158 onwards).

The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. 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.

The Environment Agency Flood Map identifies the entire site to be situated in Flood Zone 2. I am mindful that the applicant has submitted a topographical survey within the Flood Risk Assessment (FRA) which shows detailed levels of site and the relative areas of the site within both Flood Zone 1 and 2. This is discussed in greater detail later within this appraisal.

A Sequential Test has not been carried out by the applicant to demonstrate there are no other suitable sites available for the development at lesser risk of flooding. At a district level there are other sites at a lower risk of flooding than the application site (i.e. located in Flood Zone 1) on which new housing could be developed. For individual planning applications, the area to apply to the Sequential Test can sometimes be defined by local circumstances relating to the catchment area for the development, for example where there is a proven local need that cannot be met anywhere else and that need is considered to override the failure of the sequential test. However, the applicant has not made any specific comments in relation to any local circumstances which would dictate a reduced catchment area for a sequential test to be undertaken. The applicant instead puts forward an argument, based on the topography of the site, that the site should be treated as a site within flood zone 1 and that a sequential test approach is not relevant or required.

While I acknowledge that the individual topographical survey highlights areas of the site which are potentially not vulnerable to flood risk, I am mindful that the topographical survey also shows there to be a significant portion of the site, including an area between the entrance/exit point of the site and the proposed dwelling to be within flood zone 2. With this in mind, I note that there would be no means of creating an access/exit route between the proposed dwelling and the adopted highway, other than through an area of the site located within flood zone 2. The survey also highlights an area of the site within the footprint of the proposed dwelling to be within flood zone 2. Therefore, even with taking the individual topographical survey into account, I am not convinced that the site should be treated, in planning policy terms, as a site with a low risk of flooding and entirely within flood zone 1. Indeed, there are crucial portions of the site which have been confirmed as being within flood zone 2 and vulnerable to flooding. As such, I am of the view that the guidance within the PPG which requires a sequential test approach to be undertaken is applicable in this instance.

I am mindful of a recent appeal decision (October 2018, references 18/00599/FUL, APP/B3030/W/18/3204708) relating to a site at Holly House Farm, 8 Main Street, Sutton-on-Trent where one of the key issues related to whether the development would be in an appropriate location with respect to flood risk given that it was, like this application, located within flood zone 2. Here the Inspector concluded that the Sequential Test was failed. In that case the appellant made the case that there was a local need for the housing proposed albeit the Council argued that any local need was already being met through committed dwellings. The Inspector stated that “Consequently, I cannot find that windfall sites for market housing specifically in Sutton on Trent are necessary to meet the localised requirements of Spatial Policy 2 or the local needs which have informed the emerging Core Strategy 2013-2033...”

In assessing this application, the same conclusions are relevant; there are other sites at lower risk of flooding that could accommodate the proposed dwelling and there is no need for it to be located here. I conclude that the sequential test is failed. One therefore does not need to consider the matter of flooding any further, albeit for completeness the flood impacts and whether the development would be safe for its lifetime are discussed below.

The submitted Flood Risk Assessment (FRA) puts forward the argument that while there is no functional need for flood resilience and resistance measures to be incorporated into the development. Rather a number of recommendations for internal flood proofing build measures are suggested, as well as a recommended condition to secure a finished floor level of the proposed dwelling to be set at 9.05AOD, which is stated to be 200mm above the 1 in 1,000 year flood level.

I note that the submitted FRA refers to the fact that a proposed dwelling in Flood Zone 2 is identified as ‘more vulnerable’ development within the flood risk vulnerability classification and flood zone compatibility set out in the PPG and is considered to be ‘appropriate’ development in that respect. However, the PPG is clear that more vulnerable development should first pass the sequential test before it is considered to be appropriate; the sequential test is applied to guide development first to Flood Zone 1, then only Zones 2 and 3 if no land within Flood Zone 1 is available.

While I note the area of the site in which the proposed dwelling would be sited within an area at a low risk of surface water flooding, the site's frontage and boundary with the adjacent highway is in an area of medium risk of surface water flooding. In my opinion, this further clarifies the position that the site is in an area vulnerable to flood risk and that during a flood event, the safe access/egress at the site is likely to be prohibited by flood water. Whilst this could put pressure on the emergency services, an evacuation plan (which would be conditioned) is a way in which the matter can be controlled to make the development as safe as it can be.

In conclusion, I am of the view that the proposal fails the Sequential Test and 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 and fails the Sequential Test as set out in the National Planning Policy Framework 2018, a material consideration.

#### Impact on Character (including the Heritage Context)

Policy DM5 of the Allocations and Development Management DPD considers the matter of design. Criterion 4 of this policy outlines that the character and built form of new proposals should reflect the surrounding area in terms of scale, form, mass, layout, design, materials, and detailing. 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 built form of the proposed development would be set back a significant distance from Grassthorpe Road and to the rear of the host dwelling Sunny View as well No. 6 Grassthorpe Road. On this basis it is considered appropriate to consider the development as backland in nature. Policy DM5 states that proposals creating backland development will only be approved where they would be in keeping with the general character and density of the area and would not set a precedent for similar forms of development.

The applicants have drawn my attention to a number of backland developments within Sutton on Trent, along Station Road, High Street and Hemplands Lane. While I acknowledge and accept that there are a number of backland developments within the wider area, I am also mindful that none of these examples, in my view form part of the immediate street scene in which the application site is positioned and in this regard they are set within a differing context. The section of Grassthorpe Road in which the application site is located contains detached dwellings, which vary in the degree that they are set back from the highway, although all front directly onto the highway, with the exception of the host dwelling Sunny View which is positioned with side gable facing the highway. The properties on the east side of Hemplands Lane immediately to the south of the site also range in their set back from the highway however all front directly on to the highway.

It is therefore considered that the position of the proposed dwelling to the rear of Sunny View and 6 Grassthorpe Road would not be in keeping with the general character of this section of Sutton on Trent. Furthermore, in also taking into account that sections of the proposed development would be visible from part of Hemplands Lane by virtue of the open garden and low boundary wall to the south of Sunny View, I am of the opinion that the proposal would have the potential to result in an incongruous feature within the immediate street scene, clearly reading as a new dwelling to the rear of properties and at odds with the linear pattern of development along this section Grassthorpe Road.

In terms of setting a potential future precedent, I am mindful that the properties along Grassthorpe Road are detached with significant separation distances between each property as well as large rear gardens and open countryside beyond, which presents a number of opportunities for similar development to be accommodated within neighbouring sites. I am of the view that should such development come forward, this would lead to pressure for the release of other sites for development the cumulative impact would be to the harm to the character and appearance of the immediate area from this form of development. Therefore, in this respect, it is considered that the proposal would fail to accord with the aims of Policy DM5.

In turning specifically to the impact on the character and appearance of the conservation area, I note the intentions of the design are to create a simple farm range outbuilding form and appearance. However, I share the same opinion as the conservation officer in that due to the significant scale, bulk, form and orientation of the proposed dwelling, it is considered that this design goal has not been successfully achieved. Indeed, I am mindful that the footprint of the proposed dwelling would be far greater than that of the host property Sunny View.

The submitted block plan also indicates the removal and part removal of outbuildings along the frontage of the site in order to create a larger visibility splay at the site entrance. These outbuildings, while prominent within the street scene, are not considered to be historic and therefore I do not raise an objection to this element of the proposal.

I also note that the conservation officer comments that it is typical to find ancillary outbuildings to the rear of traditional properties within the Sutton on Trent conservation area, however considers the proposed development, due to the scale and form of the dwelling, to not read as an ancillary outbuilding. I concur with this view, and having taken account of the footprint of the proposed development, I am also of the opinion, as previously expressed that this element would read as a separate dwelling.

The conservation officer also describes how the existing green space surrounding Sunny View is a positive feature of the setting of Sunny View, which together with the main property, makes a positive contribution to the character of the conservation area and is regarded as a non-designated heritage asset in its own right. I am in agreement with this view and also consider that the proposed dwelling and outbuilding, due to its scale and form as well as the resulting loss of green space at the site from the proposed development, would result in harm to the setting of the non-designated heritage asset and the character of the conservation area, which is a designated heritage asset.

I am mindful of the guidance contained within Para 196 of the NPPF in considering harm to heritage assets which states;

‘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, where appropriate, securing its optimum viable use.’

While I am mindful that the provision of a single dwelling would make a very small contribution to housing provision within the district, and bring with it a degree of wider public benefit, I am of the opinion that such a small contribution would not outweigh the clear identified harm to both the setting of Sunny View, a non-designated asset, and the character and appearance of the wider conservation area, a designated heritage asset. I therefore conclude that the development would be contrary to Para 196 of the NPPF as well as the aims of Policies, CP14 and DM9.

#### Impact on Residential Amenity

Policy DM5 of the Council’s DPD requires new development to respect the amenities of the surrounding land uses to ensure that there is no adverse impact by virtue of overshadowing, overlooking or overbearing issues.

Bearing in mind that there is over 30m between the proposed dwelling and the rear elevations of Sunny View and no. 6 Grassthorpe Road at the closest point, and 20m between the proposed workshop building and Sunny View as well as the single storey design of the proposed dwelling and workshop, I am satisfied that there is a sufficient level of separation for the proposed development to not result in any material overbearing or overbearing impact on neighbouring amenity.

Having considered the ground floor position and secondary nature of the windows on the west elevation of the proposed dwelling which broadly face Sunny View and 6 Grassthorpe Road, I am satisfied that the proposal would not result in any direct overlooking impact on neighbouring properties. While I am also mindful that there are windows on the north and south elevations of the proposed dwelling which would serve main habitable rooms and face the boundaries of Sunny View and 6 Grassthorpe Road, as these windows are at ground floor level and set in from these boundaries, I am satisfied that adequate boundary treatment would prevent any material overlooking of the rear gardens associated to these neighbouring properties.

I am mindful that the proposed development would result in the loss a large section of the current private garden associated to Sunny View. However as this property would retain a large garden to the south of the applications site, I am satisfied that the neighbouring property would retain an adequate private garden area to serve a property of this size and as such would not result in a material impact on the amenity of current and future occupiers of this property.

#### 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.

I note that the Highway Authority have not raised any objection to the scheme and are satisfied that the proposal includes a safe access into the site. Furthermore, I am of the view that the submitted block plan shows there to be adequate provision made for off street parking to serve the proposed dwelling. The recommended conditions relating to the visibility splays and surfacing are considered appropriate, reasonable and necessary to attach to any grant of planning permission and it is considered that the proposal would be acceptable from a highway safety perspective.

#### Impact on Trees

Policy CP12 and DM5 seeks to protect and enhance natural features where possible. CP9 requires proposals *'to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District.'*

The trees on site are afforded protection at present by virtue of them being positioned within a designated Conservation Area. In support of the application, a Tree Survey & Constraints Plan has been submitted.

There are a number of mature trees on the site and the submitted block plan appears to show that some of the trees would be retained. However, I note that one of the best specimens (a good quality Sycamore tree, T13) appears to require removal given the siting of the dwelling. Further a number of the trees would be in close proximity to the footprint of the proposed dwelling and associated workshop.

No adequate justification has been submitted as to why the tree should be removed and in my view this layout does not protect or enhance the natural features of the site which is the starting point unless there are other reasons to outweigh the harm, of which there are none.

### Planning Balance and Conclusion

The application relates to the erection of a single dwelling within the village envelope of Sutton on Trent, a principal village within the settlement hierarchy and as such the principle of development at the site is acceptable. The proposed development is also acceptable from a residential amenity and highway safety perspective.

However, the site is located within flood zone 2, a medium risk of flooding. Both national and local policies for flooding matters require the application of the sequential test, with development to be steered towards sites within the lowest flood risk area. The applicant has not supplied evidence of a sequential test approach being undertaken or detailed any local circumstances that would justify a reduced search area for a sequential test approach over a default position in which a district wide search area would be appropriate. It is considered that there are sites within the district and within the sub-regional housing area that are in areas of lower flood risk and sustainable locations capable of accommodating a development of the same scale as the development proposed within this application, and as such the development would be contrary to Core Policy 10, Policy DM5 and chapter 14 of the NPPF.

Furthermore, I have identified less than substantial harm to the character and appearance of the conservation area and the setting of Sunny View, a non-designated heritage asset by virtue of its backland position and the scale and form of the proposed dwelling and outbuilding. In this respect the proposal would fail to accord with Core Policy 14, Policy DM9 and Chapter 16 of the NPPF.

In addition the development would result in the loss of at least one good quality tree without adequate justification contrary to CP9, CP12 and DM5.

The proposal would result in the provision a single dwelling which would provide a small contribution to Districts overall housing supply and is a benefit of the scheme. However, the positive weight attached to housing delivery is not considered sufficient to outweigh the aforementioned harm in respect of Flood Risk, the setting of Sunny View, a non-designated heritage asset as well as to the character and appearance of the wider conservation area setting and the unjustified loss of trees. Accordingly it is recommended that planning permission be refused.

### **RECOMMENDATION**

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



## REASONS FOR REFUSAL

01

Section 9 of Policy DM5 of the adopted Allocations & Development Management Development Plan Document (2013) relates to flood risk and water management and states that the Council will steer new development away from areas at the highest risk of flooding. Development proposals within Flood Zones 2 and 3 and areas with critical drainage problems will only be considered where it constitutes appropriate development and it can be demonstrated, by application of the Sequential Test, that there are no reasonably available sites in lower risk flood zones. The site is located in Flood Zone 2. The submitted application does not outline details of a sequential test approach or justify a need for the proposed development to be located within Flood Zone 2. In the opinion of the Local Planning Authority there are other sites within the district that are available for housing that are at lower risk of flooding and the proposal therefore fails the Sequential Test. The proposal is therefore contrary to Core Policy 10 (Climate Change) of the adopted Newark and Sherwood Core Strategy 2011, Policy DM5 (Design) of the Allocations and Development Management DPD and the National Planning Policy Framework 2018, a material consideration.

02

In the opinion of the Local Planning Authority, the proposed development would result in harm to the setting of Sunny View, Grassthorpe Road, a non-designated heritage asset and the character and appearance of the Sutton-on-Trent Conservation Area, by virtue of its backland position, design, scale, form and orientation of the proposed buildings. The positive weight attached to the small contribution to housing delivery is not considered sufficient to outweigh the identified harm and therefore the proposal is contrary to Core Policy 14 (Historic Environment) of the adopted Newark and Sherwood Core Strategy 2011, Policy DM5, and DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD as well as Chapter 16 of the National Planning Policy Framework 2018, a material consideration.

03

Policies CP12 (Biodiversity and Green Infrastructure), CP9 (Sustainable Design) and DM5 (Design) seek to protect and enhance natural features where possible. It appears to the Local Planning Authority that the proposal would result in the loss of at least one good quality tree and no adequate justification has been submitted as to why. In the opinion of the Local Planning Authority the proposal fails to protect or enhance the natural features of the site contrary to CP12, CP9 and DM5.

### Notes to Applicant

01

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

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(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.

Background Papers

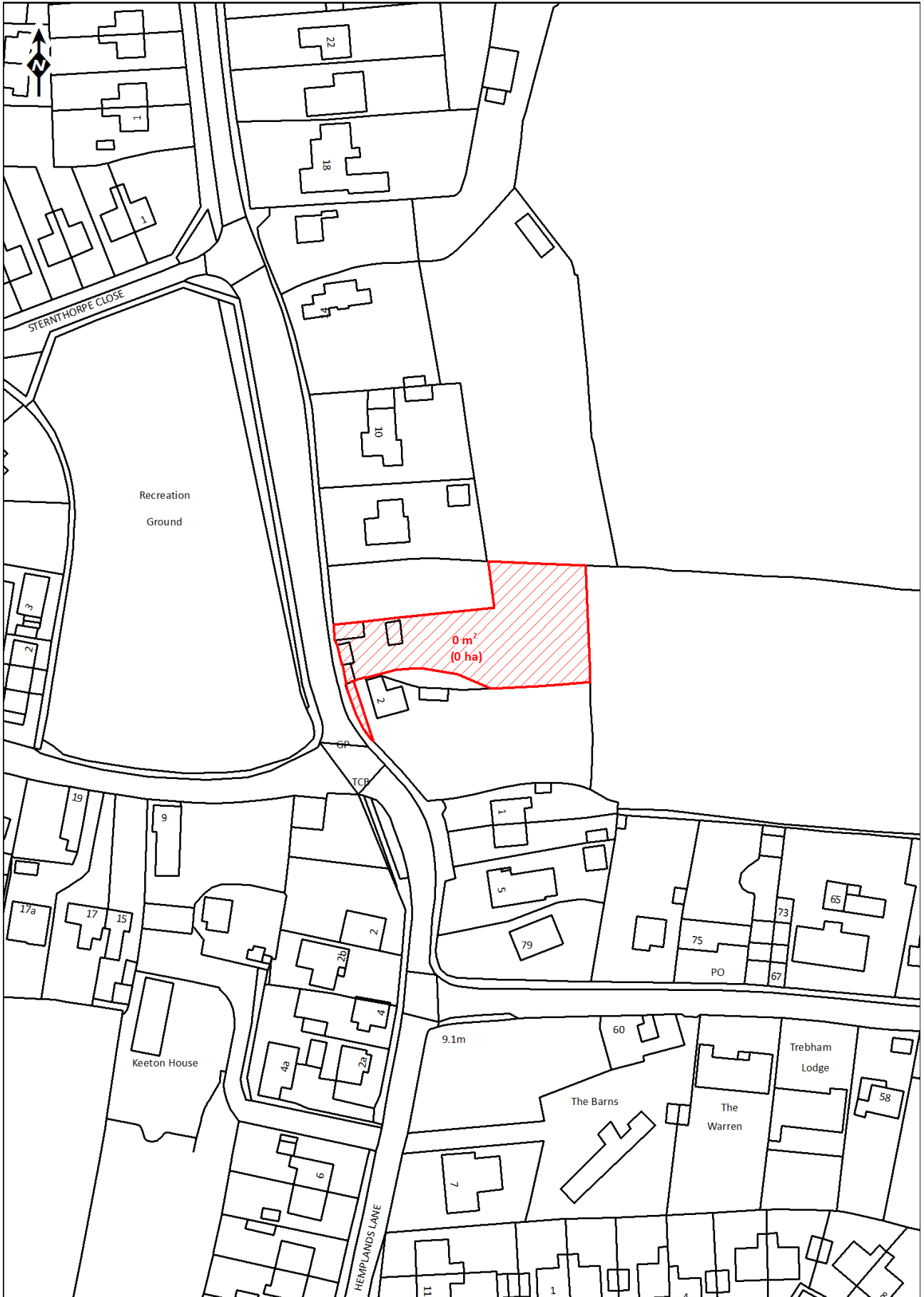
Application case file.

For further information, please contact Gareth Elliott on ext 5836.

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

**Matt Lamb**  
**Director – Growth & Regeneration**

Committee Plan - 18/02292/FUL



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## PLANNING COMMITTEE – 5 MARCH 2019

<b>Application No:</b>	<b>18/01891/FUL</b>	
<b>Proposal:</b>	<b>Erection of one affordable dwelling</b>	
<b>Location:</b>	<b>Land Adjacent Tu Pare, Low Street, Elston</b>	
<b>Applicant:</b>	<b>T.B. Horner And Sons - D Horner</b>	
<b>Registered:</b>	<b>10.10.2018</b>	<b>Target Date: 05.12.2018</b>
		<b>Agreed Extension of Time: 12.02.2019</b>

This application was deferred from 5<sup>th</sup> February 2019 Planning Committee so that Members could undertake a site visit. The application was initially referred to Committee by Cllr Walker on the basis of a lack of objection from the Parish Council (albeit no formal comments have been received) which is contrary to the professional Officer recommendation. The report that follows remains unchanged from the last published agenda, save for an update to the date of publication of the NPPF which does not change the recommendation.

### The Site

The application site forms a broadly rectangular plot with an associated vehicular access to the north of Low Street which forms one of the main vehicular routes through the village of Elston. The site is set to the rear of the residential curtilages of 1 and 2 Stoke Field Cottages and to the east of the residential curtilage of the dwelling known as Tu Pare.

The vehicular access to the site is within the designated Conservation Area (CA) but the site itself is outside of the CA with the southern boundary of the site abutting the northern CA boundary. The Grade II listed dwelling known as The Hollies shares part of the south and east boundaries of the site.

There is a tree subject to a Preservation Order close to the vehicular access to the site within the property known as Rosedene. The site is within Flood Zone 1 according to the Environment Agency mapping system and is not known as an area at risk of surface water flooding.

### Relevant Planning History

*Pre-application advice has been sought in 2017 for the erection of a 3 bed property on the site (albeit the site in the pre-application enquiry extended including land to the north now shown as being land within the applicants ownership rather than within the red line plan).*

**11/01587/FUL** - Erection of a new house and garage.

*Application refused under delegated powers by decision dated 21<sup>st</sup> February 2012 for the following two reasons:*

01

*The proposed development by reason of its position outside of the main built up part of Elston and the lack of a robust forwarded proven local need, represents unwarranted and sporadic housing within the open countryside, contrary to Spatial Policies 1, 2 and 3 of the NSDC Core Strategy 2011, policy NE1 of the NSDC Local Plan 1999 and the aims and objectives contained within PPS3: Housing and PPS7: Sustainable Development in Rural Areas.*

02

*The proposed dwelling by reason of its 'back land' position (behind Stoke Field Cottages), its combined footprint and scale (to include its dominant forward projecting wing) and the resultant front elevation detailing (i.e. lack of first floor windows) represents an overly large addition which fails to respect and is harmful to the established layout, character and appearance of development within the locality. As such the development would fail to sustain the significance of the conservation area contrary to Spatial Policy 3 and Core Policies 9 and 14 of the NSDC Core Strategy 2011, Policies C1 and H23 of the NSDC Local Plan 1999, Policies 2 and 27 of the EMRP 2009, PPS1: Delivering Sustainable Development, PPS5: Planning for the Historic Environment and PPS7: Sustainable Development in Rural Areas.*

**01/02268/FUL** - Erection of a two bedroomed bungalow.

*Application refused under delegated powers by decision dated 26<sup>th</sup> April 2002 for the following two reasons:*

01

*This proposal is subject to Policies H13, H21 and H23 of the Newark and Sherwood Local Plan. In the opinion of the Local Planning Authority, this proposal does not reflect the character of the locality and would not create an attractive living environment in terms of privacy and private open space. The proposal is, therefore, contrary to Policies H21 and H23 consequently Policy H13 of the Newark and Sherwood Local Plan.*

02

*The proposal is also subject to Policies C1 and C4 of the Newark and Sherwood Local Plan. In the opinion of the Local Planning Authority, the proposal would adversely affect the character and appearance of the conservation area through its siting and design and is, therefore, contrary to Policy C1. Policy C4 seeks to retain trees etc on which the character and appearance of the conservation area depends. It is considered that the relationship between the large Ash tree adjacent to the site and the proposed dwelling is an uncomfortable one. It is considered that the proposal would adversely affect the long-term health of this tree and it is, therefore, viewed that the proposal is contrary to Policy C4.*

### The Proposal

The proposal seeks full planning permission for the erection of a single storey two bed dwelling. Access is intended to be gained from Low Street adjacent to Stoke Fields Farm. The dwelling would have a maximum pitch height of approximately 4.9m and eaves height of approximately 2.3m. Materials proposed are red bricks with pantiles and timber framed joinery.

The application has evolved during the life of the application such that the proposed dwelling is now promoted as being an affordable unit. The description of development has been amended to reflect this in line with the additional statement received by email dated 14<sup>th</sup> January 2019. The application seeks permission for a discounted for sale unit. The application has been considered on the basis of the following plans:

- Site Location Plan – (10) 001 Rev. P00 dated 03.07.2018
- Proposed Site Plan – (10) 002 Rev. P00 dated 02.07.2018
- Proposed Layout and Elevations – (20) 001 Rev. P00 dated 17.07.2018

## Departure/Public Advertisement Procedure

Occupiers of five 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**

#### **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 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

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

Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM8 – Development in the Open Countryside  
Policy DM9 – Protecting and Enhancing the Historic Environment

### **Other Material Planning Considerations**

- National Planning Policy Framework 2018
- Planning Practice Guidance
- Elston Housing Needs Survey

### **Consultations**

**Elston Parish Council** – No comments received.

**NSDC Conservation** – *Original comments received 1<sup>st</sup> November 2018:*

The application is for a single storey bungalow, adjacent to the boundary of Elston Conservation Area.

#### **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. 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).

Paragraph 194 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 required clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 8).

#### Significance of heritage asset

The application site is an open plot of undeveloped land that is located to the rear of a pair of semidetached dwellings on Low Street. The plot also adjoins the plot to The Hollies, a Grade II listed farmhouse. The Hollies was first listed in March 1986 (LEN: 1045580).

The site is adjacent to the boundary to Elston Conservation Area. The conservation area was designated in 1992 due to its special architectural or historic interest. The 1885 OS Map reveals the distinctive character of the long, narrow plot boundaries to the rear of each property. This is still visible today, demonstrating the area's agricultural past. There has been minimal back land development in this area of the village. With dwellings along the street having a strong frontage with Low Street, even when the dwelling is set back.

#### Assessment of proposal

It is considered that the proposed dwelling will not have significant impact on the setting of nearby listed buildings.

However, it is considered that the proposed development will harm the character of the conservation area. Much of the significant character along Low Street is from the built layout and glimpses of the rural character beyond. Policy CP14 looks to protect 'important open spaces', which this undeveloped plot is considered to be. The development of this site will impact the relationship between the properties on Low Street and the surrounding rural landscape.

This proposal is very similar to one that was dismissed at appeal (01/02268/FUL). As outlined in the appeal decision it concludes the development of this site is very different to opposite dwelling Tu Pare. This property addresses Low Street, albeit set back from the street. However, the development of this application site, being behind an existing dwelling would not have a frontage to Low Street. In agreement with this, it is considered that back land development is not a development form that would preserve the character of the area and cannot be supported.

*The agent has submitted a rebuttal to the above concerns (discussed in further detail in the appraisal section below) to which the Conservation Officer has offered the following comments:*

Although the dwelling is sited outside of the conservation area boundary, the access and parking is within the conservation area. The dwelling is located very close to the boundary and therefore its impact on the setting of the heritage asset needs to be taken into consideration.



In regards to the 1884 OS map and the former building on this site, prior to Stoke Field Cottages, this is a single building that stretches perpendicular from Low Street. The application is proposing a separate building behind existing dwellings, very different to this former development form. This proposal results in a dwelling that does not have a relationship with Low Street, a significant characteristic in this part of the conservation area. In addition it will also erode the sense of openness and rural quality in particular from Stoke Field Cottages and impact views from other dwellings and views along Low Street.

The historic development line along Low Street may vary, with some set back from the road. However they generally have a relationship with Low Street and buildings are not stacked behind one another. Any buildings that do are typically ancillary. Dove cottage is set back from Low however has a strong relationship with Low Street, albeit flanked by buildings perpendicular to Low Street either side. It does not have a building directly in front of it.

In regards to the appeal decision Appeal Ref: APP/B3030/W/17/3180014, it is very different to this application site and proposal. Primarily the development is not located behind an existing dwelling within the conservation area and the 10 dwelling are designed to reflect a rural mews.

I hope this is helpful in understanding my comments.

**NSDC Archeological Advisor** - This development is proposed within the medieval settlement of Elston in an area where the mapping still identifies the former remains of crofts and tofts. The proposed development is unlikely to directly impact on any surviving sub surface archaeology, the medieval buildings were likely to be along the frontage rather than set back. However the placement of the house in the backland does further erode the surviving medieval field pattern which has significant negative impact.

*The agent has submitted a rebuttal to the above concerns (discussed in further detail in the appraisal section below) to which NSDC Archeological Advisor has offered the following comments:*

I have read through the comments made and would like to reiterate my original comments.

I appreciate that there may have been buildings on this site they would however have been associated with the main dwelling, and thus subservient to that main dwelling. A new building subdivides the plot by creating a new building and this does have a different impact to previous ancillary buildings that may have stood on this plot. I stand by my original comments that this development will further erode the very clear remnants of the surviving medieval field pattern and these proposals will have a negative impact.

**NCC Highways** - This application is for the erection of one dwelling, served by the existing access onto Low Street. Adequate parking is provided within the site. The proposal is not expected to have a significant impact on the public highway.

Therefore, for one additional dwelling, the Highway Authority would not wish to raise objection.

**NSDC Access and Equalities Officer** – Observations in relation to Building Regulations.

**NSDC Strategic Housing Officer** – Housing Need – Elston

In 2012 a Parish Housing Needs survey was undertaken identifying a need for 2 affordable dwellings. In 2017 a letter drop to residents resulting in an additional nine households in housing need. A scheme of ten rented and shared ownership dwellings are currently under construction.

### Discount for Sale

Whilst there was no evidence from the survey or letter drop that respondents required a discount for sale product, I have no objection to the development of a discount for sale dwelling in this location as I consider it will be of benefit to the community to have access to a wider range of affordable housing products. Discount for sale products usually have a minimum of 20% (NPPF 2018) and in this location given the high house prices and average income levels it is considered that a discount of 25% is acceptable. Affordable housing usually benefits from a local connection clause whether this be village or district wide. It is usual practice to detail the conditions in a S106 agreement in perpetuity.

**Four letters of representation has been received, summarised as follows:**

- The land is agricultural land and therefore may set a precedent for building on other agricultural land in the village
- One dwelling would lead to a lot more
- Neighbouring dwellings have not been consulted
- Most of the properties on this side of Low Street have very long back gardens which sets a potential for a precedent to be set
- Elston has seen a huge increase in development in the past two years
- Elston does not have the infrastructure for such a level of development
- Elston will lose its identity as a village even though it is a conservation area
- The drive is private and cannot cope with another dwelling

### Appraisal

#### Preliminary Matters

As is referenced by the site history section above, the applicant has sought pre-application advice on a scheme for one three bed dwelling. However, the site plan for the pre-application enquiry differs from the red line site location plan for the current application through the incorporation of land to the north and not the vehicular access to the south now included. The positioning of the proposed dwelling was also indicated as being slightly further northwards. The relevance of this is that the Officer response at pre-application stage was that the proposed dwelling would be located within the open countryside. The Planning Statement at paragraph 2.1 makes reference to the efforts in the current application to overcome pre-application concerns (including bringing the dwelling in line with the adjacent Tu Pare).

For the avoidance of doubt, the current submission for full planning permission has been assessed solely on its own merits taking into account all material planning considerations.

#### Principle of Development

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

Notwithstanding the current process of Plan Review, at the current time the Adopted Development Plan for the District is the Core Strategy DPD (2011) and the Allocations and Development Management Policies DPD (2013). The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply. This has been rehearsed many times before and as such 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. This has been confirmed by an Inspector through recent appeal decisions dating from April 2018, including a decision recovered by the Secretary of State in respect of the 2<sup>nd</sup> Farnsfield Public Inquiry which was dismissed.

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. Spatial Policy 1 (Settlement Hierarchy) of the Council's Core Strategy sets out the settlements where the Council will focus growth throughout the District. Applications for new development beyond Principal Villages as specified within Spatial Policy 2 will be considered against the 5 criteria within Spatial Policy 3. These are Location, Scale, Need, Impact and Character.

It is notable that the site has been subject to previous refusals for residential development. However, the Development Plan has changed since these decisions. Moreover, the Plan continues to evolve through the published Amended Core Strategy and its associated evidence base documents. These were submitted for independent examination by the Inspectorate which took place on February 2<sup>nd</sup> 2018. Further details have since been submitted to queries (which include in the context of Spatial Policy 3) and the Council finished a period of consultation on the main modifications on 21<sup>st</sup> September 2018.

Paragraph 48 of the NPPF is clear that authorities may give weight to relevant policies in emerging plans according to:

*“a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*

*b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*

*c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.*

At the present time, the Inspector is considering the responses to the main modifications stage prior to the issue of his report. In respect to criterion a) above the plan is considered to be at an advanced stage of preparation. The relevance of points b) and c) and as such the weight attached to certain elements of the emerging Spatial Policy will be discussed in the relevant sections below. For the avoidance of doubt however, the five criteria of the extant policy referred to above have been carried to the wording of the emerging policy and it is therefore necessary to assess each of these in turn below.

## Location

First and foremost under the wording of the extant policy it is necessary to determine whether the site falls within the main built up area of Elston or alternatively whether it should be considered as development outside of the main built up area and therefore assessed as being within the open countryside under the realms of Policy DM8.

As is inferred above, there is planning history, both in the form of previous refusals and pre-application advice, which confirm that the LPA have previously assessed proposed development at the site as being within the open countryside. However, it is a material planning consideration that the red line site location plan submitted to accompany the current application is different to that presented in the pre-application scenario and that Policy DM8 (Development in the Open Countryside) has been introduced after the latest formal planning refusal.

If one looks to history as a guide, the village envelope of Elston set out within the 1999 Local Plan, the site was outside the envelope as demonstrated on the excerpt from the plan below.



However, the proposed dwelling foot print has been re-aligned since pre-application stage such that it is now in line with the neighbouring dwelling to the west and does not extend further northwards towards the open countryside. There are also agricultural buildings to the east of the proposed siting of the dwelling which reinforce the built form of the immediate surroundings. I appreciate that these buildings would be typical of an open countryside setting but in this case their presence in such close proximity to the built form of neighbouring residential curtilages almost establishes them within the village character. Having visited the site it is not considered that the site itself exudes a character typical of the open countryside being visually read in close association with the nearby residential curtilages. Having said that, the land towards the north which tapers towards an agricultural field beyond, does represent more of an open countryside nature.

I am mindful that the wording of the locational criteria of SP3 is likely to be changed through the amended Core Strategy. The latest wording within the Main Modifications document states that 'new development should be in villages' (rather than within the main built up area) implying a more lenient approach. However, given that this policy is still subject to outstanding objections, I have attached the revised wording very limited weight.

Overall, Officers are persuaded that the site can be considered as being within the village thus justifying assessment against Spatial Policy 3 as opposed to Policy DM8.

The locational criteria of SP3 also require an assessment of local services and access to more strategic areas of the District including the Newark Urban Area, Service Centres or Principle Villages. Elston has a number of services including a Primary School; Village Hall; Village Shop and Church. The level of services is considered commensurate to the size of the village such that the occupier of the proposed dwelling would be able to assess these services for their day to day needs. Notwithstanding this, Elston is close to the wider services available within the Newark Urban Area which is served by bus routes to the village.

On the basis of the above discussion, the proposal is considered to meet the locational criteria of SP3.

### *Scale*

Whilst the guidance note referred to above confirms that the scale criterion relates to both the amount of development and its physical characteristics, the latter is more appropriately assessed through the character criteria below. In terms of the numerical addition of dwellings, it is considered that Elston is of such a size that it could comfortably accommodate an additional one dwelling without representing a disproportionate increase in the village size.

### *Need*

The extant wording of SP3 requires development proposals to meet a proven local need for the village. Referring again to paragraph 48 of the NPPF (in terms of weighting to be attached to emerging policies) the need element of Spatial Policy 3 has been subject to objections throughout the plan review process. The latest position of the LPA, in taking into account the initial advice of the Inspector following the examination hearing, is outlined by the main modifications consultation document. As drafted, the wording of the need element is as follows (with strike through etc. representing previous iterations):

- *“Need - Employment and tourism which ~~requires a rural/village location~~ are sustainable and meet the requirements of the relevant Core Policies. New or replacement facilities to support the local community. Development which supports local agriculture and farm diversification. New housing where it helps to ~~meet identified proven local need~~ support community facilities and local services. Neighbourhood Plans may set detailed policies reflecting local housing need, elsewhere housing schemes of 3 dwellings or more should meet the mix and type requirements of Core Policy 3 ~~and reflects local need in terms of both tenure and house types;“~~*

As is evidenced by the above wording, the latest stance of the planning authority is that the requirement for proposals to deliver a ‘identified proven local need’ is no longer necessary. Despite the wording of the extant policy, Officers are of the view that it is appropriate to attach some limited weight to the emerging policy given the advanced stage of the Plan Review and that the revised wording of the need element of Spatial Policy 3 better aligns with the stance of the National Framework in that the support for local services is also inferred by paragraph 78 of the Framework which confirms that, *“housing should be located where it will enhance or maintain the vitality of rural communities.”*

As is confirmed by the description of the proposal above, the applicant has changed the application during the life of the application to confirm that they now wish to seek permission for a discounted market sale dwelling meeting the definition of an affordable housing product as set out in Annex 2 – Glossary of the NPPF as updated in July 2018. There has been some debate with Strategic Housing Officers as to the level of discount below market value with the applicant originally suggesting that 20% below local market value would be appropriate. The agent has since accepted the suggested 25% and confirmed in writing an acceptance that if approved, the application would need to be accompanied by an associated legal agreement to ensure that the property remains discounted for future eligible households.

The Planning Statement makes reference to (and indeed Members may recall) an appeal in the village whereby the Inspector attached weight to the findings of the Elston Parish Housing Needs Survey 2016. This application (reference 16/01881/FULM) for 10 dwellings on Land off Elston Lane was allowed with the Inspector attaching *'substantial weight to the affordable housing provision proposed and the social and economic benefits that would be delivered as a result.'* In reaching this judgement the Inspector acknowledged the need for 13 dwellings based on recent housing surveys.

The amendment during the life of the application to an affordable unit is made on the basis that there is still an unmet need in respect to the housing needs survey (i.e. that showed a need for 13 dwellings but the appeal scheme would only deliver 10). The applicant therefore contends that the unit proposed through the current application would meet the local needs for small affordable homes in the village. However, in the case of the affordable product proposed in the application (discounted market sale); it is not quite a simple fit to meeting an identified need. The outstanding need is for a shared ownership product or an affordable rent product, both of which would be managed by a Registered Provider. What is proposed by this application is a slightly different product. That said, a discounted open market sale product does indeed meet the definition of an affordable product as confirmed by the glossary of the NPPF 2018:

***"Affordable housing:*** *housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:"...*

***"c) Discounted market sales housing:*** *is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households."*

On this basis the type of affordable unit proposed is not disputed in principle and, whilst not meeting a specifically identified proven local need, it would of course provide an affordable benefit to the community which must be afforded positive weight in the overall balance undertaken below. I am specifically mindful that, according to the 2016 survey results, there is an outstanding housing need in the village. It may be the case that if up to date surveys were undertaken, those in need from a shared ownership or affordable rent product may equally benefit from a discounted market sales product. For the avoidance of doubt, if the application were to be approved on the basis of attaching matters of housing need determinative weight, then the product proposed could reasonably be secured by an associated legal agreement to secure both the discount value and a local connection clause.

On the basis of the above discussion, the proposal as revised is considered to meet the requirements of SP3 in respect to the need criterion.

### *Impact*

This element of the policy refers to ensuring that new development does not generate excessive car borne traffic or unduly impact on local infrastructure including drainage and sewerage etc. Officers are confident that a single dwelling is unlikely to detrimentally impact upon local infrastructure.

### *Character including in the Heritage Context*

SP3 states that, *'new development should not have a detrimental impact on the character of the location or its landscape setting.'*

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. 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.

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings. Policy DM5 also 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. The policy requires that development must promote local distinctiveness and protect heritage assets (including their setting).

Chapter 12 of the NPPF 2018 provides guidance in respect of achieving well-designed places confirming at paragraph 124 that, *'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*

Section 72(1) also requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

The duties in s.66 and s.72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.

This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognise that a finding of harm to a listed building, or harm to the setting of a listed building, or to a conservation area gives rise to a strong presumption against planning permission being

granted. The presumption is a statutory one. The presumption is not irrefutable; it can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other, if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering. This is a matter that has been considered in a number of recent court cases (in particular: Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council (2014); The Forge Field Society v Sevenoaks District Council (2014); and Mordue (2016).

The majority of the application site, and indeed the built form of the dwelling proposed, is outside of the designated CA. However, the southern boundary of the site abuts the CA and there therefore remains the potential that the proposal could affect the CA setting. There are also listed buildings in close proximity to the site which require consideration in terms of the impact on their setting. This has been considered by internal conservation expertise with the Conservation Officer's comments listed in full in the consultee section above. Nevertheless, the assessment of the proposal is considered worthy of repetition in the context of the appraisal discussion:

*It is considered that the proposed dwelling will not have significant impact on the setting of nearby listed buildings.*

*However, it is considered that the proposed development will harm the character of the conservation area. Much of the significant character along Low Street is from the built layout and glimpses of the rural character beyond. Policy CP14 looks to protect 'important open spaces', which this undeveloped plot is considered to be. The development of this site will impact the relationship between the properties on Low Street and the surrounding rural landscape.*

*This proposal is very similar to one that was dismissed at appeal (01/02268/FUL). As outlined in the appeal decision it concludes the development of this site is very different to opposite dwelling Tu Pare. This property addresses Low Street, albeit set back from the street. However, the development of this application site, being behind an existing dwelling would not have a frontage to Low Street. In agreement with this, it is considered that back land development is not a development form that would preserve the character of the area and cannot be supported.*

Moreover, concern has also been raised by the Council's Archeological Advisor that the backland positioning of the proposed dwelling would erode the surviving medieval field pattern (comments listed in full in the consultation section above). Although the applicant has raised the issue that there may have been previous buildings on the site this is considered to be materially different to the current proposal in that previous buildings would have been associated and therefore subservient to, the main dwelling.

The site is set to the rear of the existing well established building frontage along Low Street, on the northern edge of the village. As referenced most of the site is not within the Elston Conservation Area but abuts the boundary of the designated area with Tu Pare to the west and all buildings along the frontage of Low Street falling within the area. Buildings to the east and west of the site predominantly front onto Low Street, however it is accepted that a number of buildings are set back, notably Tu Pare immediately to the west. This property was granted consent originally in 1979 and then again in 1988. No details are given within the 1988 application as to the reasoning for the location of the dwelling; however it is noted that to the front (south) are a number of large trees which contribute positively to the street scene which is likely to have influenced the siting of the dwelling. Nevertheless, I would concur with the comments of the Conservation Officer that the dwelling known as Tu Pare continues to address Low Street albeit through a set back positioning.



The siting of the proposed dwelling would result in the presence of a dwelling to the rear of Stoke Field Cottages, a pair of two storey cream rendered dwellings. The proposal would as such result in backland development. Policy DM5 of the DPD states that *'proposals creating backland development will only be approved where they are in-keeping with the general character and density of existing development in the area and would not set a precedent for similar forms of development, the cumulative effect of which would be to harm, the established character and appearance of the area.'*

It is noted that concern was raised by the inspector in the 2003 appeal to the potential for the proposed backland development to impact on the character and appearance of the conservation area and could result in further harm through the precedent it could set for additional development to come forward. This view is shared by the Conservation Officer in the context of the current application and I would have similar concerns that the proposed development would fail to preserve the character of the adjacent Conservation Area subsequently harming the character of the Conservation Area. As such, the proposal would fail to accord with policies DM5 & DM9 of the DPD as well as the relevant paragraphs of the NPPF.

Paragraph 196 of the NPPF (2018) states that:

*'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, where appropriate, securing its optimum viable use.'*

The public benefits of the proposal would undoubtedly include the contribution towards the Districts Housing Supply and the aforementioned affordable housing product which would benefit the community. The weighting of this in respect to the identified heritage harm will be undertaken in the overall balance and conclusion below.

The above concerns were raised with the agent during the life of the application in the interests of transparency to the likely recommendation of the application. A rebuttal to the comments was received by email dated 13<sup>th</sup> November 2018 but as is detailed by the additional comments of the Conservation Officer listed in full above, this would not alter the heritage harm identified. I would concur entirely with the justification provided by the Conservation Officer. Specifically in relation to the appeal decision referenced, I agree that this should not be afforded weight in the current application as it relates to an entirely different form of development (an application for 10 dwellings).

In addition to the rebuttal received, Officers have more recently (January 22<sup>nd</sup> 2019) met on site to discuss the perceived heritage harm (noting that the heritage consultant for the applicant identifies no harm to the special interest or setting of the Elston Conservation Area). During the meeting, the agent pointed out another recent development site at Chapel Farm in an attempt to demonstrate that backland development in the conservation area has been previously approved. However having reviewed the planning file for this development (14/01868/FUL) I find that this assessment was materially different in that it related to the demolition of modern barns and outbuildings to a degree which was deemed beneficial to the conservation area.

To clarify, the responses and meetings during the life of the application have not altered the Conservation Officers assessment of less than substantial harm to which I would agree. The application has clearly amounted to differing professional views, which as Members will be aware is a scenario not uncommon in the planning process.

### Impact on Highways

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. The proposed dwelling would be accessed via the existing vehicular access from Low Street. The Planning Statement confirms that the *'track currently serves a bungalow (Tu Pare), parking to Stoke Fields Cottages, Stoke Fields Farm and four live/work units converted from barns associated with the Farm.'*

The proposal has been assessed by Nottinghamshire Country Council as the Highways Authority and no objection has been raised. I have identified no reason to disagree with the advice of the Highways Authority and therefore the proposal is compliant with Spatial Policy 7 and the relevant elements of Policy DM5.

### Impact on 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.

Given the aforementioned backland nature of the development the proposed dwelling would introduce new amenity relationships with existing properties. The closest of these spatially would be the host dwelling to the west known as Tu Pare. The proposed site plan annotates the distance between the side gables of the properties as being 9.5m. The existing gravel track would intervene this distance. Both the host and the proposed dwelling do not include any windows on the side gables so this is therefore considered to be an appropriate amenity relationship. The site boundary of Tu Pare is well established with fencing and hedging such that their private amenity space would be protected from direct overlooking through use of the proposed garden.

The other properties which would be potentially affected by the development include the pair of Cottages fronting Low Street known as Stoke Field Cottages. The distance annotated to these properties (their two storey rear elevations noting the presence of small single storey rear additions) is approximately 31m. Noting this distance, and the single storey nature of the proposed dwelling I do not consider that the development would introduce an overbearing impact. Nevertheless the rear of their residential curtilages is relatively open in nature marked only by a post and rail fence. It appears that the space to the rear of the dwellings is also used for vehicular parking. There would undoubtedly be visibility between the existing properties and the principle elevation of the proposed dwelling which is intended to feature a bedroom window; a bathroom window; the front door; and a secondary window to the kitchen / dining area. The proposed car parking is intended to be positioned in front of the principle window. The proposed site plan shows that the southern boundary of the site would retain a relatively open boundary with the post and rail fence to a height of 1.3m. Whilst this would not necessarily prevent outlook from the principle elevation windows towards the rear of Stoke Field Cottages, there is additional planting indicated which would aide in intervening the built form reducing the perception of the neighbouring dwellings being overlooked. In the context of the above discussion as to what the land immediately rear of the existing dwellings appears to be used for, Officers do not consider that the increased overlooking from the proposed dwelling would amount to a detrimental amenity harm which would warrant resistance against Policy DM5.

It has been carefully considered as to whether it would be appropriate to seek an amended boundary treatment (perhaps a higher close boarded fence) although this has not been pursued given that it would not be appropriate in the context of the heritage assets which abut the site.

Whilst the properties positioned to the north east of the site (approximately 350m away) would pass the dwelling in using the shared access, this is not in itself considered harmful in amenity terms.

Subject to conditions securing the landscaping details as implied if development were to be otherwise accepted, the proposal is considered to be compliant with the relevant amenity elements of Policy DM5.

### Other Matters

It has been brought to the attention of Officers that neighbouring properties to the north east of the site, (around 350m away as the crow flies) have not been directly notified by letter. For the avoidance of doubt, a site notice was placed close to the access road to the site and therefore Officers are satisfied that the correct consultation procedures have been met.

### Overall Balance and Conclusion

Despite previous refusals on the site, Officers consider the site to be within the main built up area of Elston warranting assessment against Spatial Policy 3. The benefits of the proposal in terms of contributing to the Districts Housing Supply with an affordable housing unit secured by legal agreement have been attached positive weight as too has the opportunity for the proposal to support local services. However, the proposed siting of the dwelling, at a back land location with no frontage to Low Street would not preserve the character of the area to a degree where the setting of the adjacent designated Conservation Area would be harmed. Policy CP14 looks to protect 'important open spaces', which this undeveloped plot is considered to be. The development of this site will impact the relationship between the properties on Low Street and the surrounding rural landscape. Moreover, the proposal would erode the surviving medieval field pattern. The aforementioned benefits are not considered to outweigh this harm and therefore the proposal is recommended for refusal as detailed below.

### **RECOMMENDATION**

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

#### Reason

01

The application relates to a proposed single storey dwelling to the north of Stoke Field Cottages. The proposal is considered to represent back land development which would have no frontage to Low Street. The result of the proposal would be that the relationships between the properties on Low Street and the surrounding rural landscape would be detrimentally affected to a degree which would amount to less than substantial harm to the setting of the designated Conservation Area which the site is partially within. The proposal would also erode the surviving medieval field pattern of the area.

Whilst amounting to less than substantial harm, in line with paragraph 196 of the NPPF, this harm is not considered to be outweighed by the public benefits of the proposal, namely in respect of the contributing marginally towards the affordable housing stock within the District and supporting local services. The proposal is therefore contrary to the NPPF which forms a material consideration as well as the local Development Plan namely, Spatial Policy SP3 (Rural Areas); Core Policy 9 (Sustainable Design); Core Policy 14 (Historic Environment); Policy DM9 (Protecting and Enhancing the Historic Environment); and Policy DM5 (Design).

### Informatives

01

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

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason for refusal. Whilst the applicant has engaged with the District Planning Authority at pre-application stage our advice has been consistent from the outset. 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.

### Background Papers

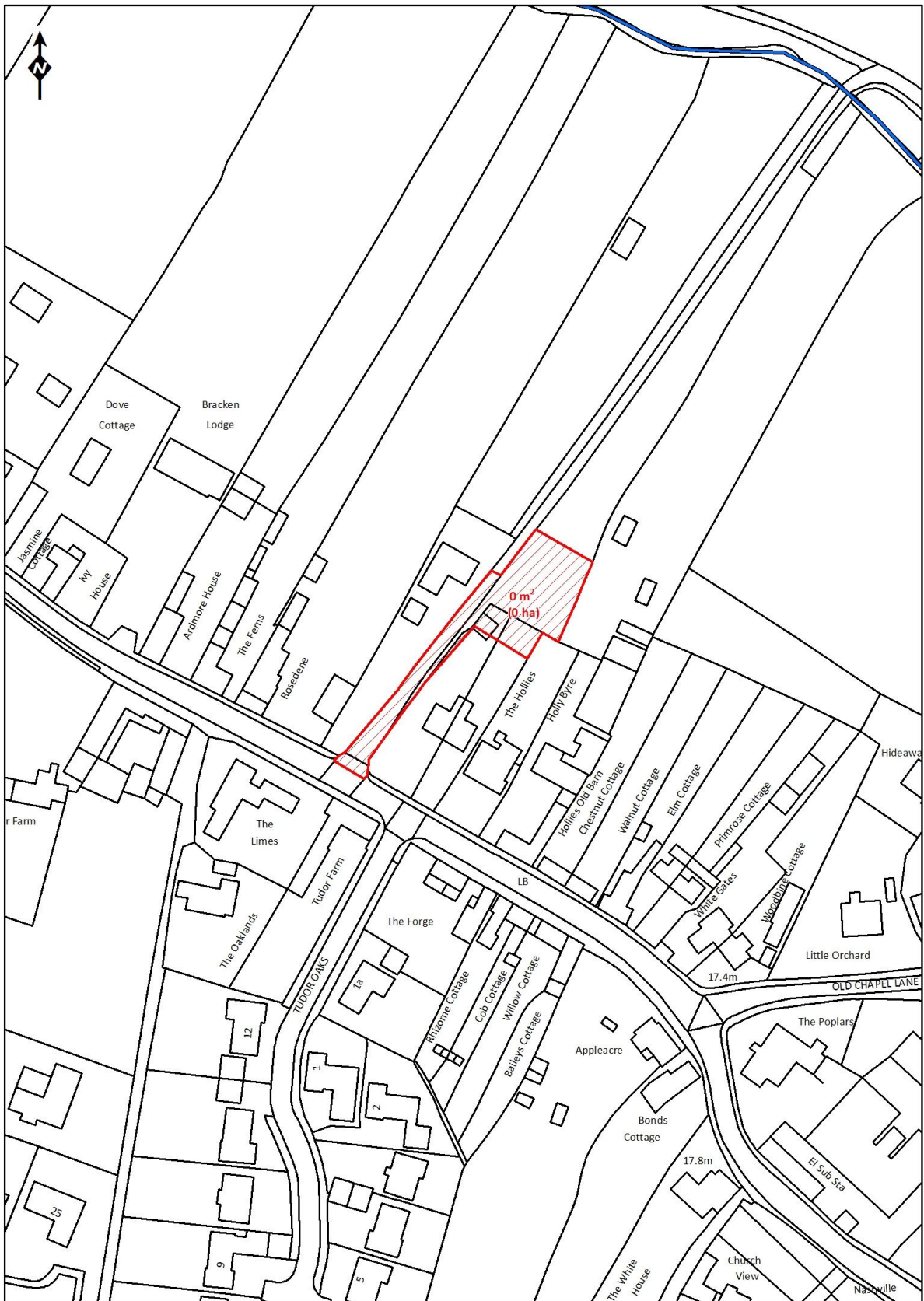
Application case file.

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**  
**Director – Growth & Regeneration**

Committee Plan - 18/01891/FUL



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## PLANNING COMMITTEE – 5 MARCH 2019

<b>Application No:</b>	<b>18/02001/FUL</b>	
<b>Proposal:</b>	<b>Change of use from grazing land to burial ground.</b>	
<b>Location:</b>	<b>Land to South Of Station Road, Rolleston</b>	
<b>Applicant:</b>	<b>Rolleston Parish Council</b>	
<b>Registered:</b>	<b>10.12.2018</b>	<b>Target Date: 04.02.2019</b>
		<b>Extension of Time Agreed until 07.03.2019</b>

**This application is being referred to the Planning Committee for determination by the local ward member Cllr R Blaney in the interests of transparency.**

### The Site

The application site is a small plot of land approximately 0.12 hectares in extent in the village of Rolleston. The site is positioned to the south west of the Grade I listed Holy Trinity Parish Church and to the south of the Grade II listed property known as The Vicarage. The site is accessed via a shared existing access from Station Road which serves the Church.

The site is within Flood Zone 2 according to the Environment Agency maps and there is a public right of way approximately 35m to the south east of the site boundary. The Scheduled Ancient Monument (SAM) of Rolleston Manor is some 240m north east of the site.

As existing the site comprises agricultural grazing land.

### Relevant Planning History

There is no planning history in relation to the site.

### The Proposal

The application seeks full planning permission to change the use of the land from agricultural grazing land to a burial ground which would essentially extend the existing burial ground which currently serves the adjacent Church. It is stated that the extension is expected to be in use for over 200 years.

The application has been assessed on the basis of the revised site location plan received 7<sup>th</sup> December 2018. In addition a Flood Risk Assessment dated November 2018; as well as a Planning Statement and Heritage Impact Assessment received during the life of the application on 23<sup>rd</sup> January 2019 (albeit dated November 2018) support the application.

### Departure/Public Advertisement Procedure

Occupiers of two 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**

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

Spatial Policy 3: Rural Areas  
Spatial Policy 7: Sustainable Transport  
Core Policy 9: Sustainable Design  
Core Policy 10: Climate Change  
Core Policy 12 Biodiversity and Green Infrastructure  
Core Policy 13: Landscape Character  
Core Policy 14: Historic Environment

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

Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM8 – Development in the Open Countryside  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (Online Resource)
- Historic England Good Practice Advice Notes

### **Consultations**

**Rolleston Parish Council** – Support the proposal (7 for, 0 against)

#### **NSDC Conservation – Legal and policy considerations**

Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’) require 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. 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 16 of the National Planning Policy Framework (NPPF). 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 heritage assets when considering new development within their setting (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).

#### Significance of heritage asset(s)

Holy Trinity Church is Grade I listed (LEN 1045559), designated in August 1961. The listing description advises;

*'Parish church. C12, C13, C14, chancel restored 1878, tower restored 1889, further late C19 restorations. Dressed coursed rubble and ashlar. Slate roofs. Coped gables to east nave and chancel and south aisle with single ridge cross finials to the east nave and chancel. Tower, nave, aisles, south porch and chancel. Angle buttressed C12 and C14 tower set on a moulded plinth and of 4 stages with bands. Embattled with 8 crocketed pinnacles. The centre pinnacle on each side being corbelled out. The corbel rising from the centre point between the 2 light bell chamber openings. There are 8 gargoyles. The west wall has a single ogee arched light originally C12, recut C14. Above is an arched 2 light window with ogee arched and cusped lights and single quatrefoil. The north and south sides have single, similar recut lights. There are 4 C14 bell chamber openings each has 2 pointed arched openings surmounted by a further 2 similar openings. The ogee arched hood mould is broken by the pinnacle corbel. The south side has a single rectangular stair light and the south and north sides have single small arched and cusped lights and 4 tie plates. The west side has 2 tie plates and on each side is a single large tie plate. The west wall of the dressed coursed rubble north aisle has a single quatrefoil set into a circle. The buttressed north wall has a single restored lancet, to the left is a chamfered arched doorway with impost bands and hood mould. Further left are 2 pairs of restored lancets. The north east and east walls are on chamfered plinths. In the C14 ashlar clerestory are 4 windows each with 2 arched lights under a flat arch. The chancel is set on a plinth. The north chancel has a single lancet, to the left is a Caernarvon arched doorway and further left a C14 window with 2 ogee arched and cusped lights, each light with 2 decorative orbs, under a flat arch with hood mould and human head label stops. The hood mould is decorated with fleuron and there is a single central carved grotesque head over, with a single similar worn head under the window. The east end has a single arched C19 4 light window with cusped tracery and hood mould. The south chancel has 2 C14 windows each with 2 ogee arched lights, cusped tracery under a flat arch and hood mould. The east wall of the buttressed dressed coursed rubble south aisle has a single lancet with hood mould. The south wall with single C14 gargoyle, has 3 windows each with 2 arched and cusped lights, flat arch, hood mould and head label stops, mainly human. The gabled and coped diagonally buttressed porch with single ridge cross finial has a C19 moulded arched entrance. The inner order being supported on engaged colonnettes with moulded capitals and the arch decorated with fleuron. There is a hood mould and label stops over. In the apex, set into a rectangular panel, is a decorative shield with hood mould and label stops. The side walls each have single C19 arched and cusped lights. To the left of that on the east side is a single angel's head carved in shallow relief. Inner round and chamfered arched C12 doorway with impost bands and worn hood mould decorated with billet. Plank door with iron hinges. In the west wall of*



*the aisle is a single quatrefoil set into a circle. The clerestory corresponds to the north. Interior. 4 bay late C13 nave arcades with double chamfered arches. The north arcade has a single central octagonal column, alternating 4 sides of concave moulding with 4 shafts with large moulded capitals. The columns either side each consist of 4 shafts with moulded capitals and the responds of single shafts and moulded capitals. South arcade, rebuilt 1895-6, with wide octagonal west column with nailhead decorated capital. The 2 eastern columns each of 4 shafts with fillets around an octagonal column, the western most with crocket leaf capital and eastern most with stiff leaf capital and further decorated with carved heads. The large octagonal west respond with moulded capital. The east octagonal respond has a projecting corbel decorated with nailhead supporting a foliate decorated capital. The base has 2 spurs. The arch over the west octagonal column has broach stops and there is a hood mould with human head label stops over the 2 eastern most arches. Double chamfered tower arch, the inner order being supported on octagonal responds and moulded capitals. Double chamfered chancel arch the inner order supported on octagonal responds with overhanging moulded capitals and single shaft rings. The south chancel has an arched piscina with remnants of a pedestal piscina with scalloping. The south aisle south wall has an arched piscina. The south aisle south windows have shaped arches. The north wall of the nave and the south wall of the north aisle have some C12 herringbone masonry. Octagonal font on splayed octagonal pedestal with C17 cover. The pulpit, oak chest and altar rails with turned balusters are C17. C14 traceried screen. Fragments of C11 cross shaft. Remaining furniture C19 and C20. Monuments include in the north chancel to Nicholas Lodge, 1612, a plaque with marble surround decorated with fleuron with a skull on the apron and a shield on the crown. There is a brass plaque to Rev. John Edwards, 1804. In the south chancel is a damaged C17 ashlar monument to Luke Williamson, the sides decorated with scrolls and the crown with an angel's head and wings. That to Selina Hemsall, 1750, is flanked by single pilasters, has a decorative apron and is topped with a broken pediment. In the north aisle are fragments of C13 ashlar memorials decorated with stylised crosses with a monument to John Twentyman, 1774, in the north wall, a fragment of decoratively carved ashlar and a fragment of a C13 floor slab decorated with a cross. In the south aisle, west wall, is a monument to John Twentyman, 1705, with segmental arched head. To the right is a small carved fragment. There are the remains of some C13 floor slabs with several C18 floor slabs.'*

The Old Vicarage is grade II listed (LEN 1370183), the building designated in March 1986. The listing description advises;

*'Vicarage. c.1840. Painted brick. Hipped slate roof. 2 red brick stacks. Wide eaves overhang and shallow raised eaves band. 2 storeys, 3 bays. The central single bay slightly projects and is gabled with 3 wooden brackets supporting the eaves overhang. Central doorway with panelled door and glazing bar overhead. The projecting wooden hood is supported on 2 wooden brackets. Either side are single glazing bar sashes with 3 similar sashes above. To the rear is a 2 storey, 3 bay wing.'*

#### Assessment of proposal

As an application in the setting a listed buildings a heritage impact assessment should have been included.

The application is to extend the existing grave yard for the church into the neighbouring grazing field that is to the south of the Old Vicarage. The existing boundary between the application site and the Old Rectory is a 2 meter closed boarded fence and therefore they do not have a strong relationship. It is considered that the change in land use will not impact the setting of the adjacent listed buildings.

**NSDC Environmental Health (contaminated land)** - This application is for the creation of a new burial ground. I would advise the applicant to read the DEFRA guidance 'Cemeteries and burials: prevent groundwater pollution' which is available from the following link:

<https://www.gov.uk/guidance/cemeteries-and-burials-prevent-groundwater-pollution>

**NSDC Access and Equalities Officer** – Observations in relation to Building Regulations.

**Historic England** - Thank you for your letter of 13 December 2018 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

**NSDC Archeological Advisor** – The site falls in an area of archaeological potential. Its position close to the church could indicate early medieval settlement may be present here. However more significantly the site is close to a known prehistoric settlement which may extend into this site.

However despite this evidence there is insufficient site specific information at present with which to make any reliable observation regarding the impact of this development upon any archaeological remains. I recommend that further information is required from the applicant in the form of an archaeological evaluation to be considered alongside the application. This evaluation should provide the local planning authority with sufficient information to enable it to make a reasoned decision on this planning application. This evaluation should consist of trial excavation.

'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)'

Although this is a small site the potential is high and should permission for these proposals be granted it would not be appropriate to undertake any archaeological work that does not evaluate the land and, if appropriate deal with any archaeology, well in advance of the land being used as a burial ground.

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

This planning application proposes a small scale extension to an existing cemetery. The geology of this area consists of superficial sand and gravel deposits and alluvium, overlying the Gunthorpe Member of the Mercia Mudstone group. At this location, the superficial deposits are classified as a Secondary A aquifer, whilst the mudstone bedrock is classified as a Secondary B aquifer.

Secondary A aquifers comprise permeable layers that can support local water supplies, and may form an important source of base flow to rivers. Secondary B aquifers are mainly lower permeability layers that may store and yield limited amounts of groundwater through characteristics like thin cracks (called fissures) and openings or eroded layers.

The Environment Agency has published online webpage guidance on cemeteries and burials to ensure groundwater pollution does not occur. We recommend that the applicant familiarises themselves with this guidance by following the link to the .gov website below.

<https://www.gov.uk/guidance/cemeteries-and-burials-prevent-groundwater-pollution>

In particular, we draw the applicant's attention to the points below, which must be adhered to during the course of the development:

A burial site must be:

- at least 250 metres from any well, borehole or spring supplying water for human consumption or used in food production – for example at farm dairies
- at least 30 metres from any spring or watercourse not used for human consumption or not used in food production
- at least 10 metres from any field drain, including dry ditches
- have at least 1 metre clearance between the base of the grave and the top of the water table – they shouldn't have any standing water in them when dug

It should be noted that, if at any point in the future additional extensions are proposed, further information such as environmental risk assessments may be required, as we must consider the cumulative impact of multiple small scale extensions

**NCC Highways** - This application is for the change of use of grazing land to provide an extension to the existing burial ground. This is not expected to have a significant impact on the public highway, therefore, there are no highway objections.

**No letters of representation have been received.**

### Comments of the Business Manager

#### *Principle of Development*

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 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 and directs readers to the Allocations and Development Management DPD for policies that will then apply.

Whilst the site is immediately adjacent to the village Church and the associated Vicarage, the positioning of the site in my view constitutes open countryside warranting assessment against Policy DM8. This policy of the Allocations and Development Management DPD sets out criteria to deal with applications in the open countryside.

The change of use to a burial ground does not fit neatly within any of the types of development outlined by Policy DM8. The category of development it aligns closest with would be the allowance for 'Community and Leisure Facilities.' Policy DM8 does not define community facilities but Spatial Policy 8 of the Core Strategy in relation to the protection of existing community facilities confirms that places of worship are included within the definition. Again there is no explicit mention of burial grounds but it is a logical conclusion that a burial ground in connection with an existing place of worship would extend an existing community facility.

Policy DM8 confirms that community and recreational uses requiring land in the countryside will be supported on sites in close proximity to settlements which this application would conform with. It goes on to require proposals to demonstrate that they would meet the needs of communities and in particular any deficiencies in current provision. This proposal would allow an extension of the existing adjacent burial ground and the additional space is required to meet the needs of the community. The benefit to the community is that the Church would be able to accommodate for additional burials allowing family members to pay their respects within their village without having to secure burial plots elsewhere.

The NPPF only discusses burial plots in the context of Green Belt development. Clearly this would not be relevant to the current application however it is an interesting point that the NPPF does acknowledge that burial grounds could be an appropriate form of development in the Green Belt. The relevance being that the aims of the Green Belt policy are to keep land open.

On the basis of the above discussion, when taking a pragmatic approach to the wording of Policy DM8, the proposal is considered to conform to the policy and constitute an appropriate form of development within the open countryside.

#### *Impact on Character including Heritage Setting*

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings. Policy DM5 also 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. The policy requires that development must promote local distinctiveness and protect heritage assets (including their setting). Policy DM9 of the DPD also states that where proposals are likely to affect sites of significant archaeological potential, the applicant is required to submit an appropriate desk based assessment and, where necessary a field evaluation. This is mirrored by paragraph 189 of the NPPF.

The proposed use is relatively low key which would allow for the retention of a largely rural character to the site. Although it is likely that the site will feature gravestone to mark the individual plots these would be modest in their size and in any case would assimilate well with the burial ground on the adjacent land surrounding the Church.

The adjacent Church is Grade I listed and there is also a Grade II listed building (The Vicarage) adjacent to the site. Thus whilst the site itself does not contain designated heritage assets, it does demonstrate the potential to affect the setting of designated heritage assets. In line with the Procedure Order, Historic England have been consulted on the application owing to the fact that the development has the potential to affect the setting of a Grade I listed building. Historic England has confirmed that they do not wish to offer any comment specific to the scheme. Equally NSDC Conservation Officers have confirmed that the change in use of the land will not impact upon the setting of the adjacent listed buildings.

However, as is referenced by the consultation section above, the Council's independent Archeological Advisor has confirmed that the site falls in an area of archeological potential being close to a known prehistoric settlement which may extend into the site. The Scheduled Ancient Monument (SAM) marked boundary of Rolleston Manor is some 240m north east of the site. The comments of the Archeological Advisor go on to request further information which has been passed to the applicant during the life of the application.

In response to the request the applicant has submitted a Planning Statement and Heritage Impact Assessment during the life of the application (stated as being an omission from the original application submission). The document identifies the presence of the SAM but does not advance to a discussion as to how / if the development would affect any archeological potential of the site. The Archeological Advisor has provided advice to the applicant in respect to the recommended trial trenching works confirming the importance of evaluating the site in order to work out a mitigation strategy if necessary prior to the site being used as a burial ground. However, the applicant has confirmed by email dated 29<sup>th</sup> January 2019 that they will not be undertaking the trial trenching works due to insufficient funds.

Although this is a small site, weight must be attached to the professional views of the Council's Archeological Advisor that there is a potential of archeological value. Clearly it would not be reasonable (or indeed enforceable) to condition archeological works at the time of each grave being dug. Thus in the absence of an appropriate archeological assessment prior to the determination of the application, the impact of the development on the significance of heritage assets of archaeological interest is not able to be evaluated and it is not a matter that could be left to a pre-commencement planning condition. In this respect, the proposal is therefore contrary to Core Policy 14 of the Core Strategy, Policy DM5 and Policy DM9 of the Allocations and Development Management DPD as well as paragraph 189 of the NPPF.

#### *Impact on Flooding and Groundwater*

The site is within Flood Zone 2 according to the Environment Agency maps. The NPPF adopts a Sequential approach to flood risk with the overall aim of directing development to areas at the lowest risk of flooding (Flood Zone 1). However, paragraph 164 of the NPPF states that applications for minor development (to which this application would be) should not be subject to the sequential or exception tests but should still meet the requirements for site specific flood risk assessments set out in footnote 50. The application has been accompanied by a Flood Risk Assessment which confirms that burial grounds are considered as a less vulnerable use in Flood Risk terms and therefore the proposal is appropriate development in Flood Zone 2.

The use of land for burials is required to meet strict environmental conditions established by the Environment Agency in order to safeguard against groundwater pollution. The comments of the Environment Agency listed above confirm that there are no objections to the proposed development but does offer additional comment in respect to the geology of the area and Environment Agency online guidance for cemeteries. I consider it would be useful to add this information as an informative if permission were to be forthcoming.

#### *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. It is notable that the proposal does not include provision for car parking and indeed the existing adjacent Church is not served by car parking spaces. However, the area of land affected by the change of use is modest. Moreover, the nature of the development is likely to lead to infrequent and irregular vehicular visits which are not considered to amount to a materially different highways impact than established by the existing Church and burial ground. This is acknowledged by the Highways Authority who have confirmed that they do not anticipate a significant impact on the public highway.

#### *Impact on Amenity*

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

The closest neighbor to the site is The Vicarage to the north. Given the very low level of activity proposed on the site, and taking into account the solemn nature and short time span of the activities taking place I do not consider that significant issues of disturbance would arise.

#### *Overall Balance and Conclusion*

Although not being explicitly referenced by Policy DM8, it is considered reasonable to conclude that the proposed burial ground would form a community facility which would serve the adjacent village of Rolleston in support of the existing Church. The low key nature of the development ensures that there would be no significant impacts on the character of the area or the amenity of neighbouring residents. Whilst there is the potential for some disturbance to the highways network through parked vehicles, this would be infrequent and indeed not materially different from the situation which exists through the operation of the existing Church.

However, the applicant has failed to demonstrate through appropriate trial trenching whether or not the proposal would have an adverse impact on the significant archeological potential of the area. Its position close to the church could indicate early medieval settlement may be present at the site and more significantly the site is close to a known prehistoric settlement which may extend into this site. The lack of appropriate assessment as required by paragraph 189 of the NPPF and Policy DM9 must be afforded significant weight which in Officers view tilts the overall balance to a recommendation of refusal as outlined below.

## **RECOMMENDATION**

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

The site lies in an area of archaeological potential. Its position close to the church could indicate an early medieval settlement may be present at the site and more significantly the site is close to a known prehistoric settlement which may extend into this site. No archaeological desk-based assessment and field evaluation has been submitted with the application, in accordance with paragraph 189 of the NPPF and Policy DM9 of the Allocations and Development Management DPD. The applicant has failed to demonstrate what impact the proposals would have on heritage assets of archaeological interest. In the absence of any assessment, the proposal is contrary to Core Policy 14 (Historic Environment) of the Core Strategy (adopted March 2011), Policy DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD (adopted July 2013) and the National Planning Policy Framework (2018) a material planning consideration.

### **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 is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. The applicant has confirmed that they do not wish to submit trial trenching which could potentially overcome the reason for refusal.

### **Background Papers**

Application case file.

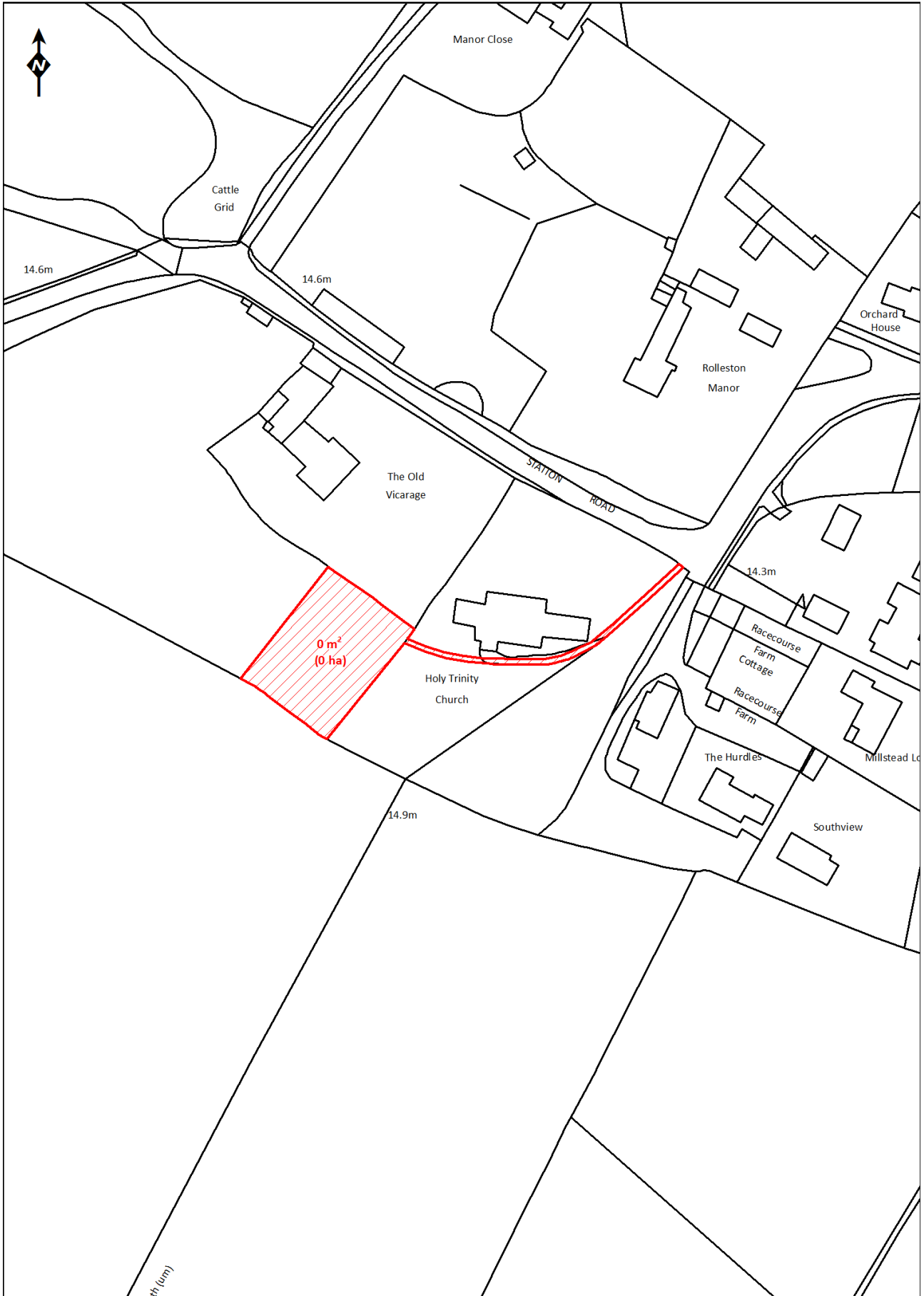
For further information, please contact Laura Gardner on ext. 5907.

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**

**Director – Growth & Regeneration**

Committee Plan - 18/02001/FUL



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## PLANNING COMMITTEE – 5 MARCH 2019

<b>Application No:</b>	<b>19/00041/FUL</b>	
<b>Proposal:</b>	<b>Land to the rear of The Stables, Kirklington Road, Hockerton, Southwell</b>	
<b>Location:</b>	<b>Erection of two 3 bedroom dwellings</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Bishop</b>	
<b>Registered:</b>	<b>10 January 2019</b>	<b>Target Date: 7 March 2019</b>

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

### The Site

The application site lies on the southern side of Kirklington Road in Hockerton and forms a parcel of c0.08h land rear of 'Highgate' and south-west of the host dwelling known as 'The Stables'.

The site is formed by a fenced menage that is associated with the host dwelling; which was approved in 2007. This is set at a lower land level than land to the north where the land rises and the site boundary is open with a few immature saplings/trees planted.

Land to the east is used for the parking of several cars and motor homes, albeit I note now has permission for one dwelling.

Highgate to the north is a detached dwelling which is of a modern (twentieth century) construction. This is located north of a parcel of land that is currently in use as a garden to The Stables albeit it now has an extant permission for a new dwelling on it. A c3m high mature coniferous hedgerow provides existing screening to the southern boundary of Highgate.

To the western site boundary is mature vegetation. Land beyond this to the west is open land and appears to be part of the grounds for Hockerton Grange.

To the north-east of the application site is the remainder of the curtilage of the host dwelling including stables building. The Stables is a traditional dwelling with a range of traditional outbuildings located to the north-east.

The site is currently accessed via a private drive which is gated off with Kirklington Road.

### Relevant Planning History

- 4376550 – Erect 2 no. stables and one tack room in retrospect. Approved 27/07/1976.
- 437971 – New lounge and two additional bedrooms to existing private house. Approved

12/03/1979

- 43781285 – Erection to private dwelling. Approved 22/12/1978.
- 4382615 – Extension to existing dwelling to form games room and study. Approved 28/07/1982.
- 4382431 – Replacement stables. Approved 16/07/1982.
- 43830183 – Siting of residential caravan. Approved 31/08/1983.
- 43880487 – New brick boundary wall to frontage. Approved 23/06/1988.
- 43880710 – Erect new garage block. Approved 08/08/1988
- 99/50765/FUL – Use part of site for the storage and hire of motor caravans. Approved 29/11/1999.
- 00/50365/FUL – Ground floor dining room extension. Approved 26/06/2000.
- 06/00624/FUL – Erection of first floor extension. Approved 21/04/2006.
- 07/00479/FUL – 40m x 20m ménage and suitable lighting, approved 24/07/2007.
- 18/01770/FUL – Erect new dwelling on land north of the current application site. Approved under delegated powers 15/10/2018. Not yet implemented.
- 18/02078/FUL – Proposed new dwelling on land immediately east of the current application site. Approved under delegated powers 02.01.2019. Not yet implemented.

### The Proposal

Full planning permission is sought for the erection of two x 3 bedroom dwellings on land rear of Highgate and would involve the creation of a new access to serve the development from Kirklington Road (albeit one has already been approved in respect of another dwelling) whilst the existing access would continue to serve the host dwelling.

The footprints of the new dwellings are a broad L shape which together forms a horse shoe shape. Vehicular access would be via a new access between The Stables and Highgate from Kirklington Road which would lead to Unit 1 and lead alongside the eastern boundary by a 3m wide driveway to Unit 2 to the south.

Unit 1 (to the north) has its principle two storey element facing the NE (16m by 5m by 7.06m its maximum ridge height) with a single storey off-shoot (10.5m x 4m) to its rear. Accommodation comprises a kitchen/diner, store, w.c. sitting room, two bedrooms and a bathroom at ground floor with master bedroom (with balcony) and dressing room, bathroom, a further bedroom or office with balcony at first floor. A 'drive through' car port is also proposed for one car. Its garden, car parking and maneuvering space are provided east of the single storey off-shoot. A further front garden would also be proposed to the NE.

Unit 2 (to the south) has its principle two storey element (12m x 5m x 7.06m to maximum ridge height) orientated facing the SW with a single storey off-shoot (11m x 5m) to its rear. Accommodation comprises a kitchen/diner, utility, w.c. living room, two bedrooms and a bathroom at ground floor with master bedroom and bathroom within the roofspace with Juliet balcony to SE gable end. A 5m deep car port is provided within the single storey element. All of its associated garden, car parking and maneuvering space would be provided east of the dwelling with no front garden.

### The Submission

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All plans are unreferenced but received 9<sup>th</sup> January 2019:

- Block Plan
- Elevations as Proposed
- First Floor Plans & Elevations As Proposed
- Ground Floor Plans As Proposed
- Site Location Plan
- Appeal Decision 3178790 – Lavendon, Olney – outline permission for 14 dwellings (main matters being appropriate location and whether the site constituted previously developed land)
- Combined Planning, Design & Access Statement
- Photographs of the site

### Departure/Public Advertisement Procedure

Occupiers of 7 properties have been individually notified by letter with an overall expiry date for consultations being 5<sup>th</sup> February 2019.

### 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 9 - Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 14 - Historic Environment

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

- 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 2019
- Planning Practice Guidance
- Publication Amended Core Strategy

## Consultations

### **Hockerton Parish Meeting** – Support the proposal

**NCC Highways Authority** – ‘This proposal is for the construction of two dwellings, served by a new vehicular access, already previously approved under ref. 18/02078/FUL. The total number of dwellings which will be served by this access would be four, should this application be approved.

As such, 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 and surfaced in a bound material for a minimum distance of 5m behind the highway boundary 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.
2. No part of the development hereby permitted shall be brought into use until a dropped vehicular footway/verge crossing is available for use and constructed in accordance with the Highway Authority’s specification. **Reason:** In the interests of highway safety.
3. No part of the development hereby permitted shall be brought into use until the parking/turning areas for the proposed dwellings are provided in accordance with the plan of ‘Ground Floor plans’. **Reason:** In the interests of highway safety.

### Note to applicant

The development makes it necessary to construct a vehicular crossing over a footway/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.’

**Trent Valley Internal Drainage Board** - ‘The site is 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 Board’s consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board’s district (other than directly to a main river for which the consent of the EA will be required). Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of the site drainage systems must be agreed with the LLFA and the LPA.’

**No archaeologist representations required.**

**No representations have been received from any local residents/interested parties.**

## Comments of the Business Manager

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 Development (including a discussion on sustainability)

The starting point in assessing this application is with the Development Plan. Core Policies 1, 2 and 3 set out the settlement hierarchy in the District. Spatial Policy 1 details the settlement hierarchy to help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the sub-regional centre, service centres and principal villages, which are well served in terms of infrastructure and services. At the bottom of the hierarchy are 'other villages' will be considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas).

It states that 'Beyond principle villages proposals for new development will be considered against the following criteria; then names location; scale, need, impact and character. It goes on to say that: *'Within the main built-up area of villages consideration will also be given to schemes which secure environmental enhancements by the re-use or redevelopment of former farmyards/farm buildings or the removal of businesses where the operation gives rise to amenity issues. The scale of such enabling development should be appropriate to the location of the proposal. Development away from the main built-up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting such as Agriculture and Forestry....The Allocations & Development Management DPD will set out policies to deal with such applications.'*

SP3 requires the decision maker to firstly determine as a matter of judgement whether the site is within a settlement or not by reference to the 'Location' criteria. This states *'new development should be within the built up areas of villages, which have local services and access to the Newark Urban Area, Service Centres or Principal Villages.'*

It should be noted that the Council's Review of its Core Strategy is well advanced. The Publication Core Strategy as amended by the main modifications has concluded its public consultation on 21<sup>st</sup> September 2018 and the Inspectors report is expected imminently. There are some unresolved objections to SP3 (Rural Areas), the main policy of relevance. This now makes even clearer that *'Local housing need will be addressed by housing 'in' sustainable, accessible villages....'* It goes on to say that development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Policies to deal with such applications are set out in the Allocations & Development Management DPD.

Hockerton like other small settlements does not have a defined village envelope defined within the development plan and so it is necessary to make a judgement regarding whether the site is within the main built up area by reference to the layout of any existing development. Paragraph 4.28 of Spatial Policy 3 states the main built up area normally refers to *"buildings and land which form the core of the village where most housing and community facilities are focussed."*

The site of the ménage is outside of the curtilage of The Stables in my view and in the countryside – where one would expect to find a ménage given that these require a rural location. Indeed the aerial photograph from 2001 (before the ménage was granted) clearly shows the site to have been countryside.



Aerial Photograph from 2001

As such SP3 then refers the reader/decision maker to Policy DM8. This states that development in the countryside will be strictly controlled and limited to a number of exceptions. In relation to new build dwellings it only allows those for rural workers or where they (reflecting paragraph 79 of the NPPF) are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and that are sensitive to the defining characteristics of the local area. I do not consider that the proposal meets either of these exceptions and is clearly therefore contrary to the adopted and up-to-date Development Plan in the form of Policy DM8.

I am mindful that the NPPF also represents a material planning consideration, notably the 3 dimensions to sustainable development with the economic, social and environmental roles that it plays. I set out the role this scheme will make to these limbs, albeit remains important to consider this against the Development Plan starting position, as made clear by Section 38(6) of the 2004 Act.

In terms of the economic role I note that the NPPF states that the planning system should help to 'build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure'. I acknowledge that the proposal for housing would play an economic role by temporarily supporting the construction sector. The additional residents could also help support local businesses. However, I believe this would be at the expense of the environmental role as I shall explore in more detail shortly. In my opinion, contrary to the above quoted paragraph from the NPPF, the land is not the right place and fails to respect the plan-led system which this District has followed, promoted, and worked hard with communities to produce to allow logical and transparent decision-making.

The social role of sustainable development seeks to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations...’ I also accept that the scheme would have a social role in the provision of housing which is needed generally within the district over the plan period and is required nationally in a general sense. In terms of paragraph 79 of the NPPF, the site cannot be isolated. Hockerton itself has a limited range of services and facilities other than the Village Hall, a public house and a gym/wellness centre. The church is no longer used as a church. Whilst there are bus services to Newark I would still expect residents of Hockerton to be reliant on the use of the private car. Despite this, the larger settlement of Southwell (located c2km away) is relatively easily accessed from the village through the existing highway network and contains the schools and other services most likely to be used by the residents of Hockerton such that as a LPA we have accepted that Hockerton meets the policy objective of SP3.

This Council has set policies within its Development Plan that plan for development in the right places with the majority of growth expected to take place in the sub regional centre, service centres and principal villages. A notional allowance of 200 dwellings was set for SP3 villages (notwithstanding that this site is not considered to fall within the village) but this relates to a period of 20 years (up until 2026) and covers 69 settlements. As of April 2017 there have been 122 completions and 225 commitments in the form of planning permissions, therefore together this notional allowance has already been exceeded and there is no reliance upon these villages (or indeed the countryside) to provide the growth that the Development Plan envisages. Indeed, Hockerton had 57 households according to the 2011 Census. Since then there have been 11 completions within the village (representing a 19.29% increase in households overall) and there are also 13 commitments (which would represent a 42.1% increase in households overall in Hockerton). This is beyond the level of growth anticipated for Hockerton. The housing developments granted for sites within the village have allowed the village to grow, rather than stagnate. Sufficient houses to meet the needs of the area have been provided through the permissions already granted.

In terms of the environmental role, sustainable development is expected to ‘to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land...’

I have judged the site to be open countryside where development should be restricted in order to protect the natural/rural environment. Just because a site has a ménage on it is not a reason to justify its replacement with dwellings.

To conclude I consider that the site is outside of the village, in the countryside and having regard to the sustainability criteria of the NPPF when taken as a whole, I consider that the scheme constitutes an unsustainable form of development contrary to the Development Plan which is not outweighed by any material considerations.

#### Design and Impact on the Character 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.

The design of the units appears to have adopted threshing barn-like proportions and ethos, with a steeply pitched two storey element with single storey off-shoots with domestic features. The proposed materials are detailed as being clay pantiles, red brick with some black stained timber boarding.

I note the traditional design of the host dwelling and also the more modern design of Highgate to the north and the designs of the committed dwellings also to the north and north-east. I also note that given the position of the buildings behind the modern property and its set back from the roadside, it would be unlikely to be particularly prominent from public vantage points. I consider that the design is acceptable for its context.

However in terms of footprint and their positioning on the site, the distances between the dwellings is very minimal being only 1m apart, which appears somewhat cramped and dense for its rural location.

#### Impact upon Residential Amenity/Living Conditions

Policy DM5 states *“The layout of development within sites and separation distances from neighbouring development should be sufficient to ensure neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.”*

The nearest existing neighbour would be Highgate located to the north of the site which I do not consider would be directly affected by the proposed buildings. There are however 2 committed dwellings (with extant planning permission) located to the north and east of the ménage which must be considered.

The dwelling approved under planning permission 18/01770/FUL is two storey with its rear elevation facing the application site, with 3 first floor windows (1 bedroom and 2 bathroom/en-suite) facing south towards the site and windows and a door at ground floor level. The distance between the approved dwelling and the proposed is 15.5m. Unit 1 facing the approved dwelling would have 3 roof lights and one full height window. I am satisfied that there would be no direct overlooking between the units albeit the distance between 2 x 2 storey dwellings is on the tight side such that there could be a perception of mutual overbearing.

Unit 1 would also be the closest dwelling to the committed dwelling to the east approved under planning permission 18/02078/FUL. This has a blank gable facing the two storey blank gable (with drive through car port) end of the proposed unit. I do not consider there to be any issues of overlooking, overbearing or loss of light that would be of concern.

I am satisfied that there would be no adverse impacts between the two proposed units in terms of living conditions. Equally there would be no unacceptable impacts upon the land to the west which appears to be the large grounds to a dwelling and is not the most used private amenity space.

I have considered the impact of the proposed access in terms of whether this would give rise to unacceptable impacts from noise and general disturbance to the occupiers of both the host dwelling and Highgate and find that despite the intensity of its use, it would not warrant a reason

for refusal given the position of dwellings and that appropriate planting/fencing could be erected to assist with mitigation.

Turning now to the proposed gardens; Unit 1 would have some garden to its north and south within the courtyard area. Unit 2 however is located hard up to the boundary and has all of its garden to its north-east side courtyard area. I can see that for a 3 bedroom dwelling in a rural location, this garden area would not be particularly attractive and I can foresee a situation where the eventual occupiers would wish to enlarge the curtilage to the south to provide for a more attractive, sunny private amenity space. Furthermore the southern boundary of Unit 2 has windows serving main habitable rooms such as the kitchen and dining room and is reliant of light from adjacent land. Not only does this potentially prejudice the use of the land to the south but it is also poor planning to immediately and directly overlook land not within the same planning unit.

### *Highway Safety*

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

The proposal involves the creation of a new vehicular access from the main road to the application site between Highgate and the host dwelling which would also serve the two committed dwellings; thus a total of 4 dwellings in total. The visibility splays are not demarked on the plan but would be within the highway verge. I note that the entrance is sufficiently wide to allow two vehicles to pass for approx. 4.2m back into the application site (c6.8m from the back edge of the footpath) and I am satisfied that adequate parking and turning can be provided within the site such that vehicles will be able to park, manoeuvre and leave the site in a forward gear. I also note that NCC Highways Authority have reviewed the application and raised no objection subject to conditions, which I consider are reasonable, related to the development and in all other respects meet the conditions tests. Therefore from a highway safety and parking perspective the proposal accords with the Development Plan.

### *Flood Risk*

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

The site lies in Flood Zone 1 which is at lowest risk of flooding but is within an area prone to surface water flooding. I therefore consider a condition to deal with surface water run off would be reasonable to attach if minded to approve.

### Other Matters

#### *Previously Developed Land*

An Appeal Decision (3178790, Lavendon, Olney in Milton Keynes) has been submitted in support of the application. This relates to an outline planning application for 14 dwellings with the main matters being 1) whether the site was in an appropriate location and 2) whether the site

constituted previously developed land. The appeal was allowed in November 2017. The applicant has seemingly submitted this in attempt to highlight that an equestrian building including a ménage were considered by an Inspector to be 'previously developed land'. Despite the Inspector concluding that the site was countryside and would be contrary to its development plan policies, he gave significant weight to the site's PDL status stating that *'Turning to the environmental dimension of sustainable development, it is clear that the Framework seeks to promote the reuse of brownfield land. It seems to me that as a core planning principle, it is far better to bring forward development on acceptable brownfield land than build on undeveloped green fields.'* He went on to conclude that he attached significant weight to the NPPF (he didn't fully explain why he gave this preference over the up to date Development Plan) and stated *"The reuse of the brownfield site for the development constitutes a significant environmental benefit and I consider that the Framework is a material consideration of sufficient weight to justify a decision other than in accordance with the development plan."*

However the fundamental difference between this appeal decision and this application is that I do not consider that the ménage is previously developed land (PDL). PDL is defined in Annex 2 Glossary of the NPPF as:

*"Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."*

In my view the ménage itself should not be considered to be a structure, as it is not a building or anything particularly complex in its components. Rather it comprises sand, a membrane and loose chippings on a level basis (not raised) with the adjacent land. The fence is a means of enclosure and could be erected under permitted development such that this is not a structure.



If this ménage were left it would likely regenerate to assimilate back into its natural environment (grass is already starting to grow through the surface as can be viewed in the photo above. In support of my reasoning, I note an appeal decision (APP/R0660/A/13/2202618 – The Poplars, Nantwich-Cheshire East Council) relating to the redevelopment of a ménage whereby the Inspector concludes that 'The manège with its loose crumb and sand surface and the area of

grassland, which together cover the majority of the site, are not considered to be PDL.’

The Appeal Decision raised by the applicant is therefore not directly comparable to this site in that the site is not previously developed and thus doesn’t constitute an environmental benefit at all sufficient to outweigh the development plan.

### *Housing Need*

As I have already alluded to above, the Council has supported a number of new dwellings in Hockerton to support the community and local services where there is no identified harm. This is the approach set out in the emerging SP3 and the NPPF. There is no specific Parish Housing Needs Survey for Hockerton identifying a need that can be weighed in the planning balance.

### *Ecology*

The site being a ménage has no obvious ecological implications.

### **Planning Balance and Conclusion**

The main consideration for Members is where they consider the site to be **within** the village (and thus the proposal should be assessed against Policy SP3) or not in which case it should be assessed as countryside against policy DM8. I have concluded that the site is outside of the village and should be assessed as countryside where development should be restricted in order to protect the natural/rural environment. Whilst acknowledging that the development of 2 units could bring about some positive economic benefits in terms of supporting the local economy I find this to be at the expense of environmental sustainability in locating development in the wrong place.

In any event there is no demonstrable need for housing in Hockerton, particularly in the context that the village has already grown (or is set to grow) over the development plan by over 42%.

Whilst the proposed design of the dwellings are considered to be acceptable, the positioning between the units at just 1m apart makes in my view for an over-intensive, cramped form of development in a rural area, where if there is to be development at all, one would expect this to be at a lower density. I have also identified that the distance between Unit 1 and the committed development to the north is insufficient to avoid having an undesirable perception of mutual overbearing from the two storey elements being only 15.5m apart. Furthermore Unit 2 has all of its private amenity space to the north-east side courtyard area. For a family home in a rural area, this garden area would not be particularly attractive and I can foresee a situation where the eventual occupiers would wish to enlarge the curtilage to the south to provide for a more attractive, sunny private amenity space which once approved may be difficult to resist. Additionally, the positioning of Unit 2 hard up against the southern plot boundary, is poor planning (relying on light from land not within curtilage) and could potentially prejudice the future use of the adjacent land. These issues, in my mind, are symptoms of the over-development of the site. I find there to be conflict with the development plan in this regard too.

No harm has been identified in respect of highways or ecology. However as a matter of principle the site is not considered appropriate for further residential development and this is in any event considered to be too intense. When balancing the issues, I consider that this firmly falls towards a refusal and this is recommended.

## **RECOMMENDATION**

**That planning permission is refused for the reason shown below:**

### Reasons for Refusal

01

In the opinion of the Local Planning Authority the site lies outside of the village of Hockerton in the countryside. As such the proposal must be assessed against Spatial Policy 3 (Rural Areas) of both the adopted and emerging Newark and Sherwood Core Strategy and Policy DM8 (Development in the Open Countryside) of the adopted Newark and Sherwood Allocations and Development Management DPD (2013). Policies SP3 and DM8 seek to ensure that housing development is located in settlements and where they are away from settlements, in the countryside, are strictly controlled and limited to a number of exceptions. The proposal does not accord with any of the exceptions listed. This is equally the case when assessed against the NPPF, a material consideration. Adequate provision for housing has been made within a sustainable and co-ordinated growth strategy as enshrined in the Council's LDF. Indeed completions and committed housing within Hockerton itself will significantly increase the village housing stock over the plan period and there is no specific identified housing need for the locality that would outweigh the harm of developing into the countryside. Whilst the site cannot be said to be isolated (noting that Paragraph 79 of the NPPF seeks to avoid isolated new dwellings in the countryside) allowing two new build dwellings here would constitute an unsustainable form of development, and set a dangerous precedent for similar forms of edge of settlement developments which the Local Planning Authority would then find difficult to resist. The proposal is therefore considered to be contrary to SP3, DM8 and the NPPF, a material consideration.

02

In the opinion of the Local Planning Authority the scheme for two dwellings represents an overly intensive and cramped development for its rural area. The distance between Unit 1 and the committed dwelling to the north is considered insufficient to avoid having an undesirable perception of mutual overbearing from the two storey elements to the detriment of living standards. Furthermore Unit 2 has all of its private amenity space to the north-east side courtyard area which for a family home in a rural area, is not considered to provide for a particularly attractive environment and would likely lead to pressure from eventual occupiers to enlarge the curtilage to the south to provide for a more attractive, sunny private amenity space which may be difficult to resist. Additionally the positioning of Unit 2 hard up against the southern plot boundary, is poor planning (relying on light from land not within curtilage) and could potentially prejudice the future use of the adjacent land. The proposals are therefore contrary to Core Policy 9 (Sustainable Design) of the Core Strategy and Policy DM5 (Design) of the Allocations and Development Management DPD which together form the relevant Development Plan, as well as the NPPF.

### Notes to Applicant

01

The application is 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 Clare Walker on ext 5834.

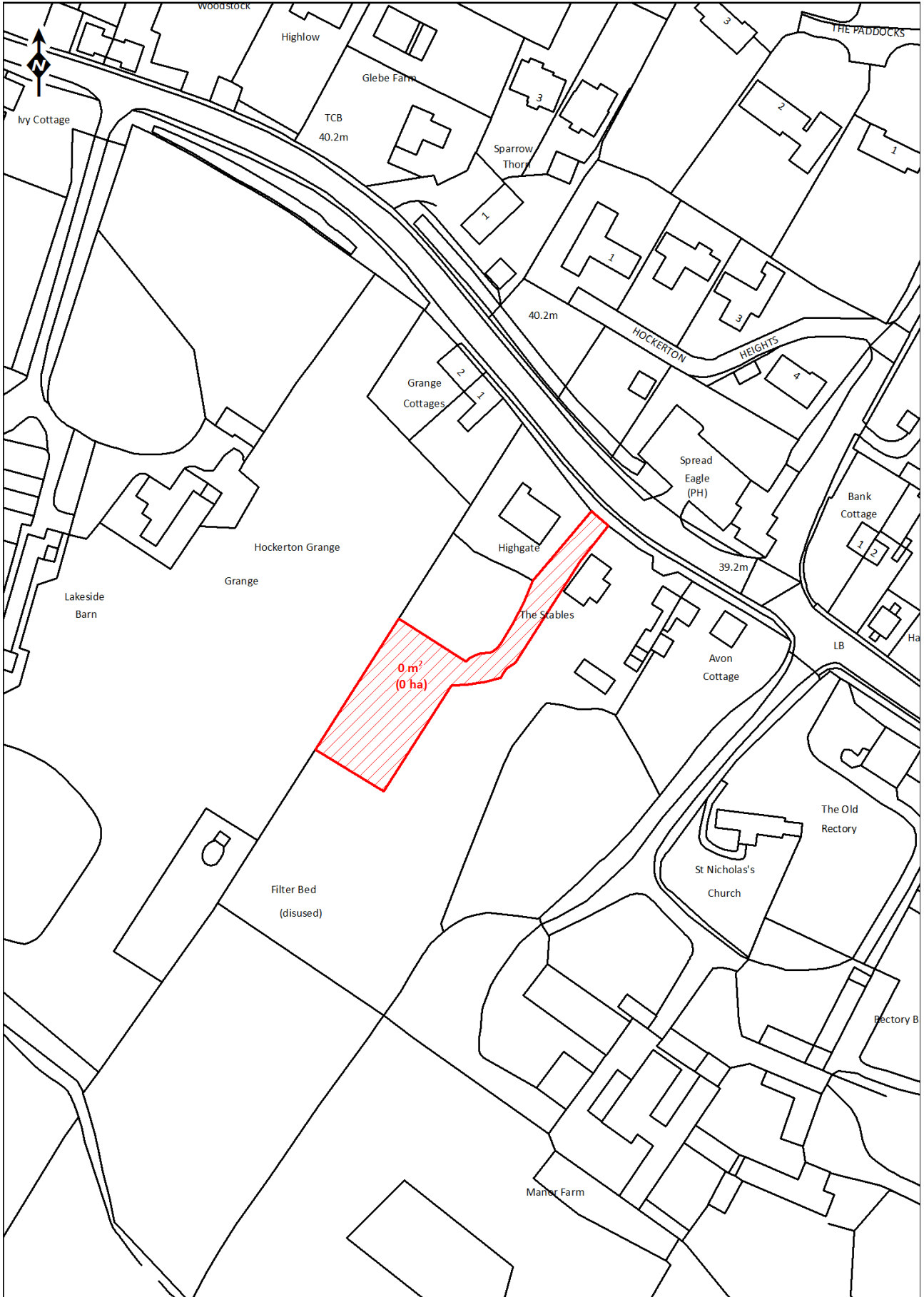
All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth and Regeneration**

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Committee Plan - 19/00041/FUL



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## PLANNING COMMITTEE – 5 MARCH 2019

<b>Application No:</b>	<b>19/00084/RMA</b>	
<b>Proposal:</b>	<b>Reserved matters application for the erection of 3 dwellings. (Resubmission)</b>	
<b>Location:</b>	<b>Brooklyn, Lower Kirklington Road, Southwell</b>	
<b>Applicant:</b>	<b>ISP Developments Ltd, Simon Pogson &amp; Ian Sargeant</b>	
<b>Registered:</b>	<b>21 January 2019</b>	<b>Target Date: 18 March 2019</b>

**This application is before the Planning Committee for determination given the professional officer view differs from that of the Town Council and given that previous schemes were considered by the Committee.**

### 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.

**18/01337/RMA** – ‘Reserved matters application for the erection of 3 dwellings. Approval sought for the design, siting, scale and layout. Approved reference 17/00383/OUT.’ Refused as recommended by the Planning Committee in November 2018 for the following reason:

*“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.”*

**APP/B3030/W/19/3220206** - An appeal has been lodged against this decision, which is currently invalid. The appellant has requested this be heard via the written representations route.

### The Proposal

Reserved matters approval is sought for 3 dwellings on this site where outline permission has been granted upon appeal. Matters to be considered are the appearance, landscaping, layout and scale.

All 3 dwellings are two storey and detached and set out in a linear arrangement of development in depth served off a private access drive from Lower Kirklington Road.

### **Plot 1**

At ground floor an open plan kitchen, sitting and dining room, utility, 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 are proposed. A triple garage is proposed which is attached to the dwelling via the single storey utility link.

### **Plot 2**

At ground floor an open plan kitchen, sitting and dining room, utility, 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 are proposed. A triple garage is proposed which is attached to the dwelling via the single storey utility link.

### **Plot 3**

At ground floor an open plan kitchen, sitting and dining room, separate lounge, snug, home office, cloakroom, store and hall are proposed whilst at first floor 5 bedrooms (1 with dressing room and en-suite, 2 with just en-suite) and a bathroom are proposed. A triple garage is attached to the dwellings.

The application is accompanied by the following plans:

- Drawing No. 580-04 Rev C (Site Layout and Location Plan Scheme Design)
- Drawing No. 580-02 Rev G (Plot 1 Scheme Design)
- Drawing No. 580-01 Rev H (Plot 2 Scheme Design)
- Drawing No. 580-03 Rev H (Plot 3 Scheme Design)
- Drawing No. 580-05 (Site Access Showing Visibility Splays)
- Design Supporting Statement, January 2019

### Departure/Public Advertisement Procedure

Occupiers of 16 properties have been individually notified by letter. A site notice has also been displayed near to the site giving an overall expiry date of 22<sup>nd</sup> February 2019.

### 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 2019
- Planning Practice Guidance
- Publication Core Strategy
- Appeal Decision APP/B3030/W/17/3179351

### **Consultations**

#### **Southwell Town Council – (07/02/2019)**

“Southwell Town Council considered application 19/00084/RMA Brooklyn Lower Kirklington Road and agreed unanimously to object to this application for the following reasons:

The houses are marginally smaller but there are still no plans for the treatment of the surface water.

The previous comments still apply, as below:

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.”

**NCC Highways Authority – 07.02.2019:**

“It is considered that submitted drawing 580-05 satisfies condition 5 of the Appeal Decision relating to application 17/00383/OUT. It should be pointed out for the sake of clarity that the 2.4m x 65m visibility splay to the east of the new access may slightly encroach over third party land. However after a further site visit and taking account of recorded vehicle approach speeds, and; the latest splay measurement methodology, I am satisfied that a safe sight distance can be achieved within the limits of the public highway (over 54m in this case).

Whilst the above drawing satisfies the condition, it should be noted that the indicated construction detail may need adjusting so that any works within the extent of the public highway are in accordance with the standards and specification of the Highway Authority. Therefore, the following condition should be applied:

Notwithstanding the detail shown on drawing 580-05, no dwelling forming part of the development hereby permitted shall be occupied until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

**Note to Applicant:**

The development makes it necessary to construct a vehicular crossing over a footway/verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council’s Agent, Via East Midlands tel. 0300 500 8080 to arrange for these works to be carried out.

**Southwell Civic Society – 11.02.2019:**

‘This new application differs only from the previous application in that the size of the houses has been reduced. However the footprints are still much larger than those shown on drawing Site Plan 118.F02 Rev B which was approved by the Planning Inspector.

Site Plan 118.F02 Rev B shows five mature trees to be left in place. The Plan submitted with this application shows that except for one on plot 1 all the trees are to be removed.

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.*

The Flood Risk Assessment is out of date and no mitigation strategy has been submitted. It is important the applicant complies with the drawing approved by the Inspector. Not to do so makes a complete mockery of the planning process.'

**NSDC Tree Officer** – 30.01.2019, 'The amendments are acceptable. Have we been supplied any specifics of tree size/root stock at this stage or will that be conditioned? I would normally recommend 12-14cm girth containerised.'

28.01.2019: 'Proposed tree planting will result in a row of trees that have insufficient room for full development resulting in poorly developed canopies and branch structure. Species mix is only of 2 tree types.

I would recommend that the applicant investigates the use of a more diverse species mix and allows sufficient spacing for any tree to full develop.'

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

**STW – Previously commented:** (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."

**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.'

**Two representations have been received from local residents/interested parties in support of the scheme which can be summarised as follows:**

- Development is in keeping with the surrounding properties that have recently been built and therefore will have a positive effect on the area;
- The development seems to complement the properties on neighbouring Avondale;
- Given that highways only recommended three properties be allowed to access this site it would seem a waste to put smaller properties on here since owners of smaller homes may not want such big gardens.
- Young people struggle to find a home in Southwell; the people buying these 4 and 5 beds may sell their 3 bed houses in or around the area so releasing those homes for younger families.

### **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<sup>th</sup> 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

Members will recall that this matter was the main issue in dispute when the previous reserved matters application was considered and subsequently refused in November 2018, in line with the officer recommendation. I explore this again and update this where necessary for this revised scheme.

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 at the time of writing 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 that were envisaged by Development Plan policy. This represents the most recent Council's view and one to 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 Inspectors 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 Inspectors 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 now being asked to consider and examine how this differs from the refused reserved matters application (RMA). Members might recall that the original RMA submission was initially 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 then amended the scheme to what they described 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.).

My advice to Members was that the dwellings promoted at that time were very large and whilst the plans were labelled as having 4 and 5 bedrooms, in reality, in all three plots there would have been an upstairs ‘study’ capable of being used as a 5<sup>th</sup> and 6<sup>th</sup> bedroom. I therefore concluded that all 3 dwellings proposed were 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. Members agreed with this assessment.

The scheme now promoted as this fresh RMA are 3 detached dwellings, all still substantial in size. The agent sets out that the differences as follows:

*“Plot 1 dwelling gross internal floor area is now to be 2594 sq.ft. – previously approved in principal at 2700 sq.ft. – A reduction of 106 sq.ft. floor area (9.84m<sup>2</sup>)*

*Plot 2 dwelling gross internal floor area is now to be 2626 sq.ft. – previously approved in principal at 2800 sq.ft. – A reduction of 174 sq.ft. floor area (16.16m<sup>2</sup>).*

*Plot 3 dwelling gross internal floor area is now to be 3400 sq.ft. – previously approved in principal at 3400 sq.ft.”*

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. As I have previously stated, 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 and these proposed dwellings are larger still.

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. Whilst in floor space terms, the proposed dwellings have been amended (reduced) only marginally, the layouts have been reconfigured such that there are more likely to be marketed as four and five bedroom homes (albeit substantial ones) and that these rooms would be difficult to subdivide further to create additional bedrooms.

Bearing in mind the appeal decision, the expectations it raised and that the applicant has sought to address the concerns, I conclude that on a fine balance the scheme to provide 2 x 4 bedroom and 1 x 5 bedroom unit is on this occasion acceptable. Given the specific circumstances that have led to this recommendation, I suggest that permitted development rights are removed such that the dwellings are not increased in size further (thus significantly affecting the housing need and mix) without a further grant of planning permission.

I do not consider that this sets a precedent for other sites in Southwell given the particular circumstances of this case.

#### 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 a considerable distance 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. The facing materials are noted on the drawings and I find that the materials are acceptable for the context which are sufficient to discharge Condition 6 of the outline consent.

#### 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 east (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 windows at first floor level facing the neighbouring site serve non habitable rooms to avoid overlooking (a matter to be conditioned) and the applicant has been careful to align the dwellings to avoid overbearing and overshadowing impacts. I am therefore 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 advice that the drawing 580-05 satisfies condition 5 of the outline consent and that safe access can be achieved. However a condition is required to deal with slight adjustments to the construction detail that may affect works within the highway which I consider is reasonable and necessary.

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. As with the previous scheme, the block plan 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 a 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) grade. 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. As I previously concluded, the loss of this tree is therefore regrettable, especially in the context that a smaller unit there may 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 again 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. As with the previous scheme, the garages of the plots are between 0.85m and 1.3m away from the boundary hedge which is likely to be adequate to ensure that vegetation remains along these boundaries.

Condition 7 of the outline consent requires details of the hard and soft landscaping to be submitted before development can commence. Details are shown on the layout plan. Following advice from the Council's tree consultant, the scheme was amended to show an increased variety of trees to be planted within each curtilage and giving more space for these to grow. The amendments are acceptable subject to details of the tree size and root stock being containerized and between 12-14cm in girth which can be conditioned. This would essentially discharge Condition 7 of the outline consent.

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 as well as enhancement measures. 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 and the type of development does not necessitate the need for a Flood Risk Assessment. 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 residential, 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 should not form a reason for refusal, particularly as this did not previously. In terms of the impact upon the highway, information to satisfy the planning condition imposed by the Inspector has been provided and the Highways Authority raise no objection.

Taking into account the previous appeal decision, I do not now consider that the Council is able to secure any 2 bedroom dwellings on the site. A mix that better reflects the housing needs of Southwell has been sought with the applicant now offering 2 x 4 bedroom units (the second most needed type of units) and 1 x five bedroom dwelling, albeit large versions. The internal configuration of the house types have also been altered to make it more likely that these dwellings will be offered to the market as such and thus meet the identified need. On balance I conclude that this mix is now acceptable in this particular case, taking into account the specific appeal decision which is material.

### **RECOMMENDATION**

**That reserved matters approval is approved subject to the conditions set out below:**

#### Approve

01

The development hereby permitted shall not be carried out except in accordance with the following approved plans, reference(s)

- Drawing No. 580-04 Rev C (Site Layout and Location Plan Scheme Design)
- Drawing No. 580-02 Rev G (Plot 1 Scheme Design)
- Drawing No. 580-01 Rev H (Plot 2 Scheme Design)
- Drawing No. 580-03 Rev H (Plot 3 Scheme Design)
- Drawing No. 580-05 (Site Access Showing Visibility Splays)

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

Reason: So as to define this approval.

02

Notwithstanding the detail shown on drawing 580-05, no dwelling forming part of the development hereby permitted shall be occupied until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

03

The proposed tree to be planted as shown on drawing number Drawing No. 580-04 Rev C (Site Layout and Location Plan Scheme Design) shall be containerised specimens of between 12-14cm in girth unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt, to avoid the applicant from having to apply for a discharge of condition application and to ensure that Condition 7 of outline consent 17/00383/OUT is fully discharged.

04

The first floor windows on the south elevation of Plots 1 and 3 (serving an en-suite and bathroom respectively) shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

05

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

Class B: 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.

Class E: Development within the curtilage of a dwellinghouse.

Class F: The provision or replacement of hard standing within the curtilage of a dwellinghouse.

Class G: The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

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) Order 1995 or any amending legislation) given the substantial scale of the dwellings approved and that these were approved in order to meet an identified housing need/mix.

## Notes to Applicant

01

It should be noted that the conditions imposed on the outline permission (our reference 17/0383/OUT) remain relevant and where necessary must be discharged before development can commence on site.

02

The development makes it necessary to construct a vehicular crossing over a footway/verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Agent, Via East Midlands tel. 0300 500 8080 to arrange for these works to be carried out.

03

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.

04

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).

05

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 and Regeneration**







## PLANNING COMMITTEE – 5 MARCH 2019

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

#### **1.0 Purpose of Report**

1.1 To provide the Planning Committee with a list of the exempt business considered by the Committee for the period 6 March 2018 to date. Members have the opportunity to review the exempt reports and request further information. The rule is defined in paragraph 18 of the Constitution entitled 'Right of Members to Request a Review of Exempt Information'.

#### **2.0 Background Information**

2.1 The Councillors' Commission at its meeting held on 25 September 2014 proposed a number of changes to the Constitution, one of which being that 'the Committees undertake an annual review of their exempt items at their last meeting prior to the Annual Meeting in May', this was ratified by the Council on 14 October 2014.

2.2 Members will be aware that, they have the opportunity to request under Rule 18 of the Access to Information Procedure Rules, that exempt information should be released into the public domain if there are substantive reasons to do so.

#### **3.0 Proposals**

3.1 The following table provides the exempt business considered by the Planning Committee for the period 6 March 2018 to date:

<b>Date of Meeting</b>	<b>Agenda Item</b>	<b>Exempt Paragraph</b>	<b>Opinion of Report Author as to current status of the report</b>
3 July 2018	Residential Development at Epperstone Manor, Main Street, Epperstone	5	Exempt
24 July 2018	Residential Development at Epperstone Manor, Main Street, Epperstone	5	Exempt
2 October 2018	Future Fishing Ltd, Unit 17, Hardy's Business Park, Hawton Lane, Farndon	3	Exempt

#### **4.0 RECOMMENDATION**

**That the report be noted.**

#### **Reason for Recommendation**

**To advise Members of the exempt business considered by the Planning Committee for the period 6 March 2018 to date.**

Background Papers - Nil

For further information please contact Nigel Hill – Business Manager Democratic Services on Ext: 5243.

**John Robinson**  
**Chief Executive**

**PLANNING COMMITTEE – 5 MARCH 2019**

**APPEALS A**

**APPEALS LODGED (received between 20.01.19 – 18.02.19)**

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**  
**Director – Growth & Regeneration**

Appeal reference	Application number	Address	Proposal	Procedure
APP/B3030/C/18/3199702		The Scarecrow Patch Eagle Road Spalford Nottinghamshire NG23 7HA	Appeal against	Written Representation
APP/B3030/W/19/3219800	18/01592/OUT	Meadow View Fiskerton Road Rolleston Newark On Trent Nottinghamshire NG23 5SH	Erection of a proposed dormer bungalow (resubmission)	Written Representation
	18/01421/FUL	Wood View The Close Averham NG23 5RP	ERECTION OF A NEW DWELLING INCLUDING THE DEMOLITION OF THE EXISTING FLAT ROOFED GARAGE	Written Representation

**PLANNING COMMITTEE – 5 MARCH 2019**

**APPENDIX B: APPEALS DETERMINED (between 20.01.19 – 18.02.19)**

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision date</b>
17/00357/FULM	Highfields School London Road Balderton NG24 3AL	Residential development comprising 95 no. dwellings and associated infrastructure, including the removal 26 No. TPO trees.	DISMIS	14.02.2019
16/01134/FULM	Highfields School London Road Balderton NG24 3AL	Residential development comprising 89 dwellings and associated infrastructure, including the relocation of the school access, car parking area and sports pitches, the provision of a Multi-Use Games Areas (MUGA) and the removal of 8 TPO trees. (Resubmission of 14/01964/FULM)	DISMIS	14.02.2019
17/01921/TPO	31 Centenary Close Balderton Newark On Trent Nottinghamshire NG24 3FE	Undertake works to trees protected by TPO N243 identified as part of Group 1 Fell 2 No. Silver Birch Trees	DISMIS	06.02.2019
17/01986/FUL	Land Adjacent To Manor Farm Moor Lane East Stoke Newark On Trent Nottinghamshire NG23 5QD	Construction of new 2 bed bungalow and garage	DISMIS	30.01.2019

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision date</b>
18/01241/FUL	Balderton Working Mens Club And Institute 69 Main Street Balderton Nottinghamshire	Retention of the north-western wing and the conversion to a dwelling including external alterations (Unit 4) (Retrospective)	ALLOW	31.01.2019

**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**

**Director – Growth & Regeneration**





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## Appeal Decision

Site visit made on 22 January 2019

**by Andrew Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 January 2019**

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**Appeal Ref: APP/B3030/W/18/3214950**

**Balderton Working Mens Club and Institute, 69 Main Street, Balderton NG24 3NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr K Roberts on behalf of Yorkhouse Properties Limited against Newark & Sherwood District Council.
  - The application Ref 18/01241/FUL, is dated 2 July 2018.
  - The development proposed is the retention of the north-western wing and the conversion to a dwelling including external alterations.
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### Decision

1. The appeal is allowed and planning permission is granted for the retention of the north-western wing and the conversion to a dwelling including external alterations at Balderton Working Mens Club and Institute, 69 Main Street, Balderton NG24 3NN in accordance with the terms of the application, Ref 18/01241/FUL, dated 2 July 2018, subject to the conditions set out at the end of this decision.

### Procedural Matters

2. I have taken the site address from the application form. I however acknowledge its reference to a previous occupation of the site. For clarification purposes, the appeal site forms part of the wider former Balderton Working Mens Club and Institute site and its extent is defined on the submitted location plan referenced BWMC0616-2000A.
3. From inspection, it would appear that the proposed external alterations to the north-western wing of the existing building are already in place. However, for the avoidance of doubt, my responsibility is to consider the appeal on the basis of the plans submitted.
4. The Council has helpfully annotated a site plan to clearly illustrate the numbering of the different residential units that occupy/are permitted across the wider site. This plan is appended to the Council's appeal statement as Appendix E. The numbering is broadly consistent with how individual units are referred to throughout the evidence before me. In the interests of ensuring clarity and consistency, for the remainder of this decision I shall refer to residential units on the site in accordance with the numbering set out in Appendix E of the Council's appeal statement.

5. Whilst both the main parties to this appeal have referred to an amended plan that was drawn up after the proposal was first reported to the Council's planning committee, I am of the understanding that this was never formally submitted for consideration during the determination of the planning application. For the avoidance of doubt and to ensure no one involved in the appeal is unfairly prejudiced, I shall consider this appeal on the basis of the plans that were considered by the Council.

### **Main Issues**

6. The main issue is the effect of the proposal upon the living conditions of its future and neighbouring occupiers, with particular regard to outlook and the provision of private garden space.

### **Reasons**

#### *Living conditions of future occupiers*

7. The appeal property (Unit 4) is located within a wider site once occupied by the Balderton Working Mens Club and Institute (the wider site) where planning permission (17/01339/FUL) is already in place to develop a total of 9 residential units, through the conversion of an existing building and the further construction of new-build dwellings. The proposal would essentially add a tenth unit to the previously approved scheme, through the retention of the north-western wing of the existing building. This 2 storey built element had previously been earmarked for demolition.
8. Unit 4 is located such that it has a close relationship with the north-eastern wing of the existing building (also 2 stories in height), which is also 2 stories in height and has been converted to form Unit 3. A hard-surfaced space is situated between Units 3 and 4, with approximately half of this area falling within the appeal site. On the opposite side of Unit 4, a further external area and the site's access road also form part of the appeal site. This external area contains an area intended for parking (a single space) and an enclosed patio area. The land situated to the west of the access road is currently undeveloped, but a single dwelling (Unit 5) is anticipated to be constructed here under planning permission 17/01339/FUL.
9. As indicated upon the floor plans submitted, all habitable rooms within Unit 4 are afforded outlook via window openings. The majority of these openings are located within its side elevation that faces over the site's access road, and include 3 large windows at first floor level with patio doors below. Unit 5 would be set far enough away such that outlook from Unit 4 would not be unduly restricted or impacted upon by its presence. I also note that a kitchen window faces over the space located between Units 3 and 4. Satisfactory outlook would be provided for future occupants.
10. The external areas contained within the appeal site are limited in size. The hard-surfaced space located between Units 3 and 4, although discreetly sited, is not private in the sense that it is not fully enclosed. This area is also afforded limited daylight due to its shielded location. Future occupants would be dependent upon the small patio area for enclosed private garden space. The patio's limited extent is not ideal, but it is served by a good standard of daylight and provides a space large enough to offer a useful amenity function for Unit 4's future occupiers. On the basis that Unit 4 is of modest size (it is a

2 bedroom property) and that other external areas exist within the appeal site (that are anticipated to be used for parking and bin/general storage), I am content that the enclosed patio area is of sufficient size and suitable layout to satisfactorily safeguard the living conditions of the proposal's future occupiers.

*Living conditions of neighbouring occupiers*

11. I have already found that outlook for future occupiers would not be unduly impacted upon by the anticipated future presence of Unit 5. Similarly, I do not consider that Unit 4's presence would have an undue adverse effect upon the outlook that would be available from Unit 5. The footprint of land covered by Unit 4 was envisaged, in accordance with planning permission 17/01339/FUL, to be clear of built development. Unit 4 is however slightly set back from the access road and is of similar scale to the remainder of the existing building, including the element of this building to which it is connected and the north-eastern wing that is set just behind it. In such circumstances, an overbearing or cramped relationship would not ensue.
12. The proposed retention of Unit 4 would have an effect upon the outlook available from Unit 3. However, the openings contained within Unit 3's side elevation that faces over the area located between Units 3 and 4 appear to be secondary in nature. Indeed Unit 3's opposite side elevation provides a number of large primary openings that face out over its own private garden area. Notwithstanding that the small hard surfaced space to the side of Unit 4 would be envisaged to be used for bin/general storage purposes, a satisfactory standard of outlook for the occupiers of Unit 3 is provided.
13. With respect to availability of private garden space, I note that Unit 3 is served by both a small hard-surfaced space (situated between Units 3 and 4) in addition to a private garden area on its opposite side which is of ample size and suitable layout to ensure that the living conditions of Unit 3's occupiers are safeguarded in this context.
14. With respect to the neighbouring residential unit to the south (Unit 1), whilst its private garden area is of narrow layout and situated solely to the side of the dwelling, it still provides a not insignificant area of garden for the private enjoyment of Unit 1's occupiers. Although not enclosed or private, I also note that a further open area of land is situated to Unit 1's frontage.
15. The main parties to this appeal dispute whether the proposed retention of Unit 4 would lead to a reduction in the areas of private garden space serving both Units 1 and 3, when compared to the scheme approved under planning permission 17/01339/FUL. Nevertheless, on the basis of the proposal before me, both Units 1 and 3 are served by appropriately sized and laid out private garden areas so as not to promote unduly cramped living conditions.
16. For the above reasons, the proposal would not cause harm to the living conditions of either its future or neighbouring occupiers, with particular regard to outlook and the provision of private garden space. The proposal accords with Policy DM5 of the Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document (July 2013) in so far as it requires 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.

## **Other Matters**

17. The appeal proposal involves the retention of built form that is complimentary in form and design to the remainder of the existing building, no harm would be caused to the character and appearance of the Balderton Conservation Area therefore. Nor would any harm be caused by the proposal to the setting of a nearby Grade II Listed Building that is located to the east of the site.
18. The proposal does not represent over-intensive development, particularly when considering the spacious extent of the wider site, within which the appeal proposal is centrally located. I also note, in accordance with planning permission 17/01339/FUL, it is the intention for additional soft landscaped areas to be provided within the wider site.
19. The proposal involves the provision of a single car parking space and the Highway Authority has raised no objection. I am satisfied that this represents an appropriate level of provision to serve a dwelling of relatively modest scale. In addition, notwithstanding concerns raised by a third party to this appeal, I do not consider that the proposal would lead to any significant intensification in vehicle movements to and from the site so as to raise undue highway safety fears. Vehicle turning facilities are proposed to be retained and appropriate levels of visibility are available within the appeal site.
20. A discreet area available for the storage of bins is provided for within the appeal site (i.e. the hard surfaced space located between Units 3 and 4) such that the visual impact of any bins stored at the site would be expected to be minimal and acceptable.
21. I also note that a third party to this appeal has suggested that the appeal property has recently changed ownership. This would not however affect the planning merits of the appeal scheme before me.

## **Conditions**

22. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the revised Framework and Planning Practice Guidance. As a result I have amended a condition restricting the future use of permitted development rights and have omitted a condition related to the implementation of an off-white rendered finish to the rear elevation of the appeal property (this is because, from inspection, I noted that such a finish had already been applied and therefore such a condition is not necessary).
23. In the interests of certainty, a condition specifying the approved plans is required.
24. As set out in the revised Framework, conditions restricting the future use of permitted development rights should only be used where there is clear justification to do so. In this instance the Council has suggested that a condition be attached that restricts the future use of a range of permitted development rights related to development within the curtilage of a dwellinghouse and other minor operations. I note that an identically worded planning condition was applied to planning permission 17/01339/FUL covering the wider site in the interests of preserving the character and appearance of the Balderton Conservation Area. To ensure consistency and clarity (particularly owing to the appeal site's approximate central position within the

wider site), I consider that there is clear justification to apply such a condition in this instance. It shall be similarly worded and shall restrict the future use of the same range and extent of permitted development rights, when compared to permission 17/01339/FUL.

### **Conclusion**

25. For the reasons set out above, the appeal is allowed and planning permission is granted.

*Andrew Smith*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: BWMC0616-2000A (Location Plan); BWMC0616-2003 (Proposed Site Plan); BWMC0616-2001 A (Existing Plans & Elevations); BWMC0616-2001 B (Proposed Plans & Elevations); BWMC0616-2004 A (Door & Window Schedule).
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), other than where expressly authorised by this permission, there shall be no development in respect of:
  - The enlargement, improvement or alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows;
  - The enlargement of a dwellinghouse consisting of an addition or alteration to its roof;
  - Any other alteration to the roof of a dwellinghouse;
  - The erection or construction of a porch outside any external door of a dwellinghouse;
  - Development within the curtilage of a dwellinghouse;
  - The provision or replacement of hard standing within the curtilage of a dwellinghouse;
  - The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse;
  - The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure;
  - Means of access to a highway; and
  - The painting of the exterior of any building.