



**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)

**Friday, 24 May 2019**

**Chairman: Councillor R Blaney**  
**Vice-Chairman: Councillor I Walker**

**Members of the Committee:**

**Councillor L Brazier**  
**Councillor M Brock**  
**Councillor M Brown**  
**Councillor L Dales**  
**Councillor Mrs M Dobson**  
**Councillor L Goff**  
**Councillor R Holloway**

**Councillor J Lee**  
**Councillor Mrs P Rainbow**  
**Councillor M Skinner**  
**Councillor T Smith**  
**Councillor K Walker**  
**Councillor Mrs Y Woodhead**

**MEETING:      Planning Committee**

**DATE:            Tuesday, 4 June 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

	<u>Page Nos.</u>
1. Apologies for Absence	
2. Declarations of Interest by Members and Officers	
3. Declaration of any Intentions to Record the Meeting	
4. Minutes of the Previous Meeting	5 - 10
<b>Part 1 - Items for Decision</b>	
5. Playing Field, Elm Avenue, Newark on Trent 19/00504/OUTM Site Visit: 11.40 – 11.50am	11 - 34
6. Land Off Lower Kirklington Road, Southwell 18/01363/FULM Site Visit 9.40 – 10.00am	35 - 112
7. Springfield Bungalow, Nottingham Road, Southwell 19/00689/FUL Site Visit: 9.20 – 9.35am	113 - 130
8. Springfield Bungalow, Nottingham Road, Southwell 19/00779/FULM Site Visit: 9.20 – 9.35am	131 - 152
9. Land off North Gate, Newark 18/01137/OUTM	153 - 180
10. Site of the Bearings, Bowbridge Road, Newark 19/00681/FULM	181 - 224
11. Noble Foods Ltd, The Moor, Bilsthorpe 18/00931/OUTM	225 - 276
12. White Post Garage, White Post, Farnsfield 18/02151/FUL	277 - 292
13. Cobblers Cottage, Brickyard Lane, Farnsfield 19/00168/FUL Site Visit: 10.30 – 10.40am	293 - 304
14. Sawmills Farm, Rufford Lane, Ollerton 19/00701/FUL	305 - 315
15. The Shed, Old Epperstone Road, Lowdham 19/00492/FUL	316 - 323
16. Field Ref: 7600, North Scarle Road, Wigsley 19/00551/FULM	324 - 355
17. Land to the Rear of 112 - 118 High Street, Collingham 19/00755/FUL Site Visit: 11.15 – 11.25am	356 - 373
18. 11 Maypole Road, Wellow 19/00473/FUL	374 - 385
19. Grange Farm, Newhall Lane, Edingley 19/00408/FUL Site Visit: 10.10 – 10.20am	386 - 408

- |     |   |           |
|-----|---|-----------|
| 20. | Land Adjacent to Former White Lion Public House, Main Street, Blidworth<br>19/00571/FUL | 409 - 421 |
| 21. | Fox Inn Public House, Main Road, Kelham 18/01414/FUL                                    | 422 - 444 |
| 22. | Confirmation of Tree Preservation Order - TPO N366                                      | 445 - 449 |
| 23. | Local Development Framework Task Group  |           |

Three Members of the Planning Committee to be nominated to the Local Development Task Group (Planning Committee Representatives for 2018/19 were the Planning Committee Chairman and Vice Chairman and Councillor B Wells).

**Part 2 - Items for Information**

- |     |                    |           |
|-----|--------------------|-----------|
| 24. | Appeals Lodged     | 450 - 453 |
| 25. | Appeals Determined | 454 - 460 |

**Part 4 - Exempt and Confidential Items**

- |     |                                   |  |
|-----|-----------------------------------|--|
| 26. | Exclusion of the Press and Public |  |
|-----|-----------------------------------|--|

To consider resolving that, under section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3 and 7 of part 1 of Schedule 12A of the Act.

NOTES:-

A Briefing Meeting will be held in Room 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, 2 April 2019 at 4.00 pm.

### PRESENT:

Councillor P Handley (Vice-Chairman)

Councillor Mrs K Arnold, Councillor R Blaney, Councillor Mrs C Brooks, Councillor Mrs M Dobson, Councillor P Duncan, Councillor J Lee, Councillor Mrs P Rainbow, Councillor Mrs L Tift, Councillor I Walker, Councillor B Wells and Councillor Mrs Y Woodhead

APOLOGIES FOR ABSENCE: Councillor R A Crowe, Councillor D R Payne and Councillor F Taylor

ALSO IN ATTENDANCE: Councillor R Crowe

In the absence of the Planning Committee Chairman – Councillor D R Payne, Councillor G P Handley chaired the meeting.

### 234 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillors R V Blaney, P Duncan and J Lee declared Personal Interests regarding agenda Item No. 8 – Yorke Drive and Lincoln Road Playing Field, Lincoln Road, Newark 18/02279/OUTM (Major), as they were members of Newark Sports Association.

Councillor Mrs P J Rainbow declared a Personal Interest on agenda Item No. 7 – Land Adjacent Fish Pond Farm, Main Street, Eakring 18/02159/FUL, as she was known to one of the applicants.

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

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

### 236 MINUTES OF THE PREVIOUS MEETING

AGREED (unanimously) that the minutes of the meeting held on 26 March 2019 be approved as a correct record and signed by the Chairman.

### 237 ORDER OF BUSINESS

With the agreement of the Committee, the Chairman changed the order of business and agenda Item No. 8 and 9 were taken after item 5. The agenda resumed its stated order thereafter.

### 238 1 ELM AVENUE, NEWARK

The Committee considered the report of the Director of Growth & Regeneration,

following a site inspection, which sought planning permission for the change of use from Use Class C3 (Dwelling House) to Use Class C2 (Children's Home).

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from the following: Litchfields on behalf of Homes2Inspire; and Kabsec Consultancy on behalf of Nottinghamshire Police.

Councillor Roberts informed Committee that whilst he recognised the need for small children's homes similar to this one, he considered the change of use unacceptable as there was not enough outside space, the road would become dangerous from the increase in cars visiting the property and parking on the road outside the property. The garden was considered too small and should have a bright open aspect, not a small plot opposite a cemetery. The current residents of the close should also be considered.

Members considered the application and it was commented that this five bedroom house could currently be used to occupy a large family, as a family home, without any change of use. Members commented on the large institutions that children used to be housed in and welcomed the change in social policy. It was commented that there were seven similar children's homes in Nottinghamshire which had good and outstanding Ofsted ratings, with the exception of one. A Member commented that the house appeared to have been previously a six bedroomed property, given the double doorway into the master bedroom shown on the plan. Two carers would be present at the home and would come and go similar to that of a traditional family. The children would be in full time education and therefore would be at school for the majority of their time. The house was opposite the Newark Sports and fitness centre which was ideal. The residents' concerns were noted. A Member suggested that an additional condition be included regarding the car parking at the front of the property to be retained for the lifetime of the development.

AGREED (with 10 votes For, 1 Against and 1 Abstention) that full planning permission be approved subject to the conditions contained within the report and an additional condition to retain the site frontage for on-site parking only for the lifetime of the development.

239 YORKE DRIVE AND LINCOLN ROAD PLAYING FIELD, LINCOLN ROAD, NEWARK 18/02279/OUTM (MAJOR)

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought selective demolition and redevelopment of parts of the existing Yorke Drive Estate and the erection of new mixed tenure housing, community and recreational facilities on the adjoining Lincoln Road Playing Field site, resulting in the development of up to 320 homes. The Planning Officer confirmed that the development plan was up to date for decision making purposes with the Amended Core Strategy adopted in March 2019. The site was allocated for development in July 2013 (in the adopted Allocation and Development Management DPD) which was informed by a number of evidence base documents. Decisions must be made in accordance with the Development Plan unless material considerations indicated otherwise. The Planning Officer summarised key consultation responses

received during the lifetime of the application including those from Sport England and neighbours. Considerations in relation to the impact on existing formal and informal open space and proposed provision was drawn to Members attention. The transformational benefits of the proposal supported by both the site allocation and by partner organisations including Homes England was highlighted.

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from the following: Newark Sports Association; Planning Case Officer; and Nottinghamshire County Council Education.

The Planning Case Officer summarised the proposed contributions and informed Committee of the amendment to the proposed education contribution (reduced based on need) in addition to an amendment to condition 16 (Construction Environment Management Plan) as detailed in the schedule of communication. The officer advised of the need to amend the recommendation to ensure additional delegated officer responsibility be given before a decision was issued to secure a mechanism for ensuring the future retention and maintenance of the noise mitigation measures as required by recommendation (c) given that this needed to be controlled over the lifetime of the development.

Councillor Mrs G Dawn representing Newark Town Council spoke in accordance with the views of Newark Town Council as contained within the report.

Members considered the application as a major project for the authority and welcomed the improvement works to the Bridge ward. A Member raised concern regarding the routing of construction traffic and suggested that construction traffic should not use Lincoln road, as the traffic was already problematic on that road. Access to the site should be diverted through Brunel Drive. It was commented that Daloon had been on the industrial estate for a number of years and provided employment for local people; whilst they could be asked to put filters on their air conditioning it would be unfair to restrict their business use.

AGREED (with 9 votes For and 3 votes Against) that outline planning permission be granted subject to the following:

- (a) the conditions contained within the report;
- (b) the further bat emergence surveys as required by the submitted Ecology Reports being undertaken before the decision notice is issued, with delegated officer responsibility for consideration the implications of the results, mitigating them appropriately and adding ecology related conditions should they be required; and
- (c) the Officer receiving confirmation from the Applicant before the decision notice is issued that the noise mitigation works at Daloon have been satisfactorily completed in accordance with the Memo dated 15.02.2019 Mitigation Options Regarding Services Noise from Daloon Foods and that delegated officer

responsibility is given to ensure an appropriate mechanism for securing its future retention and maintenance is undertaken before the decision notice is issued.

240 LAND OFF HUTCHINSON ROAD, NEWARK 19/00192/RMA

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought planning permission for variation of condition 01 to be varied to include for Drawing No. 1B/31/2017 Site Plan Revised and 03 to be varied to include for the revised boundary treatments shown on the above drawing attached to planning permission 17/01573/RMA.

Councillor D Lloyd representing Newark Town Council spoke against the application in accordance with the views of Newark Town Council as contained within the report.

Members considered the application and it was commented that Officers had made it clear when the outline permission was approved in 2015 and reserved matters in 2017 that the boundaries should be retained. The conditions were made clear to the developers at that time. Members confirmed that enforcement procedures be delegated to the Director of Growth and Regeneration.

Councillor J Lee was not present for the entire Officer presentation and took no part in the debate or vote.

AGREED (unanimously) that contrary to Officer recommendation planning permission be refused on the following grounds:

- (i) that the loss of previously existing hedgerow and approved new hedgerow boundary treatments and its replacement with close boarded timber fencing would be unacceptable to the appearance and amenity of the site when viewed from Hutchinson Road and the biodiversity of the area; and
- (ii) Enforcement action to be delegated to the Director of Growth & Regeneration.

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	Apology
Mrs M. Dobson	For
P. Duncan	For
G.P. Handley	For
J. Lee	Took no part in the vote
D.R. Payne	Apology
Mrs P. Rainbow	For



F. Taylor	Apology
Mrs L.M.J. Tift	For
I. Walker	For
B. Wells	For
Yvonne Woodhead	For

241 FOX INN PUBLIC HOUSE, MAIN ROAD, KELHAM 18/01414/FUL

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought retrospective change of use of vacant land to pub garden and permission for the placement of timber modular play equipment in the pub garden and alterations to the existing access points to the public house.

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

Members considered the location and scale of the proposed equipment not acceptable given the close proximity to a neighbouring property. Concern was also raised regarding the position of the car park adjacent to the play equipment and suggested fencing around the beer garden and any play equipment for safety purposes.

AGREED (unanimously) that the application be deferred for discussions regarding location and scale of proposed play equipment, position of parking spaces adjacent to play equipment and potential fencing around the equipment for safety purposes.

Councillor Mrs C Brooks left during the debate of the above item.

242 LAND ADJACENT FISH POND FARM, MAIN STREET, EAKRING 18/02159/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the conversion and extension of existing outbuilding to form one dwelling and the erection of four further dwellings.

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from the following: Eakring Parish Council; the agent; and agent for a neighbour.

The Planning Officer informed the Committee of a suggested additional condition for the erection of a fence to provide privacy from units 4 and 5.

Members considered the application and the local ward Member commented that she was grateful that the plans had been amended and moved away from the boundary to Fish Pond Farm, although there was an issue with the proposed four bed roomed dwellings as they were not needed in Eakring. It was suggested that the fence be erected before the works commence. Concern was also raised that the windows to the eastern boundary were not obscure glazed and there was potential overlooking on the adjacent property, it was therefore suggested that an additional condition be added to alleviate that. Another Member suggested that a wall be built along the eastern boundary instead of the fence but acknowledged that this may not be viable. Another Member suggested that the most

appropriate means of enclosure would be semi-mature soft hedgerow.

AGREED (with 8 votes For, 1 vote Against and 2 Abstentions) that planning permission be approved subject to the following:

- (i) conditions contained within the report; and
- (ii) the condition attached on the late items schedule be amended to so that it relates only to the boundary to the rear of cart shed (Unit 4) and an additional condition that the bathroom and utility room windows on east elevation of cart shed (Unit 4) to be obscurely glazed and retained for the lifetime of the development.

243 APPEALS LODGED

AGREED that the report be noted.

244 APPEALS DETERMINED

AGREED that the report be noted.

The Chairman, Councillor G P Handley, thanked all Members and Officers for their work over the past four years. He stated that the Planning Committee had achieved a great deal during the life of the Council and that it was to be applauded.

Meeting closed at 7.05 pm.

Chairman

## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>19/00504/OUTM (MAJOR)</b>	
<b>Proposal:</b>	<b>Residential development for 9 detached houses and associated adoptable road, private road and other external works.</b>	
<b>Location:</b>	<b>Playing Field Elm Avenue Newark On Trent</b>	
<b>Applicant:</b>	<b>Newark &amp; Sherwood District Council - Mr Sanjiv Kohli</b>	
<b>Registered:</b>	<b>13.03.2019</b>	<b>Target Date: 12.06.2019</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Newark and Sherwood Council is the applicant.**

### The Site

The application site relates to a rectangular plot of land of around 1.27 hectares in extent within the urban boundary of Newark. The site as existing forms a football pitch playing field protected by Spatial Policy 8 with an associated existing pavilion towards the west of the site. The site is known locally as 'The Stadium Site'. Access to the site is from Elm Avenue on the western boundary with the remainder of the site being surrounded by neighbouring residential curtilages. Boundaries to the site form a mixture of hedging and fences which demarcate neighbouring gardens. The site is relatively open from the west at Elm Avenue with this boundary formed by concrete posts and mesh fencing.

The site is immediately adjacent to, but outside of, the designated Conservation Area with the Cemetery and Polish War Graves on the opposite side of Elm Avenue. The associated Chapel within the Cemetery is Grade II listed.

Elm Avenue also forms the staff access to the recently approved Community and Activity Village some 300m to the south of the site.

The site is within Flood Zone 1 according to the Environment Agency maps.

### Relevant Planning History

There was an application in 2017 to retain the facility as an asset of community value but this was withdrawn prior to determination.

### The Proposal

The proposal seeks outline planning permission for the residential development of the site for up to 9 dwellings and other associated works. All matters except access are reserved with the proposed access being from Elm Avenue towards the north of the site. The access would also include pedestrian access until it indicatively meets a private drive to serve a number of the

dwellings (albeit the internal layout is not for consideration at this stage).

The indicative layout suggests that the 9 dwellings would all be detached and of generous foot print. The application has been accompanied by the following indicative plans and supporting documents:

- Site Location Plan – 18 / 2190 / LP;
- Proposed Indicative Masterplan – (02) 001 Rev. C;
- Indicative Dwelling Type 1 Proposed Floor Layouts – (02) 101;
- Indicative Dwelling Type 1 Proposed Elevations – (02) 102;
- Indicative Dwelling Type 2 Proposed Floor Layouts and Elevations – (02) 201;
- Indicative Dwelling Type 3 Proposed Floor Layouts and Elevations – (02) 301;
- Indicative Dwelling Type 4 Proposed Floor Layouts and Elevations – (02) 401;
- Indicative Dwelling Type 5 Proposed Floor Layouts and Elevations – (02) 501;
- Indicative Dwelling Type 6 Proposed Floor Layouts and Elevations – (02) 601;
- Indicative Dwelling Type 7 Proposed Floor Layouts and Elevations – (02) 701;
- Phase 1 Habitat Survey – SSN 01;
- Tree Survey – SSN 02;
- Tree Constraints Plan – SSN 03;
- Tree Protection Plan – SSN 04;
- Design and Access Statement;
- Planning Statement;
- Highways Report;
- Preliminary Bat Roost Assessment;
- Preliminary Ecological Appraisal;
- Flood Risk Assessment.

#### Departure/Public Advertisement Procedure

Occupiers of 35 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 Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 7 - Sustainable Transport

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 1 – Affordable Housing Provision

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

NAP1 - Newark Urban Area

NAP3 – Newark Urban Area Sports and Leisure Facilities

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

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM3 – Developer Contributions and Planning Obligations

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM9 – Protecting and Enhancing the Historic Environment

DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)

### **Consultations**

**Newark Town Council** – No Objection was raised to this application.

### **NSDC Conservation – 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 193 of the NPPF, for example, states that: 3. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

### Significance of heritage asset(s)

Newark CA was originally designated 1968 and has been extended in 1974, 1979, 1992 and 1995. The conservation area was extended to include the cemetery, on the opposite side to the site.

### Assessment of proposal

The site is adjacent to Newark Conservation Area on a playing field surrounded by residential development. It is considered the proposed access to will not cause harm to the conservation area and development of the site for residential will not cause harm to the setting of the conservation area.

The indicative masterplan submitted as part of the application depicts nine large detached houses. Although not to be considered as part of the scheme, the indicative scheme does not reflect the existing development in the area. The area is a mix of detached and semi-detached dwellings of a modest scale. Any development should reflect the local building form and scale within its local vicinity. Therefore would not result in a well-integrated and designed development.

**NSDC Health and Community Relations Officer** – The site has not been used for sport (football) for a number of years due to the poor quality changing provision and lack of demand locally. The proposals as submitted do not require a community facilities contribution in respect of the current policy requirements. However, I am aware that a separate legal agreement is in place that will facilitate a financial contribution to the YMCA Community and Activity Village to mitigate the loss of the former sports pitch and associated changing provision which will improve access to sporting and recreation opportunities for the benefit of the wider community. In terms of quantum of space, the loss of the former sports pitch has been mitigated by the acquisition and subsequent change of use to sport and recreation land of the former tarmac land adjacent to the YMCA facility which is approximately double the size of the site to be developed.

**NSDC Strategic Housing** – No comments received.

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

**Archeological Advisor** - No archaeological input required.

**NCC Highways Authority** – *Additional comments received 13<sup>th</sup> May 2019:*

Following on further from my previous comments dated 01/05/19, should an amended plan not be submitted it is recommended that the following conditions be imposed to any permission granted:

1. No development shall commence on any part of the application site unless or until the carriageway width of Elm Avenue along the site frontage is widened to 4.8m 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 development shall commence on any part of the application site unless or until the eastern footway of Elm Avenue is improved to provide dropped kerbs and tactile paving, and minor kerb realignment and vehicle crossing improvement are provided outside the garages to no. 1 Elm

Avenue 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.

3. No part of the development hereby permitted shall be brought into use until the access into the site has been designed to have a minimum width of 4.8m in accordance with details to be first submitted to and approved in writing by the Local Planning Authority and thereafter constructed in accordance with the approved details.

Reason: In the interests of highway safety.

4. The formal written approval of the Local Planning Authority is required prior to commencement of the development with regard to parking and turning facilities, access driveway widths, gradients, surfacing, street lighting, and drainage of the site. All details submitted to the Local Planning Authority for approval shall comply with the current Notts County Council highway design guidance and shall be implemented as approved.

Reason: In the interests of highway safety.

#### Note to applicant

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

#### *Original comments received 1<sup>st</sup> May 2019:*

This is an outline application for which approval for access only is sought for 9 proposed dwellings served by a new vehicular access from Elm Avenue. The access is to have footways each side and it is considered will remain private.

Elm Avenue has a carriageway width of 4.25m and is also used for access to residential properties on Marton Road, Beeston Road and Bancroft Road. There are existing footways on Elm Avenue, the western footway is narrow for its whole length to London Road and the eastern footway narrows to approx. 1m for a section of 80m from the dwelling known as 'Elm View' to the garages for no. 1 Elm Avenue.

For new roads, the current highway minimum standard is 4.8m with 4.25m normally only considered for private driveways. However, in this instance, this an existing situation that already serves a significant number of dwellings without an accident problem being evident. 4.25m is sufficient for two cars to pass one another safely at appropriate speeds.

Similarly, footway widths are normally required to be 2.0m wide. Therefore, the substandard section of footway on Elm Avenue is less than ideal. However, once again, this is an existing situation and one that might be improved with the agreement of the developer.

The deficiencies in Elm Avenue have led to the point of restricting the quantity of development on this site, so that the highway impact is similarly restricted to a point that is considered acceptable in terms of pedestrian and vehicle generation. For example, data-based experience tells us that 9 dwellings would typically generate around 6 trips in a peak hour (1 every 10 minutes). Similarly, pedestrian trips would be 1 or 2 per hour. These flows are not considered to offer a severe impact on the highway. However, it is considered that minor improvements could be made to Elm Avenue to overcome local concerns and to make the development safer and more sustainable, particularly for pedestrians.

It is suggested that the carriageway width be widened to 4.8m along the site frontage to improve vehicular movement along Elm Avenue, particularly should a car and a larger vehicle come into conflict e.g. refuse vehicle.

Likewise it is considered that the eastern footway of Elm Avenue be improved. Whilst generally its width cannot be improved, the lack of dropped kerbs and tactile paving could be addressed. Also there is a particularly poor pinch point outside the garages to No. 1 Elm Avenue where a minor kerb realignment and vehicle crossing modification could result in improved access for pedestrians, particularly the disabled.

Whilst the development of this site is acceptable in principle to the Highway Authority, it is recommended that the above points be addressed and an amended plan be submitted for reconsultation.

**NCC Ecology** – No comments received.

**NCC Flood** – 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.

**Sport England** - Thank you for consulting Sport England on the above application.

<p><b>Summary:</b> Sport England raises <b>no objection</b> to this application which is considered to meet exception 4 of our adopted Playing Fields Policy.</p>
---

*Sport England –Statutory Role and Policy*



It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (in particular Para. 97), and against its own playing fields policy, which states:

‘Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field and remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.’

Sport England’s Playing Fields Policy and Guidance document can be viewed via the below link:

[www.sportengland.org/playingfieldspolicy](http://www.sportengland.org/playingfieldspolicy)

#### *The Proposal and Impact on Playing Field*

The proposal involves the loss of the Elm Street playing field (The Stadium Site)

#### *Assessment against Sport England Policy*

This application relates to the loss of existing playing fields and the provision of replacement playing fields. It therefore needs to be considered against exception 4 of the above policy, which states:

‘The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- of equivalent or better quality, and
- of equivalent or greater quantity, and
- in a suitable location, and
- subject to equivalent or better accessibility and management arrangements.’

I have therefore assessed the existing and proposed playing fields against the above policy to determine whether the proposals meet exception 4.

#### *Assessment of Existing Playing Fields*

The Playing Pitch Strategy review in 2017 advised;

The site provided ‘One poor quality adult pitch with peak time capacity’ - ‘Possible transfer of site to district council and future residential development option to be considered.’ Which is a repeat of the 2014 PPS assessment.

Whilst there are changing facilities on site it is understood that work would be required to enable the re-use of the facilities.

The Football Foundation who respond on behalf of the FA have advised that;

‘The site has not seen significant football use in recent years and the YMCA Sport Village development would provide appropriate compensation for the loss of the site.’

Sport England has previously recognised that the provision of additional land for sport and recreational uses at the YMCA Community and Activity Village (former RHP sports ground), by the acquisition of additional land adjacent to the site from Tarmac and the provision of Artificial Grass Pitches (AGP) and other sports and recreation facilities (providing enhanced facilities for football) would effectively outweigh and balance the loss of the Stadium Site. The quantity of playing field lost is therefore compensated by the quantity of additional land at the Activity Village site the provision of AGPs is an improvement on the quality of the pitch which would be lost.

There is no requirement for a condition or some form of agreement to secure the replacement of the playing field area, as the replacement area is secured and facilities have been provided.

### Conclusions and Recommendation

Given the above assessment, Sport England does not wish to raise an objection to this application as it is considered that the replacement land and facilities at the Community and Activity Village meet exception 4 of the above policy.

It is for the authority to determine if the site is required to meet any other active recreation or open space requirements for that area.

Sport England would also like to be notified of the outcome of the application through the receipt of a copy of the decision notice.

The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.

**Representations have been received from 34 local residents/interested parties which can be summarised as follows:**

#### *Principle of Development*

- An alternative use rather than residential should be found;
- There are no wide open grass land for exercising dogs or general enjoyment;
- The land should be a childrens play park or parking for the events at the War Graves;
- There are already other applications to build on green space (including Cedar Avenue);
- The need for developing any green space is questioned – there are a number of large developments proposed in and around Newark;
- If the above developments are not enough then why is Brownfield land not being favoured;
- There are several of other more suitable sites around Newark – has an alternative site assessment been undertaken to prove other sites aren’t more viable;
- The loss of green space in Newark to build houses is fast disappearing – there are thousands of houses going up in Newark so are these really necessary;
- Newark needs more green spaces, not more houses;
- Greenery can promote mental and physical health and reduce morbidity and mortality;
- The playing field was used on a regular basis and could continue to do so;

- The town as a whole falls behind in the amount of green space for children;
- Residents moved to the area for the very reason of being adjacent to the a sports field;
- Flowserve have teams crying out for more playing facilities;
- There is nowhere for youngsters to play an impromptu game of football or cricket;
- Local clubs have requested to use the land but have been rejected;
- It is cynical for the Council to say it is not needed for pitch provision and release it for housing;
- There are no grass pitches at the YMCA;
- Any contribution towards the YMCA is not outlined in the application and should be earmarked as a developer contribution;
- Newark is a growth point and therefore needs amenity areas;
- Newark will become one big housing estate;
- The leisure centre isn't the answer for people who can't afford to use it;

### *Impact on Highways*

- Access for the materials would be via Elm Avenue which is already difficult to navigate with cars;
- The road is not suitable for increased traffic;
- The pavements along Elm Avenue are narrow reaching London Road and are not wide enough to use safely for pedestrians, wheel chair users and pushchairs;
- The junction of Elm Avenue to London Road is wide enough but the road narrows away from London Road;
- Vehicles have to mount the foot path to allow one another to pass;
- The junction at Elm Avenue and London Road is constantly used as an overflow parking area;
- Larger vehicles such as fire engines and bin lorries already struggle to get down Elm Avenue;
- Trees overhang Elm Avenue and it is barely lit;
- There will be even more cars using the road now 1 Elm Close is a business;
- The increased use of Elm Avenue will disturb the tranquility of the cemetery;

### *Impact on Amenity*

- Development of this nature take time to build so will disrupt existing residents;
- The plans will overlook neighbouring gardens;
- The houses will lead to a loss of light;
- There will be a potential loss of property value and increased burglary potential due to enclosed garden areas;
- The site should be viewed from neighbouring gardens;
- Due to the size of the houses they will overshadow neighbouring land uses;
- A 12m high ridge height is stated in the documentation which will cause significant loss of light and privacy;
- The line of trees on the Eastern Avenue will block out sunlight;
- The 10m buffer should not be used for development;
- There are 36 houses which will be impacted in one way or another;
- The light from the dwellings would restrict the views of stars;
- The attraction of living in the property was the open green space;
- Neighbouring residents enjoy the view of the open space;

- Neighbouring properties have low wire fencing boundaries;
- The additional cars will cause air and noise pollution;

#### *Impact on Ecology*

- The presence of bats in the area has been questioned but not confirmed within the documentation but bats are present;
- Hedgehogs and squirrels have been seen on the field;
- The land could be turned into a wildlife / conservation area;
- It is illegal to disturb nesting birds;
- Permission will not be given for netting of adjacent neighbouring hedges;

#### *Impact on Flooding*

- How can developing green space be more sustainable than brownfield;
- The development of the land would stop the natural drainage which is in place at present;
- Falstone Avenue has flooded on 9 occasions since 1998 – more houses would make things worse;
- The drains of Bancroft Road also flooded as they were too small;

#### *Design and Character*

- The layout of the Type 1 house shows 6 bedrooms even though it is stating as being 5;
- The houses would be totally out of plans to the keeping of the area;

#### *Other Matters*

- Objections should be taken seriously, particularly as NSDC are the applicants and the decision makers – objectivity and impartiality are a cause for concern;
- Lack of consultation with those directly affected – when the land was transferred many people in and around the land signed a petition expressing concern;
- NSDC are taking the land away from the people they are there to serve;
- Under the impression the land was gifted for football in the past by Mr Pratt – has the paperwork been lost?
- The council sold the land underhand;
- The Council are the decision makers as well as the applicant which raises questions of impartiality;
- It is not clear who would be responsible for the maintenance of the trees;
- Residents surrounding the land should have been given the option to buy it;
- 1 Elm Close has recently been granted to be converted to business which will already increase traffic;
- There should be an independent review of the land transfer;
- Unable to access neighbouring comments online;
- Issues with commenting online so deadline for comments should be extended;
- The site is adjacent to a tranquil cemetery but the works will create noise and disturbance;

## Comments of the Business Manager

### 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.

The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). 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.

The site is within the Newark Urban Area which is identified at the top of the hierarchy as the Sub-Regional Centre. Given its function as the focus of the Districts additional growth, the principle of developing the site for residential use is acceptable in principle subject to an assessment against the remainder of the Development Plan.

### Loss of Protected Playing Field

Policy NAP3 (Newark Urban Area Sports and Leisure Facilities) states that the District Council will seek to improve sports and leisure facilities. In addition, Spatial Policy 8 resists the loss of existing community and leisure facilities unless it can be clearly demonstrated that:

- *Its continued use as a community facility or service is no longer feasible, having had regard to appropriate marketing (over an appropriate period of time and at a price which reflects its use, condition and local market values), the demand for the use of the site or premises, its usability and the identification of a potential future occupier; or*
- *There is sufficient provision of such facilities in the area; or*
- *That sufficient alternative provision has been, or will be, made elsewhere which is equally accessible and of the same quality or better as the facility being lost.*

Moreover, paragraph 92 of the NPPF states that planning decisions should guard against the unnecessary loss of valued facilities and services. Paragraph 97 goes further to outline a number of caveats similar to those in Spatial Policy 8.

This matter has been addressed by the associated Planning Statement primarily in reference to satisfying the second and third criteria of the bullet points listed above. No evidence of specific marketing has been submitted but given that the wording of Spatial Policy 8 uses the word 'or' rather than 'and'; this need not be fatal to the application in itself. As is referenced by the comments of the Health and Community Relations Officer, the site has not been used for sport for a number of years due to the poor quality changing facilities and lack of demand locally (albeit this is a matter dispute by neighbouring representations received).

The Planning Statement refers to the recent and ongoing development at the Community and Activity Village accessed from Bowbridge Road adjacent to the existing Leisure Centre. The justification text associated with Policy NAP3 acknowledges that the facilities on Bowbridge Road

will provide a focus for sport and recreation in Newark Urban Area and the wider Newark Area, suitable for a growing population.

It is acknowledged that the loss of the Elm Avenue 'Stadium Site' was envisaged as part of a wider strategy for Sport Development in Newark. It is also a matter of public record that the Sport England consultation response for the Community and Activity Village (reference 17/01693/FULM) stated that, *"there is sufficient additional capacity and facilities on site to conclude that the provision is suitable and sufficient replacement for the loss of the Elm Street Stadium site (football)"* which is indeed replicated through their comments on the current application.

There is a comprehensive sporting and leisure offer in very close proximity to the site (less than 300m away and therefore equally accessible), which has been delivered intentionally to offer high quality sporting facilities to serve both the immediate and the wider community. These facilities, once fully built out will offer an enhanced provision in comparison to the single footpath pitch to which this application relates. Therefore in this instance, given the specific site circumstances, the loss of a protected playing field is deemed appropriate against the requirements of Policy SP8 and paragraph 97 of the NPPF.

#### Housing Type and Density




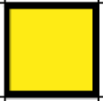



Core Strategy Core Policy 3 indicates that housing developments should be no lower than an average 30 dwellings per hectare and that sites should provide an appropriate mix of housing types to reflect local housing need. The housing mix, type and density will be influenced by the council's relevant development plan policies at the time and the housing market at the time of delivery. Paragraph 127 of the NPPF states that planning decisions should ensure that developments optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).

The application relates to outline permission for up to 9 detached dwellings which as shown by the indicative site layout would result in large spacious plots each with generous areas of amenity provision.

The site area is approximately 1.27 hectares in extent. The development of the site would represent a site density of just 7 dwellings per hectare which clearly falls significantly short of the aspirations of Core Policy 3. Regardless of the outline nature of the proposal, the site density could not be improved at reserved matters stage given that the outline permission seeks for a maximum of 9 dwellings. The Planning Statement contends that the reason for the low density is owing to the ability of the highways network to accommodate more than 9 dwellings on to the existing road network which is compromised in some respects through a reduced width of parts of Elm Avenue. This is noted as a concern through the submissions received as part of the application to a degree that it would be inappropriate to insist on a greater housing density purely to meet the numerical aspirations of Core Policy 3.

Although being purely indicative and not for formal consideration at this stage, the following dwelling mix is outlined on the plan:

## Schedule of Accommodation:

	<b>DWELLING TYPE 01 - (5 Bed detached)</b> House (GIA): Approx. 351.8m <sup>2</sup> (2 storey). Garage (GIA): Approx. 51.3m <sup>2</sup> Plot Size: 2,166m <sup>2</sup> (north), 2,231m <sup>2</sup> (south)	<b>2</b>
	<b>DWELLING TYPE 02 - (4 Bed detached)</b> House/Garage Combined (GIA): Approx. 274.6m <sup>2</sup> (2 storey) Plot Size: 720m <sup>2</sup> (north), 714m <sup>2</sup> (south)	<b>2</b>
	<b>DWELLING TYPE 03 - (5 Bed detached)</b> House/Garage Combined (GIA): Approx. 312.6m <sup>2</sup> (2 storey) Plot Size: 707m <sup>2</sup>	<b>1</b>
	<b>DWELLING TYPE 04 - (5 Bed detached)</b> House (GIA): Approx. 276.6m <sup>2</sup> (2 storey). Garage (GIA): Approx. 40.9m <sup>2</sup> Plot Size: 1,632m <sup>2</sup>	<b>1</b>
	<b>DWELLING TYPE 05 - (5 Bed detached)</b> House/Garage Combined (GIA): Approx. 287.8m <sup>2</sup> (2 storey) Plot Size: 1,288m <sup>2</sup>	<b>1</b>
	<b>DWELLING TYPE 06 - (5 Bed detached)</b> House/Garage Combined (GIA): Approx. 361.6m <sup>2</sup> (2 storey) Plot Size: 783m <sup>2</sup>	<b>1</b>
	<b>DWELLING TYPE 07 - (5 Bed detached)</b> House/Garage Combined (GIA): Approx. 313.2m <sup>2</sup> (2 storey) Plot Size: 718m <sup>2</sup>	<b>1</b>
<b>TOTAL:</b>		<b>9</b>

4 bed detached	<u>2</u>	<u>(22%)</u>
5 bed detached	<u>7</u>	<u>(78%)</u>
	<b>9</b>	<b>(100%)</b>

As a consequence of the low site density, the indicative housing mix lends itself to larger executive dwellings as outlined by the Schedule of Accommodation above which confirms that a reserved matters application could deliver 22% 4 bed dwellings and 78% 5 bed dwellings. Again, it is notable that the exact mix is not for consideration at this stage but it is my view that Officers, and indeed subsequently Members, would be at fault to ignore the fact that if the principle of 9 dwellings on the site were to be accepted, it would be difficult to envisage anything other than a development of large homes coming forward.

Core Policy 3 does identify that the housing needs of the District includes family housing of 3 beds or more but it more specifically confirms that particular emphasis will be placed on securing small houses of 2 bedrooms or less – something that this application is highly unlikely to address.

The Housing Needs Survey (2014) outlines that for the Newark Sub Area outlines that the market demand by bed size was 14.4% of respondents for 4-bed dwellings and just 8% for five or more beds. In comparison, the demand for 3 beds was 40.2% of the respondents and 2 beds was 33.7%.

Officers have carefully considered whether this should form a reason to resist the outline application in its own right notwithstanding that matters of housing size and mix are technically a consideration for reserved matters stage. However, in the context of the above conclusion that it would be inappropriate for a denser development due to the highways constraints, it is the view of Officers that it would be unreasonable to then go on to resist the application on the basis of housing mix. I am aware that the site could be developed through smaller units by leaving large expanses of open space but I am equally conscious that this is unlikely to be a viable option of developing the site and creates further issues as to how securing open space could be reasonably justified for a development of this size. It remains the case that there is a need for larger units (combined at 22.4% of the overall respondents) and therefore this site, with its associated constraints, offers the opportunity to address this need. The development would also align roughly with the housing sizes of the neighbouring homes to the north on Falstone Avenue. It is also notable that the Council has in the past lost an appeal for an outlined application on matters of density partially on the basis of surrounding site circumstances which included the presence of spaciouly set detached dwellings in close proximity (Application reference 17/00383/OUT for three dwellings at Brooklyn, Southwell).

It remains the case that the development of the site as proposed could achieve no more than a density of 7 dwellings per hectare. It is also reasonable to assume that if outline permission were to be granted, then an associated reserved matters submission would feature large executive dwellings. In this respect the application is contrary to Core Policy 3. This must in Officers view weigh negatively in the overall balance undertaken below.

#### Impact on Highways

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

The constraints of the local highways network has already been acknowledged above and indeed has been raised as a cause of concern through the consultation process of the application. The application has been accompanied by a Highways Report undertaken by ADC Infrastructure Limited and dated January 2019. The report details the accessibility and sustainability of the site before describing the development in more detail in highway terms. It confirms that the development would provide 12 car parking spaces as well as individual dwellings being served by garages albeit this level of detail is not for consideration at outline stage.

It is however necessary to fully assess the suitability of the single point vehicular access for the residential development of the site. This is intended to be a priority controlled T junction from Elm Avenue with a 4.8m wide carriageway with 2m wide footways on each side of the road. It is stated that visibility splays of 2.4m by 43m are achievable in both directions. Trip generation is estimated at around 6 trips in peak hours, or one every 10 minutes.

The proposal has been assessed by Nottinghamshire Country Council with their comments listed in full above. In summary no objection has been raised to the development subject to conditions which can reasonably be secured. The original comments did request slight amendments to be shown on a revised plan but the applicant has requested that these be secured by condition and the Highways Authority have confirmed that this would be an acceptable approach. In the context of their expertise, the development is deemed compliant with Spatial Policy 7 and the relevant criteria of Policy DM5.



### Impact on Character and Design

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive. Core Policy 9 states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development (noting that a number of these factors would not be able to be considered until reserved matters stage).

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 given the presence of the Conservation Area opposite the site, development will also need to satisfy Policy DM9. The policy requires that development must promote local distinctiveness and protect heritage assets (including their setting).

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 application has been accompanied by a number of indicative drawings of the varying house types as well as a Design and Access Statement to detail the rationale behind the intended design. It is noted that the development has sought to respond to the local vernacular and design cues including hipped roofs and bay windows. The application also states an intention for the use of traditional red brick materials with clay plain tiled roofs predominantly.

It is noted that the Design and Access Statement refers to maximum heights of 12m from ground level to ridge line excluding any point features. This has been raised as a concern during the consultation process by numerous parties. It is fully acknowledged that a 12m dwelling height would be a departure from the surrounding neighbouring properties and as such Officers remain to be convinced that this would be appropriate in the context. However, this is not a matter to consider at outline stage given that the exact scale is yet to be agreed. The finer details would be considered at reserved matters stage in outline permission is to be forthcoming. The applicant should however note that if dwellings do come forward at the scale implied by the Design and Access Statement it is highly likely that Officers would request for the submission of street scenes / cross sections across the site to fully understand the impacts of the development. This would also need to address the comments of the Conservation Officer listed in full above in respect to the overall character implications.

Noting the residential context of the site surroundings and the intentions of the indicative submissions, Officers have not identified any potentially harmful character or amenity impacts which would prevent the approval of an outline planning submission. This includes in the context of the nearby designated heritage assets. The exact details of the scheme would remain subject to the reserved matters approval.

### Impact on Ecology and Trees

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements

of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment.

The application site largely forms a vacant playing field albeit there is a small club house pavilion towards the Elm Avenue boundary of the site. There is also a group of trees near the western boundary and several off site trees in close proximity to the site.

The application has been accompanied by a Preliminary Ecological Appraisal dated January 2019 which identified that the pavilion building could be used by bats and therefore made recommendations for a subsequent bat survey. This has been duly undertaken and submitted as part of the application submission. It is stated that a close inspection of the pavilion building revealed no evidence of bats and that the roof void showed signs of damp and water ingress with very little opportunity for roosting. The overall conclusion is that the building is considered to have negligible suitability for roosting bats. It does however go on to suggest mitigation measures such as the inclusion of bat tubes or boxes and also a bat mitigation method statement for construction briefing as a precaution. These could be secured by a suitably worded condition should approval be granted.

The application has also been accompanied by a Tree Survey of the site which identifies 7 trees on the site and a number of trees surrounding the site. 1 of the trees (False Acacia) is considered as a Category B tree with the remainder being Category C. A Tree Protection Plan has also been submitted demonstrating that the 7 trees at the front of the site could be retained even in respect of the indicative layout submitted (albeit if this exact layout were to come forward there may be some comprises to the garden area of one of the plots). Given the classification of the majority trees as Category C I do not consider it necessary at outline stage to secure protection of the specimens. There is an expectation that if the site were to come forward for residential development it would include further details of landscaping which could be imposed as a condition at outline stage.

#### Impact on Amenity

Policy DM5 requires a consideration of amenity impacts both in respect to amenity provision for occupiers and amenity impacts to neighbouring properties. A minimum level of information is required in order to fully consider the implications of the proposals when outline applications are considered. If outline permission were to be forthcoming then the specific details of the scheme in terms of amenity impacts would need to fully considered.

Notwithstanding the above, it is notable that a number of interested parties have commented specifically on the amenity implications of the scheme raising concern in respect to overbearing; overshadowing and overlooking issues. The submitted Design and Access Statement in some way lends itself to a more thorough amenity assessment than would be necessary at outline stage by discussing some of the design principles that the development is expected to follow. These include a 10m buffer between built form and site boundaries and maximum building heights of 12m to ridge line as already referred above.

In respect to the referenced ridge height this is notably higher than a typical two storey dwelling presumably due to the expansive footprints indicatively shown. However, these heights (if they do come forward at reserved matters stage pending outline approval) would be potentially somewhat mitigated by the spacious plots of the dwellings which indicatively demonstrate a minimum distance of around 26m rear to rear elevation. There are closer distances of built form indicated at

around 14m but this would be a rear to side elevation relationship. Again, it is likely that Officers would be requesting cross sections of the site to understand the resultant amenity relationships.

It would be inappropriate and ill advised to thoroughly assess amenity impacts at this stage given that the layout submitted is not been formally proposed and could change before any form of development comes forward. It is fully appreciated that the amenity relationship for neighbouring residents will be fundamentally changed from the existing scenario of an open playing field. However, taking account of the low density residential scheme proposed at the site, Officers are satisfied that a reserved matters submission could appropriately demonstrate amenity relationships that secure both neighbouring amenity provision (including appropriate boundary treatments) and provide appropriate amenity provision for proposed occupiers. On this basis, it would be unreasonable and unnecessary to resist the application against the amenity provisions of Policy DM5.

### Flood Risk and Drainage

The application site is within Flood Zone 1 in its entirety albeit a small proportion of the centre of the site is at a low risk of surface water flooding. The application has been accompanied by a Flood Risk Assessment owing to the site area being over 1 hectare but NCC as the Lead Local Flood Authority have not provided comments specific to this application. As part of the proposed development a new surface water drainage system will be constructed which will be designed to cater for all surface water runoff from the development. The submitted FRA confirms that appropriate maintenance schedules will need to be specified to ensure SUDS features are performing as intended for the lifetime of the development. Subject to the details of the drainage coming forward as part of any reserved matters submission, there would be no reason to resist the application on matters of flooding or drainage.

### Developer Contributions and CIL

Core Strategy Spatial Policy 6, policy DM3 of the Allocations & Development Management DPD and the Developer Contributions and Planning Obligations Supplementary Planning Document present the policy framework for securing developer contributions and planning obligations.

### *Affordable Housing*

The qualifying thresholds for affordable housing provision requires some careful consideration. Paragraph 63 of the NPPF confirms that *“provision of affordable housing should not be sought for residential developments that are not major developments.”* For housing, major development is defined as being where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. The proposed application thereby falls into the major category by virtue of its site area.

Despite the Amended Core Strategy being adopted after the publication of the 2019 NPPF, the drafted Core Strategy document was examined under the previous NPPF (2012). Paragraph 213 of the NPPF (2019) therefore applies, which states:

*“...existing policies should not be considered out of date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*

Core Policy 1 outlines that the affordable housing provision threshold will be for: *“All housing proposals of 11 units or more or those that have a combined gross floor space of more than 1000sqm.”* The first element of the proposal does align with the NPPF but the latter point in respect to the floor space threshold does not as it could easily relate to non-major development (i.e. this proposal if the site area was below 0.5 hectares). On this basis, limited weight can be attached to this element of Core Policy 1. This application relates to less than 10 dwellings and therefore in line with the NPPF for this specific application it would be inappropriate and unreasonable to seek a contribution towards affordable housing.

#### *Other Contributions*

The proposal for up to 9 dwellings does not meet the thresholds for any of the other contributions outlined by the Developer Contributions SPD.

#### *CIL*

The development would however be liable to make a CIL contribution on the basis of £45 per square metre of internal floor area. The exact amount would be calculated at reserved matters stage.

#### Overall Balance and Conclusion

The proposal relates to the residential development of the site for up to 9 dwellings. The site is within the Newark Urban Area and therefore represents a sustainable settlement where further development is supported in principle. However, the site is subject to constraints notably in respect to its allocation as a protected playing field but also a compromised highways network surrounding the site specifically through the inconsistent width of Elm Avenue.

As is detailed in the appraisal above the loss of the playing field, whilst regrettable, is acceptable against Spatial Policy 8 on the basis of the recently enhanced sporting and leisure offer in close proximity to the site at the Leisure Centre and the ongoing development of the Community and Activity Village.

There remains other compromises to the scheme, notably in respect to the low site density which allows for the development of larger homes which would not meet the most identified need of the area. However, when weighed against the housing contribution that even 9 dwellings would provide, and also taking account the constraints of the site in terms of the access road which would prevent a greater density of development, the matter of housing mix is not considered fatal to the overall scheme.

Being outline in nature, there are a number of finer details which are not for consideration at this stage. Having said that, on the basis of the site area and the indicative information submitted, Officers are confident that a reserved matters submission could demonstrate an acceptable scheme in respect to character and amenity impacts.

In the absence of any other identified harm, the proposal is recommended for approval subject to the conditions outlined below.

## **RECOMMENDATION**

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

### Conditions

01

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

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

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

02

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

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

03

Any details submitted in relation to reserved matters for landscaping shall include a schedule (including planting plans and written specifications, cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species and shall include details of a management plan.

Reason: In order to ensure the landscaping of the site promotes biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2019).

04

The development hereby permitted authorises the erection of no more than 9 dwellings.

Reason: To define the planning permission.

05

Any details submitted in relation to reserved matters shall include a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme shall subsequently be implemented in accordance with the approved details. The scheme to be submitted shall incorporate:

- Drainage from the site should be via a sustainable drainage system. The hierarchy of drainage options should be infiltration, discharge to watercourse and finally discharge to sewer subject to the approval of the statutory utility. If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests.

- For greenfield areas, the maximum discharge should be the greenfield run-off rate (Qbar) from the area.
- The site drainage system should cater for all rainfall events upto a 100year + 30% climate change allowance level of severity. The underground drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% cc event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.
- The drainage system should include a 2-stage treatment of the rainfall from hardstanding areas in accordance with Ciria C697 to reduce the risk of pollution to the environment.
- Responsibility for the future maintenance of drainage features.
- A timescale for implementation of the scheme.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.

06

Before the development is occupied, details of bat boxes and bird nest boxes to be placed on either retained trees or new housing on the perimeters near to hedge/tree lines and a timetable of implementation shall be submitted to and approved in writing by the District Council. Once approved the bat boxes and bird nest boxes shall be erected in accordance with the approved details and retained for the lifetime of the development.

Reason: In order to enhance habitats on the site in accordance with the aims of the Core Policy 12 and Policy DM7 of the Development Plan and the National Planning Policy Framework (2019).

07

The development hereby approved in the context of the demolition of the existing pavilion shall be carried out in accordance with Chapter 7 of the Preliminary Bat Roost Assessment dated January 2019 undertaken by Weddle Landscape Design in respect to the Bat Construction Method Statement.

Reason: In order to protect the presence of any species on the site in accordance with the aims of the Core Policy 12 and Policy DM7 of the Development Plan and the National Planning Policy Framework (2019).

08

No development shall commence on any part of the application site unless or until the carriageway width of Elm Avenue along the site frontage is widened to 4.8m 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.

09

No development shall commence on any part of the application site unless or until the eastern footway of Elm Avenue is improved to provide dropped kerbs and tactile paving, and minor kerb realignment and vehicle crossing improvement are provided outside the garages to no. 1 Elm

Avenue 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.

10

No part of the development hereby permitted shall be brought into use until the access into the site has been designed to have a minimum width of 4.8m in accordance with details to be first submitted to and approved in writing by the Local Planning Authority and thereafter constructed in accordance with the approved details.

Reason: In the interests of highway safety.

11

The formal written approval of the Local Planning Authority is required prior to commencement of the development with regard to parking and turning facilities, access driveway widths, gradients, surfacing, street lighting, and drainage of the site. All details submitted to the Local Planning Authority for approval shall comply with the current Notts County Council highway design guidance and shall be implemented as approved.

Reason: In the interests of highway safety.

### **Notes to Applicant**

01

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

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved. The actual amount of CIL payable will be calculated when a decision is made on the subsequent reserved matters application.

02

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

03

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

### **BACKGROUND PAPERS**

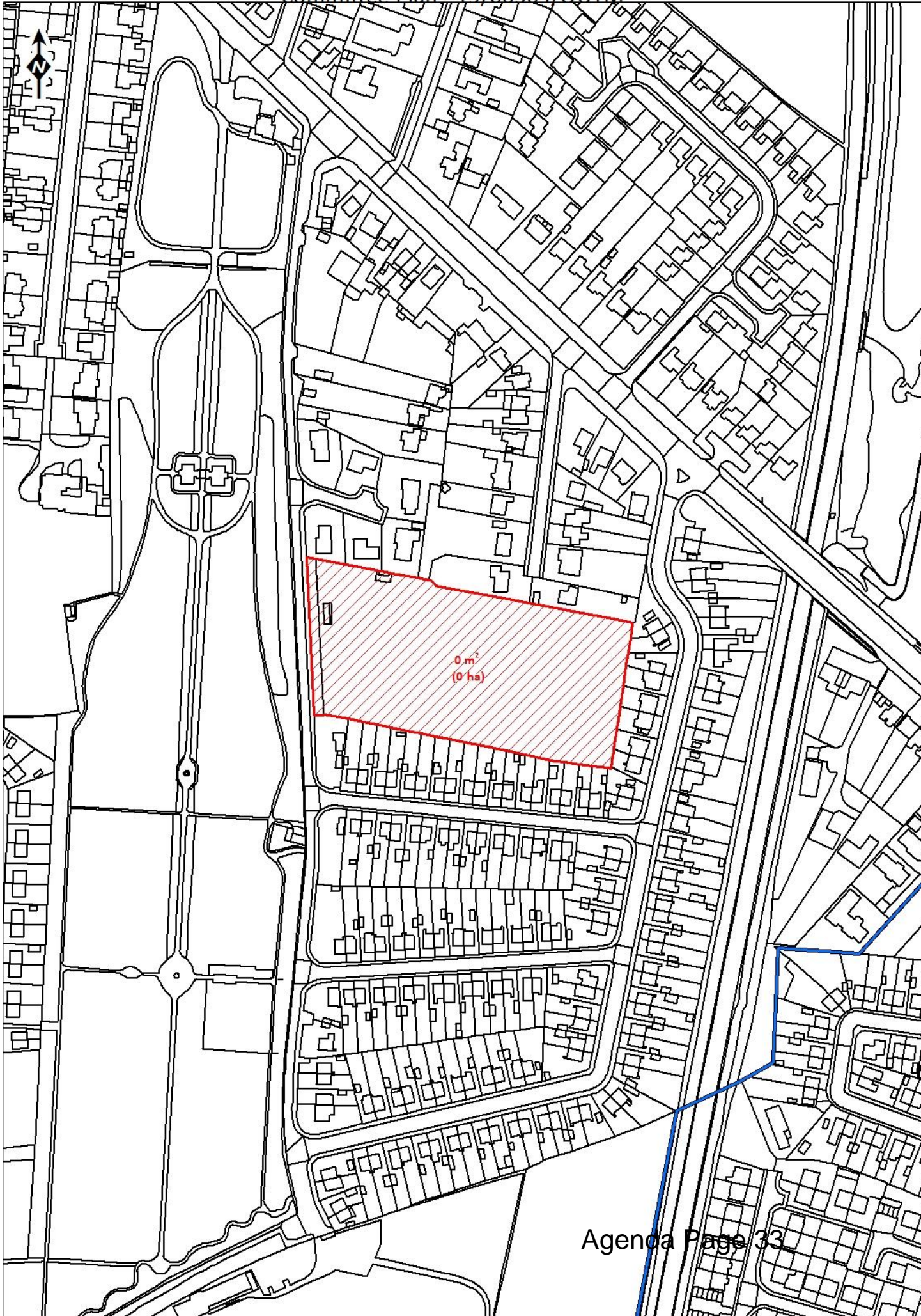
Application case file.

For further information, please contact Laura Gardner on extension 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 and Regeneration**







## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>18/01363/FULM</b>		
<b>Proposal:</b>	<b>Proposed residential development for 80 dwellings</b>		
<b>Location:</b>	<b>Land Off Lower Kirklington Road, Southwell</b>		
<b>Applicant:</b>	<b>CAPLA Developments Ltd</b>		
<b>Registered:</b>	<b>18 July 2018</b>	<b>Target Date:</b>	<b>17 October 2018</b>
	<b>Extension of Time Agreed Until 6 June 2019</b>		

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Southwell Town Council has objected to the application which differs to the professional officer recommendation.**

### The Site

The site comprises approx. 2.76 hectares of land on the northern side of Lower Kirklington Road, opposite its junction with Kirklington Road and to the west of the residential development centred around Orchard Close at the north-western edge of Southwell, forming the very edge of the defined urban boundary. The site forms a narrow strip leading from Lower Kirklington Road which then widens considerably to the rear of existing houses fronting the road (namely Pear Tree Cottage, The Beacon, Red Roof and High Gables). The site then widens slightly again adjacent to its rear boundary. The site is low lying, relatively flat, although gently sloping and enclosed by substantial planting to the north and west. Pear Tree Cottage, fronting Lower Kirklington Road is considered to be a non-designated heritage asset.

Currently a mix of fields, some more open, some overgrown with vegetation bounded by hedgerows, the site also accommodates a private access road that serves Malkiln Cottage and Hopkiln Cottage, which are located between the rear of the houses in Orchard Close and the Southwell Trail. The site is gently sloping with higher levels adjacent to the road and levels reducing towards the northern part of the site, with ranges from 35.5m AOD at the southern end to 27.89m AOD at the north-western corner. There is a Public Right Of Way that runs along the private right of way from Kirklington Road. Two thirds of the way into the site, the right of way divides into two, one forks heads eastwards and one heads westwards but they both link up with the Southwell Trail. These PROWs are also identified as Ramblers Rights of Way (Southwell FP57 and Southwell FP58). The Southwell Trail is defined as a local nature reserve, and is a narrow footpath and Bridle Way 78 which at this point is fully enclosed by mature hedgerow on either side. There are currently two openings close to the application site that allow pedestrian access onto the Trail, one to the west of the site (Footpath 58) and one to the east of the site, although the position of the latter one is shown incorrectly on the proposed site plan which is in fact is much further to the east (Footpath 57) close to the open space and children’s play area to the rear of Ridgeway. There is therefore no existing link directly to the Southwell Trail from the application site.

Located within Hallouhgton Village Farmlands of the wider Mid-Nottinghamshire farmlands regional character, the site is bound to the west by a continuous mature native hedgerow, beyond which are allotments and agricultural fields in the open countryside. There is an existing residential property known as Meadow Cottage that is situated approx. 260m to the north-west of the application boundary. The northern boundary also comprises hedgerow which divides the site from the Southwell Trail (which is set approx. 1 above the ground level of the site), beyond which is open countryside and the River Greet. The eastern boundary at its northern end is defined again by hedgerow, beyond which are smaller open fields which are mown and managed and appear to be used as open space being used by the occupiers of Malktiln and Hopkiln Cottages. However, the majority of the eastern boundary is formed by the rear gardens of the two storey dwellings fronting Orchard Close. The southern boundary is formed by the rear gardens of houses fronting Lower Kirklington Road with a slim section of managed hedgerow, which is interrupted by the current private road that forms the current vehicular access to the site. There are two deep but narrow water ditches that run along field boundaries in a south-western to north-eastern direction towards the Southwell Trail.

The application site is within the defined urban boundary of Southwell and along with a triangular shaped area to the east (northern end) and a narrow strip of land that runs towards Lower Kirklington Road on the current residential curtilage of the property known as High Gables is allocated for residential development for around 60 dwellings under Policy So/Ho/5.

The site is within Flood Zone 1, which means it is at low risk of fluvial flooding although it is prone to surface water flooding.

#### Relevant Planning History

On the central part of the application site, with access through the demolition of High Gables fronting Lower Kirklington Road:-

15/00475/OUTM - Site for a maximum of 12 dwellings with point of access onto Lower Kirklington Road to be determined, approved 27.10.2016, not implemented.

On land within the highway at the junction of Lower Kirklington Road and Kirklington Road T-junction:-

13/00823/FUL - Formation of New Vehicular Access and Mini Roundabout with Associated Highway Works, approved 20.08.2013, not implemented and has now lapsed. The plans showed a 3-arm roundabout between Lower Kirklington Road and Kirklington Road and a separate T-junction created to serve the allocated to the south of Lower Kirklington Road known as So/Ho/4.

On land to the west of the application site:-

14/01237/FUL - Create a new vehicular access to proposed allotments with associated gate and fencing, approved 1.12.2014, which has been implemented.

16/00581/FUL - Application to vary condition 8 in relation to landscaping, attached to planning permission 14/01237/FUL for Create a new vehicular access to proposed allotments with associated gate and fencing, approved 9.06.2016

16/00591/FUL - Application to remove condition 5 in relation to provision of footway,

attached to planning permission 14/01237/FUL for Create a new vehicular access to proposed allotments with associated gate and fencing, refused 3.06.2016

### The Proposal

The application was originally submitted with a proposal for 105 dwellings on this site. Through months of negotiation, when the quantum of development was slowly reduced, a scheme for 80 dwellings was finally arrived at as the minimum amount of development to make the scheme financially viable, although no evidence has been submitted by the applicant to demonstrate this. The applicant has also stated that as result of reducing the number of units on the site, the sizes of units has had to be increased to enable the scheme to stack up in viability terms although again no evidence has been submitted to this effect. Officers have not requested viability evidence on the basis that the scheme is 'developer contributions compliant'.

As originally submitted the access to the application site was provided by a 4-arm roundabout comprising two arms on Lower Kirklington Road, one arm serving Kirklington Road and the final arm serving the application site. The submission sought to demonstrate that a roundabout junction would be safe and would be the most appropriate method given its sensitive position on the outskirts of the town and adjacent to open countryside. However, the Highway Authority made it clear in their first consultee comments (set out below) that a 4-arm roundabout would, in their option, be a dangerous feature in highway safety terms. On the knowledge that the planning officer would not recommend approval of the scheme contrary to the views of the Highway Authority, the applicant reluctantly submitted an alternative traffic light-controlled junction to provide access to the site. This has been submitted recently and at the time of print has been agreed as acceptable in principle by the highway authority.

The scheme currently seeks approval of 80 dwellings of both market (70%) and affordable (30%) accommodation with associated infrastructure and open space. The application has been amended during its lifetime through negotiations such that the schedule of accommodation sought for approval is set out below.

<b>Affordable</b>	<b>Tenure</b>	<b>No of Beds</b>	<b>No of storeys</b>	<b>No provided</b>
Type A	Rent	1	2	2
Type B	Rent	2	2	10
Type B	Shared Ownership	2	2	7
Type C	Rent	3	2	2
Type C	Shared Ownership	3	2	3
<b>Total</b>				<b>24</b>
<b>Market</b>				
Type D		1	2	8
Type F		2	2	4
Type G		2	2	7
Type H		3	2.5	12
Type I		4	2	4
Type K		6	2.5	6
Type L		5	2.5	7
Type M		4	2.5	8
<b>Total</b>				<b>56</b>

The properties within the site would be delivered through a series of different house types, with brick being the predominant material (two houses have rendered frontages). The two storey properties vary in height from approx. 8.23m to the ridge, rising to a maximum of 9.7m, within the 2.5 storey dwellings positioned towards the northern part of the site. The site layout plan demonstrates a foul and surface water pumping station in the north-western corner of the site (required to pump drainage from the new development to Lower Kirklington Road), and children's play area that sits at the northern end of an area of open space (which includes an attenuation pond) that runs along the western boundary of the site. The plan indicates a new pedestrian and cycle link from the site to the Southwell Trail (although no details have been submitted) but incorrectly identifies an existing link at the north-eastern corner of the site.

The affordable housing element of the scheme is located adjacent to the eastern boundary of the site in a courtyard formation, but also includes 3 market units in the north-eastern corner. The vehicular access to serve Malkiln and Hopkiln Cottages is maintained as well as the potential to access the remainder of the allocated site to the north-east of the site.

The site is served by one access point from Lower Kirklington Road and the layout therefore centres around a number of cul-de-sacs and courtyards. Strategic landscaping strips are identified along the western and northern boundaries of the site which are to be reinforced and managed by a future Management Company. Existing hedgerows along the other boundaries of the site are to be retained and reinforced, as well as the majority of hedgerows within the site itself. The existing FP57 Right of Way in its current position would lie alongside the proposed road, so the site layout proposes to re-direct this footpath to run within the proposed open space. The existing FP58 would continue in its existing position and runs along a new road for a short section.

#### The Submission (as currently amended)

- Revised Figure 3.5 Traffic Signals received 20 May 2019;
  - Revised Figure 3.6 Artic Swept received 20 May 2019;
  - Revised Figure 3.7 RCV Swepts received 20 May 2019;
  - Safety Audit 2179B Stage 1 Feedback Form, Version 2 dated 20 May 2019, received 21 May 2019.
- 
- Site Location Plan (Drawing No: 618-2-000 Rev A) received 29.04.2019;
  - Proposed Site Layout Plan (Drawing No: 816-2-001 Rev F) received 7 May 2019;
  - Proposed Site Layout Plan – Materials (Drawing No: 618-2-003 Rev C) received 7 May 2019;
  - Plots 54-61 Plans (Drawing No: 618-2-100 Rev A) received 21.05.2019;
  - Plots 54-61 Elevations (Drawing No: 618-2-101 Rev A) received 21.05.2019;
  - Plots 62-66 Plans (Drawing No: 618-2-102 Rev A) received 21.05.2019;
  - Plots 62-66 Elevations (Drawing No: 618-2-103 Rev A) received 21.05.2019;
  - Plots 67-76 – Plans (Drawing No: 618-2-104) received 29.04.2019;
  - Plots 67-76 – Elevations (Drawing No: 618-2-105) received 29.04.2019;
  - Plots 77-80 – Plans (Drawing No: 618-2-106) received 29.04.2019;
  - Plots 77-80 – Elevations (Drawing No: 618-2-107) received 29.04.2019;
  - Type A – 1B 2P – Plans (Drawing No: 618-2-A01 Rev A) received 29.04.2019;
  - Type A – 1B 2P – Elevations (Drawing No: 618-2-A02 Rev A) received 29.04.2019;
  - Type B – 2B 4P House – Plans (Drawing No: 618-2-B01 Rev C) received 29.04.2019;
  - Type B – 2B 4P House – Elevations (Drawing No: 618-2-B02 Rev C) received 29.04.2019;

- Type C – 3B 5P House – Plans (Drawing No: 618-2-C01 Rev B) received 29.04.2019;
  - Type C – 3B 5P House – Elevations (Drawing No: 618-2-C02 Rev C) received 29.04.2019;
  - Type D – 1B 2P Quarter House – Plans (Drawing No: 618-2-D01 Rev A) received 29.04.2019;
  - Type D – 1B 2P Quarter House – Elevations (Drawing No: 618-2-D02 Rev A) received 29.04.2019;
  - Type F – 2B 4P House – Plans (Drawing No: 618-2-F01 Rev A) received 29.04.2019;
  - Type F – 2B 4P House – Elevations (Drawing No: 618-2-F02 Rev A) received 29.04.2019;
  - Type G – 2B 4P House – Plans (Drawing No: 618-2-G01 Rev C) received 29.04.2019;
  - Type G – 2B 4P House – Elevations (Drawing No: 618-2-G02 Rev C) received 29.04.2019;
  - Type H – 3B 6P House – Plans (Drawing No: 618-2-H01 Rev A) received 29.04.2019;
  - Type H – 3B 6P House – Elevations (Drawing No: 618-2-H02 Rev B) received 29.04.2019;
  - Type I - 4B 7P House – Plans (Drawing No: 618-2-101 Rev A) received 29.04.2019;
  - Type I - 4B 7P House – Elevations (Drawing No: 618-2-102 Rev A) received 29.04.2019;
  - Type K - 6B 9P House – Plans (Drawing No: 618-2-K01 Rev B) received 29.04.2019;
  - Type K - 6B 9P House – Elevations (Drawing No: 618-2-K02 Rev B) received 29.04.2019;
  - Type L - 5B 9P House – Plans (Drawing No: 618-2-L01 Rev A) received 29.04.2019;
  - Type L - 5B 9P House – Elevations (Drawing No: 618-2-L02 Rev B) received 29.04.2019;
  - Type L v 1 – 5B 9P House – Elevations (Drawing No: 618-2-L03 Rev A) received 29.04.2019;
  - Type M - 4B 7P House – Plans (Drawing No: 618-2-M01 Rev B) received 29.04.2019;
  - Type M – 4B 7P House – Elevations (Drawing No: 618-2-M02 Rev B) received 29.04.2019;
  - Proposed Street Elevations (Drawing No: 618-2-300) received 29.04.2019;
  - Landscape and Visual Impact Assessment Addendum by Influence Environmental Ltd dated May 2019 received 29.04.2019;
  - Illustrative Masterplan Final (Drawing No: INF\_N0490(03)001A) received 29.04.2019;
  - Western Buffer Strip Planting Plan Sheet 1 of 2 (Drawing No: (96)001 Rev F) received 29.04.2019;
  - Western Buffer Strip Planting Plan Sheet 2 of 2 (Drawing No: (96)002 Rev F) received 29.04.2019;
  - Proposed Tree and Hedgerow Works (Drawing No: 618-2-004 Rev B) received 29.04.2019;
  - Proposed Planted Buffer Sections (Drawing No: 618-2-005) received 29.04.2019;
- 
- Covering letter from Aspbury Planning Ltd dated 29 April 2019;
  - Revised Access Proposals – Technical Note 1 by Armstrong Stokes & Clayton dated April 2019;
  - Flood Risk – Technical Note 2 by Armstrong Stokes & Clayton Ltd dated April 2019;
  - Matrix of Consultee Comments by Aspbury Planning Ltd received 29 April 2019;
  - Design Statement v2 by Core Architects received 29 April 2019;
- 
- Design Statement by Core Architects received 17 January 2019;
  - Outline Travel Plan by Armstrong Stokes & Clayton Ltd dated January 2019;
  - Flood Risk Assessment by Armstrong Stokes & Clayton Ltd dated January 2019;
  - Landscape and Visual Assessment by Influence Environmental Ltd dated January 2019;
  - Verified Views by RBMP dated January 2019;
  - Transport Assessment by Armstrong Stokes & Clayton Ltd dated January 2019;
  - Affordable Housing Statement by Aspbury Planning Ltd received 17 January 2019;
  - Geophysical Survey by Sumos Surveys received 12 September 2018;
  - Spatial Planning Statement by Aspbury Planning Ltd received 16 July 2018;
  - Desk Based Assessments for the Historic Environment & Archaeology by Pre-Construct

- Archaeology and M&M Archaeological Services received 18 July 2018;
- Arboricultural Survey by Welch Design received 16 July 2018;
  - Ecology and Protected Species Surveys by Scarborough Nixon Associates Ltd dated March 2018 and May 2018 received 16 July 2018.

#### Departure/Public Advertisement Procedure

Occupiers of 34 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**

##### **Southwell Neighbourhood Plan (made 16 October 2016)**

Policy SD1 – Delivering Sustainable Development  
Policy E1 – Flood Risk Assessments and Mitigation  
Policy E2 – Flood Resilient Design  
Policy E3 – Green Infrastructure and Biodiversity  
Policy E4 – Public Rights of Way and Wildlife Corridors  
Policy E5 – Green Link  
Policy DH1 – Sense of Place  
Policy DH2 – Public Realm  
Policy TA1 – Cycle and Pedestrian routes  
Policy TA2 – Public Transport and Connectivity  
Policy TA3 – Highways Impact  
Policy TA4 – Parking Standards  
Policy CF1 – Identified Assets  
Policy CF2 – Green and Open Spaces and Burial Grounds  
Policy HE1 – Housing Type and Density  
Policy SS5 – Lower Kirklington Road (So/Ho/5)

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

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 10A – Local Drainage Designations  
Core Policy 11 – Rural Accessibility  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character  
NAP1 - Newark Urban Area  
NAP2A – Land South of Newark  
NAP 2B – Land East of Newark



NAP2C – Land around Fernwood  
SoAP1 – Role and Setting of Southwell

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

Policy So/Ho/5 – Southwell – Housing Site 5  
Policy So/Hn/1 – Southwell Housing Need  
DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
DM2 – Development on Allocated Sites  
DM3 – Developer Contributions and Planning Obligations  
DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (on-line resource)
- Affordable Housing SPD (June 2013)
- Landscape Character Assessment SPD (Dec 2013)
- Developer Contributions & Planning Obligations SPD (Dec 2013)
- Section 17 of the Crime and Disorder Act 1998

### **Consultations**

**Southwell Town Council – (16.05.2019)** “Southwell Town Council reconsidered application 18/01363/FULM Land Off Lower Kirklington Road and agreed unanimously to object to this application and to ask a district councillor to ‘call in’ to NSDC for the following reasons:

The council noted that there had been a revision to the layout of the social housing, but this had not addressed the original objections. Therefore, they reiterate the previous comments and offer an alternative solution to the traffic lights.

This application is in contravention of the Southwell Neighbourhood plan 2016. It also contravenes the NSDC Local Development Framework which incorporates the above plan and the Statement of Community involvement.

HE1 – Housing Type and Density. The number of houses has been reduced from the original application but as this development is only using 70% of the allocated site then the numbers of houses is still too high. The proportion of social housing is very welcome, but the council objects to the affordable housing being sited in one area which is also contrary to NSDC affordable housing SPD paragraphs 3.14-3.16. This approach does not help to create a sense of integration into the community and in fact creates a separation and isolation between the two groups. It is totally contradictory to British society in the 21st Century. No Bungalows are in the housing mix.

The town council supports the police and highway objections regarding the parking court within the affordable housing area of the development.

The inclusion of traffic lights is inappropriate in this rural location, at this important Gateway to Southwell and as an alternative, the town council strongly recommends a traffic calming scheme on the approach to the town from the Maythorne direction, which includes a chicane on Lower Kirklington Road. With traffic calming in place the Council cannot see the need for either traffic

lights or a mini roundabout and considers that a simple cross roads would suffice. The council believes that the simple cross roads at the Newark Road/Lower Kirklington Road/Station Road/Burgage junction is busier than the application site access.

TA3 – Highways Impact. This development has an unsustainable location that is way beyond the 800m/10 minute walk isochrone beyond which D of T research shows that most people would drive a car especially if carrying shopping. It will therefore generate a lot more car journeys thus increasing congestion and parking issues in the town centre.

E2 – Flood Resilient Design. The flood and sewage issue around Hopkilm and Maltkilm Cottages have still not been resolved. The approach to Flood Resilience that is being proposed is the most acceptable however, because some of the assumptions stated in the Analysis are erroneous, it is essential that the figures used are confirmed by the NCC Flood Department and full detailed analysis should be included with the application.

HE3 – Open Space and New Residential Developments. The overall streetscape needs to be improved to generate in sense of place. The play area is very small and situated in a high risk area at the end of a long stretch of road. It is also positioned at the opposite end of the development from the affordable housing with no safe direct route between the two.”

**(25.03.2019)** “Southwell Town Council reconsidered application 18/01363/FULM Land Off Lower Kirklington Road and agreed unanimously to object to this application and to ask Councillor Bruce Laughton to call in to NSDC for the following reasons:

The objections are as previously submitted with the additional comments regarding the traffic lights at the entrance.

It is in contravention of the neighbourhood plan:

HE1 Housing Type and Density. The number of houses has been reduced from the original application but as this development is only using 70% of the allocated site then the numbers of houses is still too high. The proportion of social housing is very welcome, but the council objects to the affordable housing being sited in one area which is also contrary of NSDC policy. This approach does not help to create a sense of community and in fact creates a separation and isolation between the two styles. It is totally contradictory to British society in the 21st Century. No Bungalows are in the housing mix. The inclusion of traffic lights is inappropriate in this rural location at the Gate to Southwell and as an alternative, the town council strongly recommend a traffic calming scheme on the approach to the town. The town council supports and police and highway objections regarding the parking court within the development and also the proposed access.

TA3 Highways Impact. This development has an unsustainable location that is way beyond the 800m/10 minute walk isochrone beyond which D of T research shows that most people would drive a car especially if carrying shopping. It will therefore generate a lot more car journeys thus increasing congestion and parking issues in the town centre.

E2 Flood Resilient Design. The flood and sewage issue around Hopkilm and Maltkilm Cottages have still not been resolved. The approach to Flood Resilience that is being proposed is the most acceptable however because some of the assumptions stated in the Analysis are erroneous it is essential that the figures used are confirmed by the NCC Flood Department

HE3 Open Space and New Residential Developments. The overall streetscape needs to be improved to generate in sense of place. The play area is very small and situated in a high risk area at the end of a long stretch of road. It is also positioned at the opposite end of the development from the affordable housing with no direct route between the two.”

**(07.02.2019)** “Southwell Town Council considered application 18/01363/FULM Land Off Lower Kirklington Road and agreed unanimously to object to this application and to ask Councillor Bruce Laughton to call in to NSDC for the following reasons:

It is in contravention of the neighbourhood plan:

HE1 Housing Type and Density. The number of houses has been reduced from the original application but as this development is only using 70% of the allocated site then the numbers of houses is still too high. The proportion of social housing is very welcome, but the council objects to the affordable housing being sited in one area which is also contrary of NSDC policy. This approach does not help to create a sense of community and in fact creates a separation and isolation between the two styles. It is totally contradictory to British society in the 21st Century. No Bungalows are in the housing mix TA3 Highways Impact. This development has an unsustainable location that is way beyond the 800m/10 minute walk isochrone beyond which D of T research shows that most people would drive a car especially if carrying shopping. It will therefore generate a lot more car journeys thus increasing congestion and parking issues in the town centre.

E2 Flood Resilient Design. The flood and sewage issue around Hopkilm and Maltkilm Cottages have still not been resolved. The approach to Flood Resilience that is being proposed is the most acceptable however because some of the assumptions stated in the Analysis are erroneous it is essential that the figures used are confirmed by the NCC Flood Department HE3 Open Space and New Residential Developments. The overall streetscape needs to be improved to generate in sense of place. The play area is very small and situated in a high risk area at the end of a long stretch of road. It is also positioned at the opposite end of the development from the affordable housing with no direct route between the two.

The town council supports and police and highway objections regarding the parking court and access.

The town council are concerned that they have not been involved in any application discussions and would welcome future involvement.”

**(14.08.2018)** “Southwell Town Council considered application 18/01363/FULM Land off Lower Kirklington Rd and agreed unanimously to object to this application and to ask that Cllr Bruce Laughton call in this application for the following reasons:

E1 Flood Risk Assessments and Mitigation and E2 Flood Resilient Design

We find that the Flood Risk Assessment is flawed in the following ways.

The problems inherent within the FRA are exacerbated by the fact that there are over twice the number of dwellings planned compared to the numbers allocated.

With reference to the Paragraph Numbers in the Flood Risk Assessment

3.9 Greenfield water runoff rate. -Penetration tests mentioned as part of the investigations for the suitability for soakaways (as part of the drainage plans) showed that drainage was insufficient for soakaways so it is likely that the runoff rate will be higher than that quoted

4.5 & 4.6 -Mention of the Potwell Dyke and the flood problems associated with this area shows a distinct lack of understanding of the character of the flooding in Southwell. This application is for land on the Northern side of town in the Halam Rd catchment area and is completely separate from the Southern (Potwell Dyke) catchment. In the FRA it was stated that around 100 houses were flooded as a result of the Potwell Dyke flooding. As there were a total of around 250 houses flooded in the town, this means that around 150 houses were flooded as a result of the problems in the Northern (HalamRd) catchment area.

Whilst this site is affected by direct flooding, it also has the potential (if developed without due care) to impact areas further downstream.

4.12 -It is stated that much of the flooding in this area is caused by blocked or ineffective drains/ gullies or blocked/deficient receiving systems, and whilst this is partially true it is not the total picture and much of the flooding in this area can be attributed to historic development without due care to the problems of pluvial water flows, and overstretched drainage systems. Is for example the 225mm combined sewer sufficient to cope with all the sewage outflow from the site as well as future planned development on allocations in the vicinity. In Para 4.16 it is stated that there was sewer/surface water flooding in 2007 and suggested that this was a similar event to that in 2013.

In fact the 2007 event was estimated to have a return rate of 1 in 140 years whereas the 2013 event was greater than 1 in 1000 years 4.15 -The Nottinghamshire County Council surface water flood map (included as Appendix F) shows that approximately 10% of the site is susceptible to surface water flooding. The FRA further suggests that the water in the flood paths would be diverted away from the site by hedgerows and densely wooded areas. This is an assumption that is unjustified and was not the case in 2013 in similar woode areas around Hopkiln Lane

5.5 -In this paragraph it is stated that it is proposed to connect the foul sewer to the 225 mm combined sewer in Lower Kirklington Rd. Is this 225mm combined sewer sufficient to cope with all the sewage outflow from the site as well as all future planned development on allocations in the vicinity?

7.5,7.6,7.7,7.8 & 7.9 -There is certainly anecdotal evidence from the owners of the two adjacent cottages that flooding occurred in 2007 and 2013, and this corroborates the evidence of the NCC Flood map.

In fact at the recent Southwell Town Council Planning committee meeting on the 1st August the owners of the two cottages stated that in times of heavy (but not excessive), rainfall they have flooding and suffer the effects of excess water in their drains (blocked drains and toilets). They further stated that this occurs most years.

Overall the strategy to overcome flooding is the only reasonable solution however because of the inaccuracies and incorrect assumptions used in the FRA there are strong reasons to doubt the figures and sizing of the balancing ponds and underground tanks, as well as the ability of the existing drain network in that area of Southwell to cope with a 1 in 140 year event.

In addition it is imperative that a system for maintenance for the balancing pond, tanks and the permeable paving and driveways is put in place to ensure the continued operation at design levels.

E4 Public Rights of Way -Doesnt conform to NP policy E4 and SS5 vi as the proposed public right of way runs along estate road.

E6 Climate Change and Carbon Emissions -Solar/PV panels would be beneficial

TA1 Cycle and Pedestrian Routes Doesnt conform to NP policy E4 and SS5 vi as runs along estate road.

TA3 Highways Impact- Dismisses extra traffic and says most would not walk to the town Centre. However it is way beyond the 800m/10 minute walk isocrone beyond which D of T research shows that most people would walk especially if carrying shopping.

HE1 Housing Type and Density38 dph Doesn't quite conform to DC or NP type %ages although the correct proportion of social housing is very welcome.

Dwelling numbers 105 far more than allocated in this unsustainable location which will generate a lot of car journeys with congestion and parking issues in the town centre.

No Bungalows are in the housing mix HE3 Open Space and New Residential Developments Inadequate open space and in the wrong place.. NSDC Green Space Improvement plans show a shortfall of Provision in North Ward amounting to 1.29ha for Children and young people and 1.28ha for parks and gardens. It goes on to say Any significant new housing in the areas may require additional provision considering current deficiency levels.

Site Specific Policy compliance:

SS5 ix Doesn't provide central open space/play area to give a sense of place and focal point for the development. The creation of a central green space in the region of plots 59-72 with houses facing it would give a sense of place, a play area, green space and would result in a less orthogonal plan form giving more interesting rooflines when viewed from outside the site.

SS5 ii & Design Guide doesn't address the transition into the town - lack of variety in roof heights and orientation very orthogonal and high density in regimented rows, contrary to the Design Guide. A lot of very similar house types visually.

SS5 ii doesn't retain hedges H5 & H6 which are on the NP proposals map as important landscape vegetation see SS5 ii Appendix 1 Southwell Design Guide 8m wide maintenance buffer not provided (see design guide Natural Environment) Social housing not mixed in, in contravention of NSDC Affordable Housing SPD paras 3.14-3.16 Blank gable ends at the entrance to the site in contravention of Neighbourhood Plan Design Guide

**NCC Highways Authority – (15.05.2019)** “I have now noticed that drawing 618/2/001/F shows shared surface roads. If these are intended to be adopted as public highway (as I believe they are) they are inappropriate and unacceptable. By all means different materials may be used for carriageways and footways, but they should be kept separate.

In addition I don't believe my previous comments about parking have been fully addressed i.e.

*Parking provision is insufficient in some parts of the development and will lead to onstreet parking. 4 and 5 bedroom dwellings should have at least 3 car spaces each. Also, in these cases, spaces should not be fully in tandem since this also leads to onstreet parking to avoid the shuffle movements when a car furthest away from the road needs to be used.”*

**(18.03.2019)** “Further to comments dated 30 January 2019, I refer to submitted drawing 618-2-001D, there are a number of issues that remain unresolved and lead this Authority to the conclusion that this application should be refused. These issues include:

1. A 4-arm mini-roundabout is not considered an appropriate and safe means of access, particularly in light of recommendation 3.2 made within the Road Safety Audit. The designer's response to the audit is considered unsatisfactory in addressing the recommendation to seek an alternative junction arrangement. A traffic signal controlled option was previously recommended to the applicant/agent.

2. Insufficient account has been taken of the access arrangement associated with planning permission 13/00823/FUL and therefore compromises the access arrangement of an allocated strategic housing site within the District Council's Local Development Framework.

3. A footway, rather than a service margin, is required outside plots 28-39.

4. Parking provision is insufficient in some parts of the development and will lead to on-street parking. 4 and 5 bedroom dwellings should have at least 3 car spaces each. Also, in these cases, spaces should not be fully in tandem since this also leads to on-street parking to avoid the shuffle movements when a car furthest away from the road needs to be used.

In conclusion, it is recommended that this application be refused on the grounds that it fails to meet the requirements of Spatial Policy 7 insofar as it:

i) fails to provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and cycleways, so as to maximise opportunities for their use;

ii) fails to provide safe access;

iii) fails to ensure new parking problems will not occur.

In addition the proposal compromises the ability to develop Housing Allocated Site So/Ho/4 contained in the Adopted Allocations & Development Management Development Plan Document."

**(30.01.2019)** "Further to comments dated 15 August 2018, I refer to submitted drawing 618-2-003B, , and Figure 3.2 (contained within the Transport Assessment), there are a number of issues that lead this Authority to the conclusion that this application should be refused. These issues include:

1. A 4-arm mini-roundabout is not considered an appropriate and safe means of access, particularly in light of recommendation 3.2 made within the Road Safety Audit. The designer's response to the audit is considered unsatisfactory in addressing the recommendation to seek an alternative junction arrangement. A traffic signal controlled option was previously recommended to the applicant/agent.

2. Insufficient account has been taken of the access arrangement associated with planning permission 13/00823/FUL and therefore compromises the access arrangement of an allocated strategic housing site within the District Council's Local Development Framework.

3. Footway arrangements are unusual, inconsistent and unacceptable for adoption; with missing lengths, and some behind unadoptable parking spaces. Even in the rare locations where a footway could be omitted, no adoptable service margins appear to have been proposed.

4. The parking layout associated with plots 54-80 offer some amenity issues with parking in some instances either being remote or not overlooked. This may lead to random on-street parking and/or neighbour disputes.

5. Some parking spaces are inconvenient and remote from the dwellings they serve and would lead to on-street parking i.e. plots 5 and 24-27.

In conclusion, it is recommended that this application be refused on the grounds that it fails to meet the requirements of Spatial Policy 7 insofar as it:

- i) fails to provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and cycleways, so as to maximise opportunities for their use;
- ii) fails to provide safe access;
- iii) fails to ensure new parking problems will not occur.

In addition the proposal compromises the ability to develop Housing Allocated Site So/Ho/4 contained in the Adopted Allocations & Development Management Development Plan Document.”

**(15.08.2018)** “With regard to submitted drawing 618-2-002A, and Figure 3.2 (contained within the Transport Assessment), there are a number of issues that lead this Authority to the conclusion that this application should be refused. These issues include:

1. A 4-arm mini-roundabout is not considered an appropriate and safe means of access, particularly in light of recommendation 3.2 made within the Road Safety Audit. The designer’s response to the audit is considered unsatisfactory in addressing the recommendation to seek an alternative junction arrangement. A traffic signal controlled option was previously recommended to the applicant/agent.
2. Insufficient account has been taken of the access arrangement associated with planning permission 13/00823/FUL and therefore compromises the access arrangement of an allocated strategic housing site within the District Council’s Local Development Framework.
3. The footway on the eastern side of the access is curtailed shortly north of its junction with Lower Kirklington Road. This means that residents of a large proportion of the development would have to walk across the access road twice to travel on the desire line to local facilities/town centre.
4. Road 2 lacks any footway on its western side, and again does not cater for the pedestrian desire line.
5. It is unclear how pedestrian / cycle links are to be fully made with the Southwell Trail, and whether or not these are publicly available or have to cross private land.
6. Some parking spaces are inconvenient and remote from the dwellings they serve and would lead to on-street parking i.e. plots 94, 95, 97.

In conclusion, it is recommended that this application be refused on the grounds that it fails to meet the requirements of Spatial Policy 7 insofar as it:

- i) fails to provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and cycleways, so as to maximise opportunities for their use;
- ii) fails to provide safe access;
- iii) fails to ensure new parking problems will not occur.

In addition the proposal compromises the ability to develop Housing Allocated Site So/Ho/4 contained in the Adopted Allocations & Development Management Development Plan Document.”

**NCC, Rights of Way – (14.05.2019)** “I have no objection to the application. The public rights of way have been accommodated appropriately within the site.”

**Environment Agency – (26.07.2018)** “The site is within Flood Zone 1 only and so the application does not fall within our remit as a statutory consultee. We therefore have no comments to make on this occasion. Whilst the site is also located within a Source Protection Zone, the proposed use is not considered potentially contaminating.”

**NCC, Lead Local Flood Authority – (07.05.2019)** “No objections subject to our comments dated 27 March 2019.”

**(27.03.2019)** “No objections subject to the following requirements:

1.1 Drainage from the site should be via a sustainable drainage system that aligns with the CIRIA Suds Manual and non-statutory technical guidance. The hierarchy of drainage options should be infiltration, discharge to watercourse and finally discharge to sewer subject to the approval of the statutory utility. If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests.

1.2 For greenfield areas, the maximum discharge should be the greenfield run-off rate (Q<sub>bar</sub>) from the area.

1.3 The site drainage system should cater for all rainfall events upto a 100year + 30% climate change allowance level of severity. The underground drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% cc event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.

1.4 Consideration must be given to exceedance flows and flow paths to ensure properties are not put at risk of flooding.

1.5 Any proposals to use SUDS must include details showing how these will be maintained to ensure their effectiveness for the lifetime of the development.”

**(11.02.2019)** “Please refer to our comments dated 6 August 2018.”

**(06.08.2018)** “No objections in principle subject to the following comments:

1. The application fails to consider and mitigate against the potential for surface water flows across the site sufficiently. It is recommended that further detailed information is provided to either:
  - a. prove the flow path that is shown on the EA Flood Risk from Surface Water map is inaccurate and does not affect the site or



- b. show how the flow path will be integrated into the site layout to ensure it does not put any of the development at risk of flooding nor increases the risk of flowing to the surrounding areas.
2. It is acknowledged that, notwithstanding the points raised in 1 above, the overall strategy to surface water drainage follows the required design standards and further comments on the detailed proposals will be provided once the concerns raised in point 1 are removed. The following points should be adhered to:

1.1 Drainage from the site should be via a sustainable drainage system that aligns with the CIRIA Suds Manual and non-statutory technical guidance. The hierarchy of drainage options should be infiltration, discharge to watercourse and finally discharge to sewer subject to the approval of the statutory utility. If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests.

1.2 For greenfield areas, the maximum discharge should be the greenfield run-off rate (Qbar) from the area.

1.3 The site drainage system should cater for all rainfall events upto a 100year + 30% climate change allowance level of severity. The underground drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% cc event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.

1.4 Consideration must be given to exceedance flows and flow paths to ensure properties are not put at risk of flooding.

1.5 Any proposals to use SUDS must include details showing how these will be maintained to ensure their effectiveness for the lifetime of the development.”

#### **Severn Trent Water – (14.12.2018) “Condition**

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

#### **Reason**

To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

#### **Suggested Informative**

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted

under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals.

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

**Trent Valley Internal Drainage Board – (22.08.2018)** “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.

Under the provisions of the Flood and Water Management Act 2010, and the Land Drainage Act 1991, the prior written consent of the Lead Local Flood Authority, Nottinghamshire County Council, is required for any proposed works or structures in any watercourse outside those designated main rivers and Board Drainage Districts.

The Board’s consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board’s district (other than directly to a main river for which the consent of the Environment Agency will be required).

The location of the site is a known flood risk area. The development should not be allowed until the applicant is able to demonstrate that flood risk to surrounding land and / properties is not increased and further that the development itself is safe from flooding.

No development should be commenced until the Local Planning Authority, in consultation with the Lead Local Flood Authority has approved a scheme for the provision, implementation and future maintenance of a surface water drainage system. The Board would wish to be consulted directly if the following cannot be achieved and discharge affects the Boards District:

- Existing catchments and sub-catchments to be maintained.
- Surface water run-off limited to 1.4l/s/ha for pumped and lowland catchments.

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

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

**Southwell Civic Society – (10.05.2019)** “We note that the latest set of revised drawings show minor changes only. The social housing remains as before but the blocks have been shortened which is a slight improvement and there are minor changes to the houses, presumably to give windows to the gable ends as requested by the police.

The most worrying aspect is the introduction of the traffic lights to suit the county highways department. We object in the strongest possible terms. We can see no reason for these so long as traffic calming measures are put in place for either a mini roundabout or even a simple cross roads. This is an important gateway into Southwell and to urbanise the junction in this way is just appalling. There are no other traffic signal controlled junctions in Southwell. We are very surprised the traffic flows meet the criteria to justify their installation. There are hundreds of crossroads throughout the county without signals with far greater traffic flows.

The amended flood report attempts to answer the points raised by Southwell Civic Society. The report does not provide a detail-engineered scheme but simply a generalised and vague statement of intent. The concept that the carriageway of the access road can be used as a conduit without providing any back up is remarkable. Kerb heights are generally 100mm. What happens if these are exceeded? There needs to be a fully engineered drainage scheme put forward before planning permission is granted.”

**(14.03.2019)** “We continue to strongly object to this application. We have examined the amended proposals and are disturbed to find that no significant changes have been made from the previous submission. We are disappointed that none of the objections made by the Civic Society on 11<sup>th</sup> February 2019 have been addressed.

We note that a narrow footpath has been added to the western edge of the access road. However the only access to the play area remains by climbing over the knee rail unless children walk almost all the way down to Lower Kirklington Road and return by the public right of way along the western edge site, something the residents of houses in the northwest corner certainly won't do.

We also observe that the planting plans are not compatible with the layout drawing, in that trees and shrubs are shown planted in the middle of the right of way.

We also note that police are still not happy with the car parking proposals despite 'surveillance windows' having been added to the layout plan. The affordable homes section of the site is unchanged despite the Conservation Officer's previous comments advocating spreading them around the site.

We also highlight the need for all the issues to be addressed so that the officer presents full information to the councillors at a Planning meeting. This means Councillors have to do their job properly and take full responsibility for their decisions rather than voting on the principle of an application and then leaving any proposed conditions to be resolved by the NSDC at a later date, which is not good practice.

This submission draws attention again to objections against the two important issues of a) Flood Risk and b) Open Space, Buffers and their Management, based on further examination of the application.

### **Flooding**

The amended application for site 18/01363/FULM does not address the earlier objections to the Flood Risk Assessment and flood mitigation measures proposed by the applicant. These included objections from Southwell Town Council with reference to the its Neighbourhood Plan Policies (NP) E1 and E2 which are adopted into the Newark and Sherwood District Council's (NSDC) Core Strategy. For reference these policies are included below :-

#### **Southwell NP POLICY E1 – FLOOD RISK ASSESSMENTS AND MITIGATION**

***Where proposals are required to submit a Flood Risk Assessment this must take account of the most up to date EA flood mapping, hydraulic modelling and flood mitigation for Southwell.***

***Specific regard should be had to the NCC Flood Mitigation Plan for Southwell or its most up to date equivalent. Where flows cannot be related to these sources they should be modelled using best practice. The methodology for the modelling, findings, FRAs and flood mitigation recommendations shall be developed in consultation with the Lead Flood Authority.***

***There should be no development within the flood plain of local watercourses that would result in a loss of flood plain storage without adequate level for level floodplain compensation up to the 1% Annual Exceedance Probability (AEP) flood with an allowance for climate change of 30% or any more current amount.***

***Proposals for flood mitigation must be designed to meet the requirements of other relevant policies within the NP, particularly those relating to the built and natural environments.***

#### **Southwell NP POLICY E2 – FLOOD RESILIENT DESIGN**

***Development proposals requiring a flood risk assessment must be designed to avoid increasing the risk of flooding both on and off site. Such proposals will be required to demonstrate how they have addressed the following:***

- ***That buildings have been placed on site with strict consideration of the sequential test, locating them on land in the area with least likelihood of flooding.***
- ***That any flood mitigation measures to be adopted comply with current Sustainable Drainage Systems best practice, particularly in relation to Greenfield run off rates.***
- ***To prevent run off beyond the relevant Greenfield rate, the drainage system and any attenuated storage should be designed to cover a range of rainfall and storm events, with a mandatory minimum provision to cope with the 1 in 100 year 6 hour duration event and a 30% allowance or more current amount to accommodate climate change with the maximum provision indicated, to demonstrate the level of safety included in the design.***
- ***That the design of buildings and hard standing areas has been considered carefully to reduce the risk of flooding and increased run off.***
- ***Unless impracticable or unviable, to make provision for a minimum 8m wide buffer strip between the boundary of any property and the top of the bank of any water course adjacent to the site, to allow for maintenance of the water course and as a pollution prevention measure. The maintenance of the water course and the buffer strips will be subject to a planning condition or other legal arrangement with the District Council, for the life of the development.***

***Planning applications for development not requiring a formal flood risk assessment, but which are likely to affect drainage from the site, should also comply with current Sustainable Drainage Systems best practice.***

The Nottinghamshire Flood Risk Management Team on 6<sup>th</sup> August 2018 asked for the following to be resolved in order for it to give support for the application:-

#### **Application: 18/01363/FULM Kirklington Road, Southwell**

Please refer enquires to Ross Marshall, Flood Risk Management Team, Nottinghamshire County Council, ross.marshall@nottscc.gov.uk 0115 9774473

**Current comments: No objections in principle subject to the following comments:**

1. **The application fails to consider and mitigate against the potential for surface water flows across the site sufficiently. It is recommended that further detailed information is provided to either:**
  - a. **prove the flow path that is shown on the EA Flood Risk from Surface Water map is inaccurate and does not affect the site or**
  - b. **show how the flow path will be integrated into the site layout to ensure it does not put any of the development at risk of flooding nor increases the risk of flowing to the surrounding areas.**

**2. It is acknowledged that, notwithstanding the points raised in 1 above, the overall strategy to surface water drainage follows the required design standards and further comments on the detailed proposals will be provided once the concerns raised in point 1 are removed. The following points should be adhered to:**

1.1 Drainage from the site should be via a sustainable drainage system that aligns with the CIRIA Suds Manual and non-statutory technical guidance. The hierarchy of drainage options should be infiltration, discharge to watercourse and finally discharge to sewer subject to the approval of the statutory utility. If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests.

1.2 For greenfield areas, the maximum discharge should be the greenfield run-off rate (Qbar) from the area.

1.3 The site drainage system should cater for all rainfall events unto a 100year + 30% climate change allowance level of severity. The underground drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% cc event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.

1.4 Consideration must be given to exceedance flows and flow paths to ensure properties are not put at risk of flooding.

1.5 Any proposals to use SUDS must include details showing how these will be maintained to ensure their effectiveness for the lifetime of the development.

The Southwell Civic Society also objected to the application on similar grounds see its response In February 2019 and in addition drew attention to the flawed FRA provided by the applicant, which has not been addressed in the amended application.

On closer examination the amended application shows that the watercourse on the western boundary to the site deviates on to a neighbour's property as it turns to the northwest and therefore runs for some distance outside the applicant's control.

There is a need therefore for some arrangement to be made so that this section of the watercourse can be maintained in order that the risk of surface water flooding as identified in the Civic Society's earlier objection based on the Environment Agency's map of Risk of Flooding from Surface Water is mitigated.

This might be resolved by constructing a new open drain on the north side of the hedge to take any overflow from the existing watercourse on the adjoining property. This would need a buffer strip for maintenance as provided up stream in the application.

It is also unclear in the amended application how the flooding risk mitigation and maintenance for the water course on the northern boundary on the site is to be achieved

**These issues must be resolved before the application is presented to the NSDC Planning Committee in order that Councillors can take an informed and responsible judgement on the crucial issue of potential flooding on this site.**

#### **Open Space, Buffers and their Management.**

The amended application fails to address Southwell NP Policy CF 2:-

## Southwell NP POLICY CF2 – GREEN AND OPEN SPACES AND BURIAL GROUNDS

***Unless it can be shown to be unreasonable to do so, green and open spaces should be provided on new development sites to the area requirements identified in the NSDC***

***Developer Contributions and Planning Obligations Supplementary Planning Document. Development proposals and/or schemes which help address the deficiency of burial ground facilities within the ecclesiastical parish of Southwell will also be looked upon favourably.***

***The loss of existing green and open spaces to development, including amenity space such as allotments, sports fields and play areas, will be resisted unless it can be demonstrated that it is no longer required but, if unavoidable, must be replaced by an equal area of at least similar quality situated conveniently in the Parish.***

The information provided within the amended application does not adequately address the Southwell NP Policy E3, "Green Infrastructure and Biodiversity", in relation to the following Policies:-

### **Southwell NP Policy E3 Green Infrastructure and Biodiversity**

***Unless it can be shown to be impracticable or financially unviable, a buffer strip must be provided between the boundaries of properties or plots within a development and any existing historic, landscape or ecologically valuable hedge row(s) tree(s) and any other features of merit for maintaining effective Blue and Green Infrastructures. The width of the buffer strip should have regard to guidance in the Southwell Design Guide.***

***As part of development proposals, provision should be made for the long term maintenance of any retained or created habitats, existing historic landscape or ecologically valuable vegetation and buffer strip provisions***

The buffers alongside the hedges relevant to the above policies need to be clearly identified by the applicant, especially on the northern and eastern boundaries. Regard should also be taken of Southwell NP Policy E2 for the provision of a maintenance strip for the watercourse on the northern boundary.

We trust the above submissions are useful and look forward to further refinements to the scheme in line with the above comments and those of the Statutory Consultees."

**(08.02.2019)** "We strongly object to this application. We have examined the amended proposals and are disturbed to find that in many significant ways they are worse than the previous submission. In view of important and extensive objections raised by the statutory consultees including, The Police, the Highways Authority, Southwell Town Council and your own Policy Officer, the applicant should be asked to withdraw the amended proposals and resubmit a scheme which is compliant with the important points raised by the above public bodies and the Southwell Neighbourhood Plan.

The most significant and regrettable change to the previous layout is the siting of the affordable housing. A ghetto has been created which is isolated from the rest of the development rather than being distributed throughout the development in accordance with Paragraphs 3.14 to 3.16 of NSDC Affordable Housing SPD.

The police have raised a significant point about the layout of parking in this area in terms of attracting crime. To quote "

*The use of parking courts is accepted as a necessary element of a new development – the size of these parking courts is of significant concern. SBD recommends that whenever courts are designed into a development, then they are capable of being overlooked by the vehicle owner/keeper and are limited to single figures in size. The parking court within the design has in excess of 20 parking*

*bays and is a proven crime promoter. It is strongly recommended that the applicant be required to amend this element of the site prior to any approval being granted.*

In fact there are 40 such spaces in the court area

We welcome the repositioning of the play area away from the edge of the site, however the only safe access is cut off from the housing. The only way to access the play area is from the redirected public footpath; the only access to this is near to the entrance to the site. The north-western edge of the access road is bordered by a knee rail shown hard up against the kerb thus children will have no alternative but to cross the road and climb over the rail. Disabled children will have no access. This aspect of the design has not been thought through and needs a complete rethink.

The play area is at the end of the long straight access road. There is a danger of speeding traffic. In the interest of safety traffic calming measures should be incorporated such as a chicane.

The amended submission continues to contravene the Southwell Neighbourhood Plan (NP) in so many ways. It is worth reminding applicants that the Neighbourhood Plan is not a wish list to be complied with if convenient, but a Statutory Document approved by the Secretary of State and endorsed in a Statutory binding Referendum by the citizens of Southwell.

We have examined the Southwell Neighbourhood Plan (NP) Policies and note below areas of continuing non-compliance: -

### **Flooding.**

#### **Flooding-Southwell Neighbourhood Plan (NP) Policies E1 and E2**

**The issues around flooding on this site, raised in the Civic Society's letter of 13<sup>th</sup> August remain unresolved.**

The Flood Risk Assessment (FRA) by the applicant continues to describe the flood risk to the site as "low" based on its distance from Potwell Dyke and the Environment Agency's maps for Fluvial and Surface Water flooding.

The comments in para 4.6 in the FRA demonstrates the authors do not have a full understanding of the flood event in Southwell in 2013 when the town was inundated in two distinct zones; the Potwell Dyke area which was unrelated to the application site and a second flood, emanating from Halam Road and the Norwood Park Golf Course which traversed the application site.

Whilst the Environment Agency's Fluvial flood risk map shows no potential flooding for the site, the Surface Water flood risk map shows a real possibility that this will happen. These maps are now dated and do not take account of climate change nor the 2013 Southwell event. The Appendix G for the FRA Flood Level Data map shows only part of the site and excludes significant areas shown to be vulnerable to flooding on the EA Surface Water risk map.

A more convincing flood risk assessment should be agreed with the Local Lead Flood Authority based on its modelling exercise.

The FRA erroneously assumes that all flooding risk will be generated from within the site whereas it is a recipient of flood water from a large catchment off site, including Norwood Park Golf Course, the allocated development sites off Kirklington Road and from land to the north west. In addition, as a result of the on going flood elevation scheme being designed by Nottinghamshire

County Council, there is the possible linking up with the balancing pond off Halam Road with this watercourse.

The FRA refers to the shallow ditch/ watercourse as the main conduit for flood /drainage provision through the site. However, the application fails to make the necessary provisions for the reconstruction and maintenance of this including proposals to direct floodwater around the sharp bends over its full length. This should take account that the flood loading on the watercourse will be increased by the development, the need to accommodate the Local Lead Flood Authority Flood Mitigation strategy for Southwell, and Climate Change.

In relation to the above the FRA does not address the concerns of the Local Lead Authority (see doc from Ross Marshall of Notts County Council of 29 th August 2018), nor the comments from The Trent Valley Internal Drainage Board (see doc from The Board 23 August 2018)

To the Internal Drainage Board's concerns must be added that there are no proposals in the application to address Riparian Rights ownerships within the site, which carry with them responsibilities, for care of the water courses. These should be owned by the management company for the site in order to ensure unimpeded maintenance of the full lengths of watercourses, which in turn requires that a buffer be provided along all of these to allow machine access.

Clearly there is need for an integrated approach to be taken by the applicant to resolve these problems, with proper consultation with the Lead Local Flood Authority and **meeting in total Southwell NP policies E1 and E2, which have been incorporated within the Newark and Sherwood Core Strategy.**

### **Ecology and Trees – Southwell Neighbourhood Plan Policy E3**

The ecology and tree reports are to be welcomed but the buffer strips between the existing, historic and landscape/screening hedges should be clearly identified with a statement as to their width in relation to the Southwell NP Design Guide. Tree planting should take account of the need for machine maintenance alongside watercourses. All ecological and tree commitments in the application need to meet the policies within the Southwell NP Policy E3 and to be referenced directly in any Approval.

### **Public Rights of Way (PROWs) Southwell NP Policy E4 and Site -Specific Policy SS5 (PARAS (V) and (V1)**

**Southwell NP Policies E4 and the Site Specific Policy SS5** require that wherever possible a PROW should be routed to avoid the use of estate roads. Whilst it is difficult to see how the footpath to the east on the site can be sited other than on the pavement, if the layout of the site is to be changed, consideration needs to be given to routing this more appropriately. The present route of this path is shown crossing the road onto the play area. This would require users climbing over the knee rail alongside the access road. See our comments on the play area.

**In any routing of footpaths the other E3 policies within Southwell NP must be addressed.**

### **Public Open Space Southwell Neighbourhood Plan Policy CF2**

The proposals for Open Space in this application are not detailed enough in that there is no statement on the area of Public Open Space required for the development as should be identified by Newark and Sherwood District Council.



### Transport and Access.

This site is on the fringe of the town and is the furthest point to the town centre than any other housing development. Only the youngest and fittest will be able to carry their shopping from the retail area. It is therefore essential that a bus-turning circle be incorporated into the road layout so that the bus service can be extended beyond Norwood Gardens.

An increase in traffic is inevitable and we welcome the provision of a roundabout. However this cannot be developed in isolation. On the other side of Lower Kirklington Road a further large-scale development is seeking planning permission and has proposed that their junction with LKR is just approx. 25 metres from the roundabout. There needs to be serious discussion between the parties, Southwell Town Council and the Highway Authority.

### Housing

The total number of dwellings at eighty on 70% of a site allocated for sixty far exceeds the allocated provision. The Developer is required under **NP Policy SS5 (So/Ho/5)** to prepare a design brief for the **whole** of the allocated site.

The housing mix does not comply with **NP Policy HE1 table HE1b**. There no provision of bungalows and the other allocated sites cannot be expected to provide the town's total requirement.

We feel that the overall layout is still somewhat regimented and could be improved by creating an open space in the centre of the development in accordance with **NP Policy SS5 (ix)**. It would also assist a bus turning area, which does not need to be a terminus; this could remain at Norwood Gardens.

The entrance to the site is still somewhat cramped and would be helped by eliminating the first three properties to create a more inviting and imposing entrance to the estate. The mini roundabout could be then offset reducing the risk of traffic speeding straight across. The site is a transition from the countryside see **NP Policy SS5 (ii)** and a more open entrance will assist this.

The Neighbourhood Plan design guide calls for an eight metre buffer strip around the edge of the site. More specifically **NP Policy SS5 Para (v)** states "*A buffer strip **must** be left between the north western boundary of the site, the Southwell Trail and the boundary footpath and the boundaries of individual building plots*" this will also help a transition. We welcome the introduction of a green space between the access road and the northwestern boundary.

This is one of the largest developments in Southwell for several decades and as such needs to be right. Many of the houses in the town date back more than two centuries. Building good quality homes needs to be well thought through. Many developments, throughout the country, in the 1960's and 70's were poorly conceived and constructed. It is for this reason the community worked so hard to create the Southwell Neighbourhood Plan. It is regrettable that in this submission so many of the policies have not been complied with either deliberately or from ignorance.

We therefore urge the Planning Authority not to consider this application until the developer and their design team fully review the scheme and bring it into line with the statutory requirements of the official consultees and the wishes of the citizens of Southwell expressed through the Neighbourhood Plan. It was the Government's wish in passing the Localism Act 2011, to give local communities more say in how they wanted their neighbourhoods to be developed."

**(13.08.2018)** “We object to this application. We have examined the proposals and are disturbed to find that it contravenes the Southwell Neighbourhood Plan (NP) in so many ways especially as the application was subject to pre-application advice from NSDC. It is worth reminding applicants that the Neighbourhood Plan is not a wish list to be complied with if convenient, but a Statutory Document approved by the Secretary of State and endorsed in a Statutory binding Referendum by the citizens of Southwell.

We have examined the Southwell Neighbourhood Plan (NP) Policies and note below areas of non-compliance:-

### **Flooding.**

The Flood Risk assessment is of particular concern; **NP policies E1 and E2** should be applied fully especially in relation to agreement with the Lead Flood Authority now that it has flood mitigation proposals out for consultation.

It is noted that Spatial Planning Statement ignores **NP policy E2** that is also of key relevance to flood mitigation on the site.

The applicant appears to underrate the flooding risk for this site. The application seems to downgrade the watercourse on the western boundary (alongside the new allotments) to a shallow ditch. Most people in Southwell know that it is a continuation of the underground drain which discharges water from Norwood Park Estate (with its golf course and several hectares of polytunnels), which floods as it goes under Lower Kirklington Road.

If this ditch is asked to take any extra floodwater from developments on Kirklington Road or Halam Road area it will greatly increase flooding risk on the application site. The Historic EA map for Risk of Flooding from Surface Water Flooding shows flooding from this source across the proposed development in this application. If the culvert proposed several years ago to link Starkey’s pond with this watercourse was to be revived, as has been proposed as part of the Southwell Flood elevation scheme now being developed, then the drainage of this site needs to be revisited.

It is essential that a buffer strip be provided between this western ditch to allow for machine maintenance to allow it to be retained at a suitable depth.

It will be noted that the ditch takes a couple of right angled bends as it goes to the Greet and the applicants map shows it disappearing at one point and then emerging again.

Members of the Society have walked the route during a flood and unsurprisingly found that floodwater ignores sharp bends and that the flow to the Greet continues over ground.

### **Ecological Survey**

The Ecological Survey is incomplete as it only covers a small part of the site and needs to be extended. Refer to **NP Policy E3**. The tree survey is also inadequate.

### **Public Rights of Way.**

The application needs to address fully **NP policy E4 and the site-specific policy SS5 Paras (v) and (vi)**. The public right of way should avoid following the roads when it can conveniently and more safely follow the north-western boundary.

## Transport and Access.

This site is on the fringe of the town and is the furthest point to the town centre than any other housing development. Only the youngest and fittest will be able to carry their shopping from the retail area. It is therefore essential that a bus-turning circle be incorporated into the road layout so that the bus service can be extended beyond Norwood Gardens.

An increase in traffic is inevitable and we welcome the provision of a roundabout. However this cannot be developed in isolation. On the other side of Lower Kirklington Road a further large-scale development is seeking planning permission and has proposed that their junction with LKR is just approx. 25 metres from the Roundabout. There needs to be serious discussion between the parties, Southwell Town Council and the Highway Authority.

## Housing

The total number of dwellings at one hundred and five far exceeds the allocated provision of sixty despite not including the entire allocated site.

We welcome the provision of social housing, however the dwellings are concentrated in a ghetto rather than being distributed throughout the development in accordance with Paragraphs 3.14 to 3.16 of NSDC Affordable Housing SPD.

The housing mix does not comply with **NP Policy HE1 table HE1b**. There no provision of bungalows and the other allocated sites cannot be expected to provide the town's total requirement.

We feel that the overall layout is somewhat regimented and could be improved by creating an open space in the centre of the development in accordance with **NP Policy SS5 (ix)**. This will not only open up the site but also would provide a focal point and situate the play area within easy view of many more properties to the reassurance of parents rather than on the corners of the site. It would also assist a bus turning area, which does not need to be a terminus; this could remain at Norwood Gardens. A more varied positioning of houses on the northwestern edge would also improve the transition from countryside to the urban area.

The entrance to the site is somewhat cramped and would be helped by eliminating the first three properties to create a more inviting and imposing entrance to the estate. The mini roundabout could be then offset reducing the risk of traffic speeding straight across. The site is a transition from the countryside see **NP Policy SS5 (ii)** and a more open entrance will assist this.

The Neighbourhood Plan design guide calls for an eight metre buffer strip around the edge of the site. More specifically **NP Policy SS5 Para (v)** states *"A buffer strip **must** be left between the north western boundary of the site, the Southwell Trail and the boundary footpath and the boundaries of individual building plots"* this will also help a transition.

This is the largest development in Southwell for several decades and as such needs to be right. Many of the houses in the town date back more than two centuries. Building good quality homes needs to be well thought through. Many developments, throughout the country, in the 1960's and 70's were poorly conceived and constructed. It is for this reason the community worked so hard to create the Southwell Neighbourhood Plan. It is regrettable that in this submission so many of the policies have not been complied with either deliberately or from ignorance. We therefore urge the Planning Authority not to consider this application until the developer and their design team review the scheme and bring it into line with the expressed wishes of the citizens of Southwell expressed through the Neighbourhood Plan. It was the Government's wish in passing the ???Act, to give local communities more say in how they wanted their neighbourhoods to be developed."

## **NCC, Strategic Policy – (01.05.2019) “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 17 of the National Planning Policy Framework (NPPF) covers the sustainable use of minerals. Paragraph 203 points out that *‘It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs.’*

Paragraph 204 states that planning authorities should:

*- ‘safeguard mineral resources by defining Mineral Safeguarding Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);*

*- set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place’.*

In Nottinghamshire, minerals safeguarding and consultation areas are defined in the emerging Nottinghamshire Minerals Local Plan (Draft Plan Consultation 2018) and supported by Policy SP8, which also covers prior extraction.

In terms of the role of local planning authorities in planning for minerals, paragraph 206 of the NPPF states that: *‘Local planning authorities should not normally permit other development*

*proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working’.*

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

Section 9 of the NPPF addresses the issue of sustainable transport. The NPPF, in paragraph 111, requires all developments which will generate significant amounts of movement to provide a travel plan and the application for such a development to be *‘supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed’*. It also states, in paragraph 108, that it should be ensured that *‘appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of location and its location’* and *‘any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree’*.

#### Education provision

Paragraph 94 of the NPPF states that:

*‘It is important 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:*

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.’*

#### Healthy communities

Paragraph 91 of the NPPF points out that *‘Planning policies and decisions should aim to achieve healthy, inclusive and safe places which ....enable and support healthy lifestyles, especially where this would address identified local health and well-being needs...’*

With regard to public rights of way, paragraph 98 states that they should be protected and enhanced, *‘including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks...’*

### **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

The adopted Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy (adopted 10 December 2013) and the saved, non-replaced policies of the Waste Local Plan (adopted 2002), along with the saved policies of the Nottinghamshire Minerals Local Plan (adopted 2005), form part of the development plan for the area. As such, relevant policies in these plans need to be considered. In addition, Minerals Safeguarding and Consultation Areas have been identified in Nottinghamshire and in accordance with Policy SP8 of the emerging draft Minerals Local Plan (July 2018) these should be taken into account where proposals for non-minerals development fall within them.

#### *Minerals*

In relation to the Minerals Local Plan, the site is within a clay Minerals Safeguarding and Consultation Area. Given the location of the site, adjoining the built up area of Southwell and with no proposed or existing extraction sites within the wider area, it is unlikely that this proposed development would pose a sterilisation risk and therefore the County Council does not wish to raise any objections to the proposal from a minerals perspective.

#### *Waste*

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.

#### Strategic Transport

The County Council does not have any strategic transport planning observations to make.

#### Developer Contributions

Please see appendix one which details the contribution that would be sought for this application, including Education and Transport and Travel Services.

Where developer contributions are sought in relation to the County Council's responsibilities it is considered essential that the County Council be a signatory to any legal agreement arising as a result of the determination of this application.

Please contact Andrew Norton, Developer Contributions Practitioner in the first instance (andrew.norton@nottsc.gov.uk or 0115 9939309) with any queries regarding developer contributions.

### **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.

### **Appendix One, Developer Contribution**

The following sets out the developer contributions which will be sought by Nottinghamshire County Council to mitigate the impact of the above development for 80 dwellings.

#### **Education**

##### Primary Education

A development of 80 dwellings would generate 17 primary school places. As can be seen in the table below; based on 2018 projections there is insufficient capacity in the catchment schools to accommodate these pupils. As a result, Nottinghamshire County Council would seek a primary contribution of **£232,152** (17 x £13,656 per place).

##### Secondary Education

A development of 80 dwellings will generate 13 secondary school places. As can be seen from the table below there is insufficient capacity to accommodate the pupils generated.

Secondary education provision within Newark & Sherwood will be delivered utilising monies collected from the Community Infrastructure Levy (CIL) as set out in the District Councils current Regulation 123 list.

#### **Transport and Travel Services**

##### General Observations

The proposed residential access point appears to be from Lower Kirklington Road. The nearest current bus stop is in excess of 600 metres from the centre of the site on Lower Kirklington Road.

##### Bus Service Support

It is noted that the Transport Assessment submitted with the application, dated January 2019, includes details of the local bus services at Section 2.15. Section 2.16 erroneously refers to a walking distance to the closest bus stops as within 400 metres. The walking distance from the centre of the site to the nearest bus stop at Norwood Gardens on Lower Kirklington Road is in excess of 600 metres, and therefore exceeds accessibility guidelines. Section 2.16 of the Transport Assessment should be amended accordingly.

Reviews of the Stagecoach bus services in this area are ongoing and due to be completed in April of this year. The current service 29 provides an hourly service from the stop at Norwood Gardens, which is also served by other services. However, it is envisaged that this service will be extended so as to pass the entrance of the development, although the frequency will be reduced to 2 hourly. This service replaces the 28b which was withdrawn in October 2018.

**At this time, it is not envisaged that contributions towards local bus service provision will be sought.**

## Infrastructure

### **Current Infrastructure**

The current infrastructure observations from Transport & Travel Services photographic records are as follows:

NS0188 Norwood Gardens – Bus stop pole and flag, bus shelter and bus stop clearway

This stop is situated in excess of 600 metres from the centre of the development which exceeds the accessibility guidelines. Therefore, in light of the fact that Service 29 is to be extended to pass the entrance to the development, Transport and Travel Services request that two new bus stops are installed close to the entrance to the site, subject to a site visit to determine a safe location.

**Transport & Travel Services request a contribution via a Section 106 agreement for two new bus stops to the value of £15,000 to promote sustainable travel.**

### Justification

This closest bus stop is situated in excess of 600 metres from the centre of the development which exceeds the accessibility guidelines. Improvements are necessary to achieve an acceptable standard to promote sustainable travel and make the development acceptable in planning terms. The above contribution would fund two new bus stops to be installed close to the entrance to the site and could be used for, but not limited to: Bus stop pole, Bus Shelter, Bus Stop Clearway; Solar Lighting and Raised Boarding Kerbs as appropriate.

The improvements would be for new bus stops close to the site entrance, are related to the development, and are fairly and reasonably related in scale and kind to the development (80 dwellings).

If you have any queries about any of the contributions sought please contact Andrew Norton, Developer Contributions Practitioner on 0115 9939309 or email [andrew.norton@nottsc.gov.uk](mailto:andrew.norton@nottsc.gov.uk)."

**(07.03.2019)** "The NCC strategic policy team would not have any further comments to make than those provided on 7 February 2019."

### **(07.02.2019) " 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 17 of the National Planning Policy Framework (NPPF) covers the sustainable use of minerals. Paragraph 203 points out that *'It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs.'*

Paragraph 204 states that planning authorities should:

*- 'safeguard mineral resources by defining Mineral Safeguarding Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);*

*- set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place'.*

In Nottinghamshire, minerals safeguarding and consultation areas are defined in the emerging Nottinghamshire Minerals Local Plan (Draft Plan Consultation 2018) and supported by Policy SP8, which also covers prior extraction.

In terms of the role of local planning authorities in planning for minerals, paragraph 206 of the NPPF states that: *'Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working'.*

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

Section 9 of the NPPF addresses the issue of sustainable transport. The NPPF, in paragraph 111, requires all developments which will generate significant amounts of movement to provide a travel plan and the application for such a development to be *'supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed'.* It also states, in paragraph 108, that it should be ensured that *'appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of location and its location'* and

*'any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree'.*

Education provision

Paragraph 94 of the NPPF states that:

*'It is important 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:*

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.'*

Healthy communities

Paragraph 91 of the NPPF points out that *'Planning policies and decisions should aim to achieve healthy, inclusive and safe places which ....enable and support healthy lifestyles, especially where this would address identified local health and well-being needs...'*

With regard to public rights of way, paragraph 98 states that they should be protected and enhanced, *'including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks...'*

## **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

The adopted Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy (adopted 10 December 2013) and the saved, non-replaced policies of the Waste Local Plan (adopted 2002), along with the saved policies of the Nottinghamshire Minerals Local Plan (adopted 2005), form part of the development plan for the area. As such, relevant policies in these plans need to be considered. In addition, Minerals Safeguarding and Consultation Areas have been identified in Nottinghamshire and in accordance with Policy SP8 of the emerging draft Minerals Local Plan (July 2018) these should be taken into account where proposals for non-minerals development fall within them.

### *Minerals*

In relation to the Minerals Local Plan, the site is within a clay Minerals Safeguarding and Consultation Area. Given the location of the site, adjoining the built up area of Southwell and with no proposed or existing extraction sites within the wider area, it is unlikely that this proposed development would pose a sterilisation risk and therefore the County Council does not wish to raise any objections to the proposal from a minerals perspective.

### *Waste*

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.

### Strategic Transport

The County Council does not have any strategic transport planning observations to make.

### Developer Contributions

Please see appendix one which details the contribution that would be sought for this application, including Education and Transport and Travel Services.

Where developer contributions are sought in relation to the County Council's responsibilities it is considered essential that the County Council be a signatory to any legal agreement arising as a result of the determination of this application.

Please contact Andrew Norton, Developer Contributions Practitioner in the first instance ([andrew.norton@nottsc.gov.uk](mailto:andrew.norton@nottsc.gov.uk) or 0115 9939309) with any queries regarding developer contributions.

### **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."

### **(09.08.2018) "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 Nottinghamshire, these areas are defined in the emerging Nottinghamshire Minerals Local Plan and supported by Policy SP8, which also covers prior extraction.

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

##### *Minerals*

In relation to the Minerals Local Plan, the site is within a clay Minerals Safeguarding and Consultation Area. Given the location of the site, adjoining the built up area of Southwell and with no proposed or existing extraction sites within the wider area, it is unlikely that this proposed development would pose a sterilisation risk and therefore the County Council does not wish to raise any objections to the proposal from a minerals perspective.

##### *Waste*

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.

#### Heritage

The proposal site is situated within the viewshed of Southwell Minster (grade I listed building) as identified in the 2012 document 'Southwell Landscape Setting' jointly produced by Newark and Sherwood and Notts CC. NCC are unsure of the status of this document at present, but would advise that it is appropriate to consider the proposals from the perspective of this document. The 2014 Historic Environment Desk Based Assessment does not consider this issue, of the location of the site within the viewshed of the Minster, nor does it show any evidence of having properly considered any potential impacts on the setting of the designated heritage assets it identifies and lists in Appendix 1. NCC would therefore suggest that the proposals cannot satisfy the requirements of the NPPF and local policies at this time.

#### Archaeology

The applicant has submitted two Heritage assessments, one from 2014, and an updated one from earlier this year. Both of them conclude that the likely archaeological potential of the site is low for all periods, although the earlier of the two reports also concludes that the level of known archaeological evidence may not reflect reality. Interestingly, neither of the reports has spotted the Roman road which is known leading from the Osmanthorpe Roman Fort to the north west of the site.

Through work by the local community group, NCC have some evidence that the line of this runs parallel with Kirklington Road and the Southwell trail, and potentially runs through the development site. The distribution of Roman material through the Southwell area is very strange, and is largely tightly concentrated around the Minster and old Church School site. Finds beyond that therefore tend to suggest other, small concentrated foci of activity, hence the finds of pottery and coins in the vicinity of the proposed development site seem to reflect a likely Roman presence, possibly connected with the road.

Accordingly the site has an archaeological potential, and NCC recommend that the applicants be asked to provide additional information, in the form of a geophysical survey. Geophysics work variably on the geology here, but a Roman road should leave a fairly clear footprint, unless it is masked by ridge and furrow. Once NCC have the results of this work, NCC should be able to determine the need for and nature of any further work.

#### Travel and Transport

##### *General Observations*

The planning application covers an area of land situated to the North of Lower Kirklington Road in Southwell. This application seeks permission for the development of 105 residential dwellings. The proposed residential access point appears to be from Lower Kirklington Road. The nearest current bus stop is approximately 670 metres from the centre of the site on Lower Kirklington Road.

### *Bus Service Support*

Transport & Travel Services has conducted an initial assessment of this site in the context of the local public transport network. The Stagecoach **Service 29** currently provides an hourly service from Norwood Gardens, but this facility is to be replaced from September 2018. A new **Service 28b** will be introduced every 2 hours between Lower Kirklington Road and Mansfield, via the centre of Southwell (for connections to Newark). The new service will pass the entrance to the development. **Service 227** operated by Travel Wright offers a single shopping journey on Wednesday and Friday, and also passes the past the entrance to the development. **Service 100/N100** operates frequently throughout the day giving a direct link to Nottingham from Norwood Gardens, approximately 670 metres from the centre of the site on Lower Kirklington Road, and therefore isn't within the 400m IHT distance threshold from the centre of the site as referred to in Section 2.15 of the Transport Assessment.

The **Service 300** operated by Sharpes of Nottingham and referred to in Table 2.2 of the Travel Plan offers 2 journeys per day and passes along Lower Kirklington Road, but not close to the development.

It is suggested that Section 2.15 of the Transport Assessment is amended to reflect the above information. **At this time it is not envisaged that contributions towards local bus service provision will be sought.**

### *Current Infrastructure*

The current infrastructure observations from Transport & Travel Services photographic records are as follows:

NS0188 Norwood Gardens – Bus stop pole and flag, bus shelter and bus stop clearway

This stop is situated approximately 675 metres from the centre of the development which exceeds the IHT/6Cs accessibility guidelines. Therefore Transport and Travel Services request that two new bus stops are installed close to the entrance to the site, subject to a site visit to determine a safe location.

**Transport & Travel Services request a contribution via a Section 106 agreement for two new bus stops to the value of £15,000 to promote sustainable travel.**

### *Justification*

The current level of facilities at the specified bus stops are not at the standard set out in the Council's Transport Statement for Funding. Improvements are necessary to achieve an acceptable standard to promote sustainable travel, and make the development acceptable in planning terms. The above contribution would improve the standard of bus stop infrastructure nearest to the development and could be used for, but not limited to; Bus stop pole, Bus Shelter, Bus Stop Clearway; Solar Lighting and Raised Boarding Kerbs as appropriate.

The improvements would be for new bus stops close to the site entrance, are related to the development, and are fairly and reasonably related in scale and kind to the development (105 dwellings).

### *Ecology*

NCC cannot see any Preliminary Ecological Appraisal (PEA), or equivalent, on the NSDC website. The need for such a survey was identified by me previously in the pre-app consultation for this site. Given that the proposals will result in the loss of hedgerows, rough grassland and woodland, the site has the potential to support protected species, so such a survey is essential, prior to determination.

- In terms of site layout, it is disappointing to see that internal hedgerows and existing woodland will be lost in their entirety. In the absence of surveys, the significance of this (e.g. for foraging and commuting bats) is unknown.
- Proposed landscaping appears appropriate (notwithstanding any specific mitigation requirements that may emerge from the PEA), and the use of native species of tree and shrub and wildflower seeding in areas of open space and around the site boundaries is welcomed.
- A condition should require the incorporation of integrated bat and bird boxes (the latter targeting house sparrow, starling and swift) into the fabric of around 25% of the dwellings/their garages.

In addition, from a Green Spaces perspective:

- The site abuts the Southwell Trail, which is managed by Nottinghamshire County Council's Green Spaces team, and a pedestrian and cycle link is proposed from the development site, to the boundary of the Southwell Trail.
- The developer must undertake to construct the length of new path required to link their site across NCC land to the existing surfaced path on the Southwell Trail; this can presumably be secured through a S106 agreement, and must also ensure that other requirements (such as bridging the ditch) are met.
- The developer must cover the costs of the installation of additional litter and dog bins at the new path entrance, and the emptying of these bins, plus the costs of additional grass cutting, litter picking and flytipping removal, and cutting back overhanging vegetation on the new link path. A commuted sum for the additional cost that would be incurred by Nottinghamshire County Council should again be secured through a S106, which we have calculated in the attached spreadsheet (Appendix 1) (total sum request = £21,805.42).

#### Developer contributions

Should the application proceed, the County Council will seek developer contributions in relation to its responsibilities in line with the Council's adopted Planning Obligations Strategy and the Developer Contributions Team will work with the applicant and the Local Planning Authority to ensure all requirements are met. Please contact Andrew Norton, Developer Contributions Practitioner in the first instance ([andrew.norton@nottscc.gov.uk](mailto:andrew.norton@nottscc.gov.uk) or 0115 9939309) with any queries regarding developer contributions.

It is anticipated that details of any developer contributions sought by the County Council will be provided as soon as possible. Any developer contributions sought will be necessary in order for the proposed development to be considered acceptable and as such the County Council will wish to raise objections to this application unless these contributions will be secured.

Should any developer contributions be sought in relation to the County Council's responsibilities it is considered essential that the County Council is a signatory to any legal agreement arising as a result of the determination of this application.

#### 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."

Extract from Appendix 1:- "Education



## Secondary

The proposed housing development is within the catchment of The Minster School for which any education requirements would be covered under CIL. As the primary bulge moves through to the secondary phase there is now a requirement in all of Nottinghamshire to increase provision at secondary an indication of the CIL monies required to mitigate the secondary impact of this development is detailed below.

Nottinghamshire County Council therefore have no alternative but to request primary education contributions from any proposed housing development on Land off Lower Kirklington Road Southwell.

A proposed development of 105 dwellings would yield an additional 22 primary places and 17 secondary places.

We would therefore wish to seek an education contribution of £300,432 (22 x £13,656) to provide primary and £301,801 (17 x £17,753) to provide secondary provision to accommodate the additional pupils projected to arise from the proposed development.

**Please note the cost per place may change if a number of developments come forward in an area which will require master planning and will result in an extension to an existing school or a complete new school build with land. This would be based on builds cost which would be subject to final confirmation.**

**The information above is given on the understanding that it is based on the best information available to Nottinghamshire County Council at the time. District Council colleagues are advised to contact the County Council again in the future if they require a 'project' to be named. None of the information above should be used to denote a project."**

**Notts Wildlife Trust – (08.08.2018)** "Further to our comments below regarding this application, we have now been forwarded a second ecological report from Scarborough Nixon which looks at the remainder of the development site. Ideally, we would recommend a single report is produced which considers all of the potential impacts across the site as a whole, however we are satisfied that the entire site has been surveyed and assessed, albeit reported in two separate documents. We recommend that the LPA ensures that all ecological recommendations from both reports are fully incorporated into site plans, including with respect to reptiles, bats, birds, landscaping and hedgehogs.

We note that the ecology reports give the following recommendation with respect to removal of vegetation:

- *The trees, hedgerows and areas of scrub on site have potential to be used for nesting by species of common bird. Any site preparation/clearance work should commence outside the active nesting season which typically runs from March through to late August. If work commences during the active nesting season, a search for nests should be carried out before works begin, and any active nests should be protected until the young fledge.*

We work closely with Nottinghamshire Police, and would have recently reminded both developers and Local Planning Authorities that to damage the nest, eggs or chicks of birds is an offence under the Wildlife and Countryside Act 1981 (as amended) and could result in prosecution. Moreover, to disturb certain species of birds whilst attending their nest is also an offence.

It is the duty of developers to ensure that they rigorously ensure that they do not remove such vegetation in the breeding season without prior checks by a suitably qualified ecologist and the

duty of Planning Authorities to ensure that developers meet conditions imposed to protect breeding birds from disturbance.

We therefore recommend that the LPA requests the above recommendation is amended to ensure that a suitably qualified ecologist carries out the survey work and informs the LPA of the results of such work.

A suitably worded condition could be used to secure this requirement, for example:

- *The trees, hedgerows and areas of scrub on site have potential to be used for nesting by species of common bird. Any site preparation/clearance work should commence outside the active nesting season which typically runs from March through to late August. If work cannot be avoided during the active nesting season, a thorough search for nests should be carried out by a suitably qualified ecologist before works begin, with a written report submitted to the LPA. Any active nests must be protected until the young fledge.*

Given that ecological survey work has been undertaken across the whole development site, and subject to implementation of all recommendations, we are able to remove our objection to this application.”

**(06.08.2018)** “We are pleased to see that an Ecology and Protected Species Survey (Scarborough Nixon, 2018) has been included with the application documents as this allows an assessment of the potential ecological impacts of the proposal.

However, from a comparison of the Aerial View of the Survey Site (Fig 1, p4) and the Site Location Plan as included on the planning portal, the two areas in question appear to differ. In essence, the area surveyed during the ecological work only covers the south eastern corner of the development site. Therefore, **the whole development site has not been assessed for potential impact on protected and priority species and habitats.**

Whilst we are generally satisfied with the methodology and conclusions of the ecology report regarding the south eastern corner of the site, we are concerned that the remainder of the site has not been subject to ecological assessment. We recommend that the LPA requests a full ecological survey and report is produced which considers the whole development area (along with additional zone of influence, if considered appropriate) before this application is determined. The report should detail results of all survey work and bring together all recommendations for avoidance, mitigation and/or compensation of any identified ecological impacts across the whole development site.

In the absence of information with which to assess the potential impact of the proposal on protected species for the whole development site, Nottinghamshire Wildlife Trust **objects** to this application.”

**Natural England – (14.05.2019)** “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.”

**(08.08.2018), (23.01.2019) & (13.03.2019)** “Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at

<https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

**Ramblers Association – (09.02.2019)** “We have no intrinsic objection to this scheme although it does seem to entail a significant loss of green space.

Southwell Footpaths 57 and 58 will be affected and it is important that unfettered access to the Southwell Trail is maintained. The plans involve some realignment of rights of way and it is crucial that correct procedures are followed by consulting the Notts CC Rights of Way Department.”

**(12.08.2018)** Object to Proposal on behalf of Nottinghamshire Ramblers. “This application affects Southwell Footpaths 57 & 58 which join Lower Kirklington Road to the Southwell Trail. The submitted plans appear to show that walkers will still have clear access along these paths. At present, however, walkers are walking along unmade tracks or grass, and under the proposals they will be walking largely on estate roads and paved footways.

The applicants have made no attempt to comply with Policy E4 in the Southwell Neighbourhood Plan which deals with public rights of way (PROWs) and wildlife corridors. This Plan was adopted by NSDC in October 2016 and states that where possible the use of estate roads to replace PROWs should be avoided and "preference given to estate paths through landscape or open space away from vehicle traffic".

We therefore OBJECT to this development and suggest that it should be redesigned so that the estate roads and paved footways are distinct from the PROWs. This is necessary to increase the safety and preserve the enjoyment of walkers using these two PROWs.”

**Notts Police Architect – (07.05.2019)** “Support Proposal. The amended plans have dealt with outstanding issues in respect of both safety and security.

The most significant improvement to the design is that of the former parking court – given parking provision has now been amended to provide parking that is within the curtilage of each dwelling greatly improves security of parked vehicles (as evidenced by Safer Places, Manual for Streets, What Works and Crime Prevention through Housing Design publications – to respond to comments made by the Agent).

Amended housing types also provide an increased opportunity for passive surveillance, with active rooms within each housing type overlooking the areas with the greater vehicular movements and footfall.

Defensible space elements of dwellings appear more robust, but there are minor elements that could improve on the sites’ resilience to crime.

The below screenshot indicates, by way of the red marking, the apparent inclusion of a gate adjacent to the front elevation of the row of terraced properties at the end of the terrace, limiting

access to the rear of an 'inner' property. This does not appear to have been replicated on the opposite end of the same terrace row (as highlighted in blue).

It is therefore recommended that the inclusion of additional gates be required at the locations shown below in blue, (as close to the front face as possible given potential meter positions) to further restrict unlawful access to the rear of those properties and thereby reducing vulnerability.



With these minor amendments agreed upon, then Notts Police have no concerns regarding both safety and security issues previously commented upon.”

**(11.03.2019)** “I have now had the opportunity to review the revised plans.

Notts Police do not wish to add anything further than what was initially submitted. The inclusion of additional gable end windows is seen as a positive, but significant concerns remain in respect of parking court and the potential for crime, particularly against unattended vehicles.

It seems an opportune time to again reinforce the requirements of the planning process to consider crime and disorder as a mandatory element of good design.”

**(25.01.2019)** "Notts Police have no objections to this application. After having considered all detail within application documentation, it is not apparent that safety and security aspects have been considered. From the submitted documents, there is no mention of resistance to either crime or disorder.

As it is now widely accepted that resistance to both crime and disorder has a positive effect on community cohesion and hence sustainability, it is with this in mind that I offer the below recommendations. These recommendations are made with the sole intention improving both safety and security aspects at this location, with the added benefits that would generate.

Police Crime Prevention Initiatives (the 'parent' company of Secured by Design [SBD]) provide support to any Police Force that is unable to meet demand within the planning process, and as such I have been asked to formally respond to this application on behalf of the Notts Police Service. Should this application obtain approval, it is highly likely that the Notts Police Design Out Crime Officer (DOCO) will deal with any subsequent variation/extension to that approval.

Given the application refers to a development being constructed on previously undeveloped land (with limited crime data to establish risk), it is necessary to use crime data from across the whole of the appropriate Police Safer Neighbourhood Area to identify likely risk at this location.

Those crime statistics indicate that the development will be situated in a lower crime area, particularly when considering offences against property.

#### **Legislation/Guidance.**

**Section 17** of the 'Crime and Disorder Act 1998' places a duty on each local authority: 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area to include anti-social behaviour, substance misuse and behaviour which adversely affects the environment'.

Despite the whole raft of other legislation/guidance surrounding the planning process, there is no exemption from the requirement of Section 17 as above as all departments within a Local Authority fall under the umbrella of the 'responsible authority' status.

PINS 953 confirms the requirement of the Planning Officer to consider the requirements of Section 17, and this requirement has again recently been reinforced by way of letter from the Chief Planning Officer.

Planning Policy now places safety and security at the heart of the planning process.

Specific areas that are relevant to this application under the **National Planning Policy Framework 2** includes;

Section 8 states "Planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion..."

Section 8 also declares "Planning policies and decisions should promote public safety and take into account wider security and defence requirements by anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security."

Section 12 reinforces Section 8 content by adding "Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

Whilst sections of the above obviously cannot be referred to in respect of this application, it does highlight the current level of importance now being placed on a safe and secure design, irrespective of location or use.

Additional guidance can be found in the companion guide to the NPPF, the **National Planning Practice Guidance** document (PPG).

**Paragraphs 9, 10 and 11** of the PPG all allude to the requirement of designing out crime. Indeed, paragraph 10 reinforces the need to consider Section 17 of the Crime and Disorder Act as a necessary requirement within the Planning Officers 'everyday business'.

After having examined the documentation submitted under this application, it appears the developer has considered many facets of good design, but resistance to offending has been mysteriously omitted. A system of active frontages is apparent, together with the efforts to improve the informal/passive surveillance opportunities on site. Defensible space elements are evident, but any symbolic barrier between public and private can only be assumed since there is no evidence of this having been designed in.

It should be noted that plan number 618-2-001 has been used for this assessment. That plan has several discrepancies in respect of both plot and house type when assessing against the floor and elevation drawings for the various house types. It is appropriate to reiterate that the resistance to crime and antisocial acts is now recognised as a key element to achieving a sustainable development. Using academic theory contained within 'crime prevention through environmental design', SBD have adopted this theory and provided a successful mechanism to ensure these principles are adopted. SBD developments can be found across the whole of the UK and have been reducing crime for some 30 years with impressive results – several academic studies conclude that crime is significantly reduced; by as much as 75%.

It is with all the above in mind that the following recommendations are made.

### **Site Observations**

1) Documents reveal that the application is essentially an extension to an existing residential area. From both safety and security aspects, there is no reason to suggest the development will be to the detriment of existing properties. The increased number of users (both vehicular and foot traffic) will provide an increased level of passive surveillance - a proven deterrent.

2) The layout of the dwellings is well-designed from the security aspect. The proposed grid formation of the dwellings is another proven positive in respect of design in a residential setting. Restricting access to the rear of dwellings is a key factor of a successful development when considering both safety and security aspects.

3) The use of parking courts is accepted as a necessary element of a new development – the size of these parking courts is of significant concern. SBD recommends that whenever courts are designed into a development, then they are capable of being overlooked by the vehicle owner/keeper and are limited to single figures in size. The parking court within the design has in excess of 20 parking bays and is a proven crime promoter. It is strongly recommended that the applicant is required to amend this element of the site prior to any approval being granted.

4) There is significant gain to the success of a development if 'corner turning' properties are incorporated across the development. 'Wrap around' dwellings are another key consideration for the security consultant. The removal of blank gable ends is advantageous from both security and aesthetic aspects – the installation of non-opaque glazing units across blank gables end elevations is another factor that has been examined (subject of course to complying with your minimum privacy distances).

Review of gable end fenestration is where document inconsistency is evident.

a) House type B – Plots 54, 62 and 77 would benefit from gable end windows

- b) House type C – Documents suggest that a ‘surveillance’ window will be installed in plot 75 – this is a mid terrace property. House type C gable windows should be installed in plots 67 and 76.
- c) House type G – Plots 8 and 67 have been identified by the applicant. This should be plots 8 and 68. Plots 4 and 7 would also benefit from this additional window.
- d) House type H – Plots 20 and 42 are identified. Plots 20, 21, 28 and 45 should have the additional window incorporated.
- e) House type L – the ‘chimney’ elevation is essentially a blank elevation. There appears sufficient space in bedroom 3 to incorporate the additional window.

Plots 13 and 40 apply.

- f) House type M – Plots 14 and 19 should incorporate the additional window.

5) As already alluded to, restricting access to the rear of a property is essential from a security perspective. Rear access points serving plots 55 to 59 and 69 to 73 both provide access to 5 plots; this is excessive – SBD always seeks to achieve a maximum of 3 dwellings per shared access.

Given any redesign would affect either dwelling count or garden space, an alternative is recommended. A ferrous gate, positioned as close as possible to the front elevation of plots 57/58 and plots 70/71 should be installed to remove the likelihood of trespass. Ideally the gate will allow an unrestricted view down the walkway and will have an auto close and auto lock facility installed upon it.

- 6) Lighting – It is assumed the highway is adopted and will be illuminated by a BS5489 compliant street lighting system.

Private areas – Any shared space (parking court, rear access points) should be illuminated for both safety and security purposes. As a guide, the luminaires should be anti-vandal, provide a light that is  $\geq 60$  on the Colour Rendering Index (a white light source), should not pollute and should be power efficient ( $\geq 40$  lumens per Watt – energy saving bulbs). Any use of LED luminaires should incorporate warm white bulbs, not cool white (seen by many as having an excessive glare). Luminaires should be positioned a minimum of 2.5m from ground level to reduce attack. Finally, an illumination level of 10 Lux minimum is advised, and in respect of any parking court/courts, achieves a minimum of 25% uniformity.

Residences – all residences should have switchable dusk to dawn fittings installed adjacent to both front and rear doors. Illumination levels and minimum height requirements as above should be compelled.

**In conclusion, to condition full SBD compliance would ensure that all the positive aspects in respect of safety and security as above are incorporated to ensure that necessary levels of intervention are adequate to mitigate both current and predicted future risk.**

**This will ensure the developer must deliver all attributes of a ‘safe environment’.** “

**NSDC, Archaeology Consultant – (06.02.2019), (14.03.2019) & (13.05.2019)** “No further archaeological input required.”

**(10.08.2018)** “This site lies on the edge of the current settlement of Southwell, a settlement has existed here since at least the early Saxon period and possibly earlier.

The desk based assessment supplied as part of the planning documentation shows a dearth of archaeological records in this area, however it should be remembered that lack of archaeological evidence is not evidence of no archaeology, this dearth may be because of a lack of archaeological survey in this area. This is a large site and further information with regards to any potential archaeology on site should be supplied by the applicant to support this application.

Insufficient information is available 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.

Recommendation: It is requested that the developer is required to supply more information in the form of an archaeological evaluation to be carried out prior to determination. It is recommended that the evaluation should in the first instance be comprised of geophysical survey across the site. This will then help to identify if and where features of archaeological interest exist and will inform where further intrusive evaluation is required to inform the application to identify the nature, extent and significance of any archaeological features on the site.

'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)'."

**NSDC, Conservation – (12.02.2019)** “We provided advice on this proposal back in August 2018 and raised no material objection on’ heritage grounds. We did however query the merits of the proposed layout and density of development in the context of the rural transition into the town. Having reviewed the submitted plans and details, we continue to have no fundamental objection to the proposal on heritage grounds. We would have preferred to see less development within the vicinity of Pear Tree Cottage (a non-designated heritage asset), but appreciate that the reduction in development overall and the open space/landscape buffer on the western edge has helped to lessen impact.

From an urban design perspective, the removal of dwellings on the immediate western boundary in favour of a landscape buffer with new units facing the roadway presents a better aspect to the open countryside, particularly when viewed on approach from the west along Kirklington Road. The reduction in units has also improved the layout of the northern part of the site.

The overall scheme would still benefit from a reduction in numbers as was envisaged in the original allocation. Nevertheless, the affordable housing area remains the most problematic aspect of the layout, and I think it is unfortunate that these could not have been distributed evenly around the site rather than concentrated in one area. Building for Life and similar national policy agendas have consistently argued the need to have a wide mix of housing types and tenures, and avoiding creating too many smaller homes from being grouped together. Essentially, new homes should be designed to be tenure blind so that it is not easy to differentiate between homes that are private and those that are shared ownership or rented. Moreover, although terracing is not unusual in the urban context of the town, it is less frequent in the fringes of the settlement, and even less typical as a courtyard arrangement. Car parking is a dominant aspect of this courtyard arrangement, and not positive. I would recommend altering the car park arrangement to a central reservation of herringbone parking in this case.”

**(24.08.2018)** “The application site is currently open fields on the north western edge of Southwell, outside the historic core of the town. It forms a parcel of land between Kirklington Road and the Southwell Trail to the north. Southwell at this point is comprised of mostly c1970s suburbs, extended around the odd historic farmhouse, giving way to open countryside. Pear Tree Cottage, right next to the application site, is a nice example of an early C19 farmhouse and should be considered a non designated heritage asset.

The land levels here are quite flat, so views are low and limited. I am not aware of any views from the application site directly towards any designated heritage assets. Equally I am not aware of views from any of Southwell’s heritage assets back towards the site. I have considered here the



'view cones' encompassing The Minster, The Workhouse and its Registered Garden and Holy Trinity Church, as well as other listed buildings (including Norwood Park), the Conservation Area and Scheduled Ancient Monuments. I have read the supporting Landscape and Visual Impact Assessment and believe it is accurate that there is no obvious inter-visibility between the site and any designated heritage asset and that there will be a negligible impact on the setting of any designated heritage assets from this proposal.

The nearest designated assets are probably Pedlar's Cottage on Kirklington Road and the cluster at Maythorne. In each case the intervening distance and levels means any visual impact will be negligible, giving glimpses of roof tops at most, which would not in itself be harmful.

The most significant heritage impact will be on the non designated heritage asset of Pear Tree Cottage, which will sit directly next to the new housing. Its currently semi-rural setting, which is attractive and complements its former use, will be harmed by the proposal which will leave it in a suburban setting.

Given that the site will still retain its garden and open southern aspect, and that the fabric itself is not being harm, the impact on this non designated heritage asset will be at the lower end of less than substantial and should be considered in the planning balance.

While in pure design terms I wonder if the proposed planform is too dense for not just this area of Southwell but also for its semi-rural location, these are concerns which would not affect any heritage assets.

As such Conservation has no objection to this application."

**NSDC, Planning Policy – (13.03.2019) & (07.05.2019)** "No further observations beyond those previously advised."

**(05.02.2019)** "The comments of 19<sup>th</sup> September 2018 remain relevant. I would make the following additional observations.

Level of Development: Whilst the proposal has been reduced to 80 dwellings you will still need to be satisfied that this level of development can satisfy the relevant policy requirements. The ability to deliver the remainder of the site at a future date and ensuring there is no impact on the future deliverability of So/Ho/4 with regard to highways issues remain of key importance.

Design and layout: This increased level of open space, and landscaped buffer strip adjacent to the western boundary is to be welcomed and provides a much more appropriate transition in the edge of settlement location.

Housing Mix, Type and Density: The increased proportion of 1 and 2 bed units of affordable housing provision is also welcomed but the absence of bungalows remains contrary to the provision of the Southwell Neighbourhood Plan.

Highways: I note the Highways Authority comments objecting to this proposal and would defer to their comments.

Conclusions: Whilst the reduction in the number of dwellings has allowed for a more appropriate design to the edge of the settlement, concerns remain regarding the need to make provision for a highway solution which allows for the appropriate development of both this site and allocation So/Ho/4.

### **(19.09.2018) “Planning Policy Context**

#### National Planning Policy

Confirms that the revised Framework has not changed the statutory status of the development plan as the starting point for decision making. Proposed development which accords with an up-to-date Local Plan should be approved and proposed development which conflicts should be refused, unless other material considerations indicate otherwise.

Requires Authorities to maintain a supply of specific deliverable sites sufficient to deliver a five year housing land supply.

### **Development Plan**

#### Core Strategy DPD

- 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 12 ‘Biodiversity & Green Infrastructure’
- SoAP1 ‘Role and Setting of Southwell’

The main modifications to the Amended Core Strategy were placed on deposit for public consultation on the 8th August. These are the changes which are felt necessary to make the Plan ‘sound’, and have occurred either as a result of representations made on the draft Amended Core Strategy or from the discussion at the hearings in early February. Emerging policy can be afforded weight, subject to the tests outlined at para 48 of the revised NPPF.

#### Allocations & Development Management DPD

- Policy So/Ho/5 ‘Land of Lower Kirklington Road’
- Policy So/HN ‘Southwell Housing Need’
- Policy So/PV ‘Southwell Protected Views’
- Policy DM3 ‘Developer Contributions and Planning Obligations’
- Policy DM5 ‘Design’
- Policy DM7 ‘Biodiversity and Green Infrastructure’
- Policy DM12 ‘Presumption in Favour of Sustainable Development’

#### Southwell 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 E4 ‘Public Rights of Way and Wildlife Corridors’
- Policy DH2 ‘Public Realm’
- Policy CF2 ‘Green and Open Spaces and Burial Grounds’

- Policy TA3 'Highways Impact'
- Policy HE1 'Housing Type and Density'
- Policy SS5 'Lower Kirklington Road'

The Southwell Neighbourhood Plan was 'made' on 11th October 2016 and so now forms part of the Development Plan, so you will need to have regard to its content as part of your consideration. The full Neighbourhood Plan can be viewed at-  
<http://www.newark-sherwooddc.gov.uk/planningpolicy/southwellneighbourhoodplan/>

## **Assessment**

### Level of Development

At 105 dwellings the level of development would be well above the 'around 60 dwellings' anticipated through the site allocation policies (So/Ho/5 and SS5). The capacity of allocated sites was calculated using an average of 30 dwellings per hectare, with necessary adjustments for site characteristics. In the case of So/Ho/5 the sites edge of settlement location was important in setting a notional capacity of 60 dwellings and in turn the policy requirements.

Key to considering a greater level of development is whether the proposal remains able to satisfy relevant policy requirements, and whether it would give rise to any unacceptable local environmental (including design and layout considerations), highway or amenity impacts. In this particular case there is also the impact on the future deliverability of So/Ho/4 to consider – given their mutual dependency on an improved Lower Kirklington / Kirklington Road junction for access. However where policy requirements can be met and no unacceptable impacts are identified then there is no reason to resist more development and particularly not for statistical reasons alone. As explained above, the figures quoted within the DPD were minimum estimates, not maximum capacities. Where sites can deliver a greater amount of development this will benefit both the settlements in which they lie and the whole district. Developer contributions for use within the settlement will be proportionally higher and there may be less need to find new sites in future rounds of site allocation. District wide, a greater amount of development helps to maintain the 5 year land supply and thereby provide protection from inappropriate development.

### Comprehensive Delivery of So/Ho/5 – SS5

I note that the north eastern extent of the allocation (parallel to Hopkiln Cottage) is not included within the proposed development- and I'm unsure of the reasoning behind this. Clearly the starting point is that schemes should provide for the comprehensive and coherent delivery of allocated sites. In some cases parts of allocated sites may become undeliverable over time – but this will require robust demonstration on the part of the applicant. Beyond this we would need to be content that the subsequent comprehensive and coherent delivery of the remaining allocation could be provided for in a policy compliant manner, and that there would be no shortfall in developer contributions. In this particular case we are considering a level of development greatly exceeding that anticipated through the Development Plan, on a lesser site area, so we will need to be convinced that a good standard of design and layout has been provided for (see comments below).

As a starting point I would therefore suggest that we seek input from the applicant to understand why the proposal does not incorporate the allocation as a whole, and from the Highways Authority to establish whether the scale of development and proposed access arrangements would preclude the subsequent delivery of the remaining allocation.

### Design, Density and Layout

Given the level of development you will need to be content that a satisfactory design and layout has been provided for, in line with the site allocation policies, CP9 and Policy DM5. Whether the scheme has positively responded to the edge-of-settlement location will need to form an important part of your consideration. I note that in this regard the scheme would provide for landscape buffering to the western boundary and the northern extent (along the Southwell Trail). You will however need to be comfortable that this is consistent with the requirements of the site allocation policies, and that the proposed measures will be effective. Notwithstanding the merits of the proposed landscaping scheme it is still necessary for a good general standard of design and layout to have been provided for. Whilst ultimately design and layout is a matter for your judgement I have significant concerns over whether the proposal meets the standard promoted by the Development Plan, particularly with respect to the suitability of the proposed density and the way in which open space has been integrated. On this matter Policy SS5 of the Neighbourhood Plan carries the additional requirement of provision of an open space/play area to act as a focal point for the development.

Although the application site falls outside of a view cone to the 'Southwell Protected Views' designation (Policy So/PV) you will need to content that the proposal does not have the potential to negatively impact on views of the principal heritage assets. The level of impact will be dependent on factors such as scale, height, location and the scope for mitigation. I would defer to the expertise of colleagues in Conservation for guidance on this aspect.

#### Housing Mix, Type and Density

Core Policy 3 is proposed for amendment through the review of the Core Strategy and has had main modifications proposed, these are currently subject to public consultation – limiting the weight the emerging policy can be afforded. Nevertheless both the existing and emerging policy carry the expectation that proposed housing mix will respond to the nature of local housing need, subject to site specific and viability considerations. In addition Policy HE1 of the Neighbourhood Plan outlines specific dwelling type proportions and associated densities - except where this is demonstrated as unviable. Where unviable the proposal should seek to get as close to these requirements as is possible. HE1 places an emphasis on 1 and 2 bed units (with an expectation that a significant proportion within this element of the scheme would be devoted to bungalows) with lesser proportions of 3 and 4(+) bed units then sought. Taken together this would reflect the combined market and social sector findings of the Housing Needs and Market Study Sub-Area report.

The proposed mix is not entirely consistent with the specific proportions set out in the Neighbourhood Plan, and notably no provision of bungalows is proposed. I'm not convinced with the argument presented by the applicant that the edge-of-settlement location is by definition unsuitable for this form of dwelling. Nevertheless the proposal would strike me as being broadly consistent with the overall housing mix requirements of the Development Plan, taken as a whole. Where my concerns lay is with the affordable element of the scheme where a quarter of the units would be 3 bed. The Housing Needs and Market Assessment Sub-Area Report only shows demand for 1-2 bed units in the social sector. Consequently I would defer to input from Strategic Housing on this matter.

#### Highways

The site allocation policies set clear requirements around the impact on Lower Kirklington Road/Kirklington Road junction, the achievement of acceptable visibility and provision of appropriate mitigation measures. Clearly an important additional consideration will be the access requirements of So/Ho/4 'Land East of Kirklington Road'. A proposed scale/form of development or suggested access arrangements which would constrain or prevent the full delivery of So/Ho/4

would be unacceptable. In this respect I note the objection from the Highways Authority, both in terms of the adequacy of the proposed access arrangements for the site itself and over the implications for So/Ho/4. However with respect to So/Ho/4 the objection from the Authority refers to consent for vehicular access, mini roundabout and associated highway works which, as I understand it, has now lapsed. Consequently we will need to seek clarification over whether the proposal would just compromise the delivery of that now lapsed highways scheme, or if the suggested highways arrangements would constrain/prevent the subsequent delivery of So/Ho/4 regardless.

#### Flood Risk

The application site is located within Flood Zone 1. In terms of flood risk from other sources Core Policy 9, Policy So/Ho/5 and Policy SS5 all carry the expectation that the design and layout of development will contribute towards the positive management of surface water, ensuring that there is no detrimental impact in run-off into surrounding areas or the drainage regime. Policy E2 adds to this approach in seeking to restrict run-off to relevant greenfield rates, via inclusion of a standard which proposals are expected to meet. I would defer to the Lead Local Flood Authority for consideration of the FRA and proposed measures – including whether the implications of the July 2013 flood event have been satisfactorily responded to.

#### Developer Contributions and Infrastructure

Spatial Policy 6, Policy DM2 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. This infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where appropriate funding assistance from the District Council. It is critical that the detailed infrastructure needs arising from development proposals are identified and that an appropriate level of provision is provided in response to this. The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure and so I would direct you to this document in the first instance. Policy So/Ho/5 carries specific requirements around provision of satisfactory drainage arrangements, so we will need to be content that the proposal is appropriate in this regard.

#### Conclusion

The principle of development has been established through the allocation of the site, and the additional contribution the proposal could make towards the maintenance of a five year housing land supply would be welcomed, as would the quantum of affordable housing. However it remains important that an appropriate design and layout can be provided for at the scale of development proposed – and whilst this is a matter for your judgement I do have significant concerns in this respect. It is also important that the comprehensive and coherent delivery of the allocated site is provided for, and that the access requirements of So/Ho/4 are taken account of. Without resolution of these matters I would be unable to provide support for development as proposed.”

**NSDC, Tree Consultant – (03.05.2019)** “The revised/amended layout and proposed landscaping of the buffer zones and proposed POS are acceptable.

The propose internal species mix is acceptable but is still only indicative.

No full tree hedge/tree protection plan is submitted.

I would therefore still recommend the use of conditions noted in my previous comments.”

**(08.03.2019)** “The proposed species/size/proposed planting pits/management and locations of the west boundary soft landscaped areas are acceptable.

Species selection for the central residential development are acceptable. However locations are only currently noted as indicative.

Recommend any approval has attached conditions:

1. No works or development shall take place until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the District Planning Authority. This scheme shall include:

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers .
- c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. Details of any scaffolding erection and associated ground protection within the root protection areas
- h. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

2. All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme.

3. Prohibited activities

The following activities must not be carried out under any circumstances.

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
- b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- e. No soak- aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

4. No works or development shall take place until the District Planning Authority has approved in writing the full details of every tree, shrub, hedge to be planted (and its proposed location,

species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells.

5. The approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is soonest, unless otherwise agreed in writing with the District Planning Authority. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted on written consent of the District Planning Authority.

Reasons.

To preserve and protect existing trees and new trees which have and may have amenity value that contribute to the character and appearance of the area.”

**(18.01.2019)** “Amended proposals will result in the loss of further trees on and adjacent to the site.

The proposed western boundary landscaping takes little advantage of the available area available for planting large species trees ( 5 oak are proposed).

The remaining tree stock comprises of a limited mix of smaller trees probably more suited for location within the site.

Greater bio diversity should be introduced rather than the heavy reliance on Amelanchier, Betula and Prunus.

No soft landscaping details have been submitted for the remainder of the site.

I would therefore recommend amended and further soft landscaping are considered as a pre commencement condition as well as tree/hedge protection details.

Recommended conditions

1. No works or development shall take place until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the District Planning Authority.

This scheme shall include:

- a.A plan showing details and positions of the ground protection areas.
- b.Details and position of protection barriers .
- c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
- d.Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e.Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f.Details of any scaffolding erection and associated ground protection within the root protection areas
- g.Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

- 2.All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme.

3.Prohibited activities

The following activities must not be carried out under any circumstances.

- a.No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
- b.No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c.No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
- d.No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- e.No soak- aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f.No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g.No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h.No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

4.No works or development shall take place until the District Planning Authority has approved in writing the full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells.

5.The approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is soonest, unless otherwise agreed in writing with the District Planning Authority. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted on written consent of the District Planning Authority.

Reasons.

To preserve and protect existing trees and new trees which have and may have amenity value that contribute to the character and appearance of the area.”

**(27.07.2018)** “Although a tree survey has been submitted with this application it does not appear to have been fully acknowledged with regard to the proposed layout.

Only 4 trees are shown to be retained -3 ash and one small damson.

None of the trees have been assessed above C category even though trees T11,12 and 13 Lime and T17,18 Sycamore are likely to have significant landscape value and are all of reasonable condition. Some of these trees are likely to be adversely affected by the proposed highway improvements but no recognition of this has been noted on the layout plan.

Of the 4 retained trees T9 is very close to plot 55. It is unclear why this tree is being retained as it is the only one on the survey with a U category.

There are some indicative landscaping details plotted on the layout plan but no indication of species that would indicate if these proposals are feasible long term plantings.”



## **NSDC, Strategic Housing – (22.03.2019)**

### **“Summary**

- **Acknowledge that the applicant is providing 30% on-site affordable housing.**
- **However, I raise the following concerns:-**
- **The type of affordable housing proposed is, in the main, acceptable; I would, however, wish to see the inclusion of a minimum of 2 bungalows in accordance with the aspirations of the Southwell Neighbourhood Plan and to meet evidenced housing need in this locality. I note that the applicant suggests the site is not suitable for this type of dwelling due to the remoteness from services/facilities. In my view the site is relatively close to a bus stop and local store.**
- **The District Council’s Affordable Housing Supplementary Planning document seeks to ensure that the affordable housing is tenure blind and dispersed across the site. The proposal sites the affordable housing in one location and appears segregated from the market housing. I accept that the site presents some restraints in terms of development but feel that the affordable housing should be clustered in 2 or 3 clusters across the site.**
- **I note that the affordable element of the scheme has been proposed in a courtyard design. This is supported but the density appears very high and the layout of the car parking particularly intense.**

I refer to the above full planning application and make the following observations on behalf of the Council’s Housing Strategy and Development Business Unit.

### **Affordable Housing Policy**

The District Council’s Core Strategy (2011) (Core Policy 1) seeks to secure 30% affordable housing provision as defined in national planning policy, on all new housing development proposals on qualifying sites as (defined in New Planning Policy Framework 2012). The qualifying thresholds for the Southwell area are:-

- 5 or more dwellings / 0.2 hectares irrespective of the number of dwellings.

The affordable housing on site requirement on the proposed site of 80 dwellings is 24 dwellings. The district council seeks to secure a tenure mix of affordable housing to reflect local housing need and viability on individual sites. (CP1). Overall the tenure mix in the district should be 60% social rented housing (or affordable rented housing) and 40% intermediate housing (usually shared ownership). The affordable housing should be accessible and affordable to those unable to compete in the general housing market

### **Southwell Neighbourhood Plan**

The Southwell Neighbourhood Plan was adopted in October 2016. The plan seeks to encourage the provision of smaller homes for younger people and families and emphasises the importance of social housing and bungalows in order to diversity the housing mix within the settlement

### **Design Standards**

With regard to the space/design standards the Council encourages developers, as per point 10.7.1 of the Interim Policy Note, and emerging Supplementary Planning document for affordable housing, to meet the Homes and Communities Agency’s Design Standards for the affordable housing units, for reference a link to this document is below, the units should also not be

distinguishable from the open market housing.  
<https://www.gov.uk/government/publications/design-and-quality-standards>

### ***Additional Information***

In terms of Phasing, ownership and management, occupancy and nominations and a local connection and cascade mechanism reference should be made to point 3.27 – 3.32 of the District Council's Affordable Housing Supplementary Planning Document.

### **IMPORTANT INFORMATION**

**Southwell is a designated protected area (by map) and the proposed affordable rental units will be exempt from the Right to Acquire and the shared ownership/intermediate rent units will be subject to a staircasing restriction of 80% or 100% providing the Registered Provider has the right to re-purchase. The District Council's Legal Department will provide further details in the Section 106 Agreement."**

**NSDC, Environmental Health (Contaminated Land) – (17.01.2019)** "I have no additional comments in relation to contaminated land. No observations."

**(24.07.2018)** "No observations."

**NSDC, Environmental Health – (10.08.2018) & (05.02.2019)** "I have no comments to make."

**NSDC, Community Facilities Officer – (05.10.2018)** "If this application is approved I would request a full community facility contribution in accordance with the current Supplementary Planning Document-Developer Contributions, such contribution would be utilised to improve and enhance the facilities at Southwell Leisure Centre."

**(07.08.2018)** "This application if approved would require a Community Facilities contribution in accordance with the current SPD Developer Contribution Policy. Such contribution would be utilised to improve the community infrastructure within the Southwell area."

**NSDC, Access and Equality Officer – (17.01.2019) & (07.03.2019)** "There are no further observations beyond those previously advised."

**(31.07.2018)** "As part of the considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that the developer's attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of visitable, accessible and adaptable, and wheelchair user dwellings, and that consideration be given to incorporating 'accessible and adaptable dwellings' within the development. The requirements of a dwelling's occupants can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors' alike as well as meeting residents' changing needs, both temporary and longer term. Similarly, inclusive access improves general manoeuvrability for all including access for those with push chairs and baby buggies as well as disabled people etc.

It is recommended that disabled persons and wheelchair users' access to, into and around dwellings be carefully examined together with reference to the topography of the site with accessible facilities and features. External pathways to and around the site should be carefully considered and designed to accepted standards to ensure that they provide suitable access around the development. Any danger to pedestrians, particularly children, elderly or visual

impaired people, being required to walk along vehicular access routes should be avoided by providing a traffic free network of separated pavements and footpaths throughout together with tactile warnings and dropped kerbs at road crossing points as appropriate. It is recommended that inclusive access be considered to any open spaces and external features.

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

**32 representations have been received from 20 local residents/interested parties which can be summarised as follows:**

Over-development of the site

- Development of 80 represents 40% increase above 60 referred to in the allocation policy;
- 60 dwellings represents 15 dwellings per hectare, the affordable housing element represents 47 dwellings per hectare;
- 20% of allocated site is excluded from this application, and if developed would result in even more numbers;
- Density too high, unsuitable for crucial edge of Southwell position, adjacent to open countryside;
- More like an inner city development not one for a market town;

Layout

- Over concentration of affordable housing in one area creating a ‘ghetto;’ should be clustered in 2 or 3 places around site;
- No bungalows provided to allow down-sizing;
- Lack of open space;
- Relocating footpath is wrong just to suit capitalists making major profit;
- Children’s play area is in dangerous position near the busy road and away from the affordable housing;
- The plan is wrong - there is no access from the Hopyard to the Southwell Trail;

Flooding

- Land to the north of site floods and this development would make it worse;
- Author of the Flood Risk Assessment has no knowledge of local flood circumstances;
- Town flood alleviation scheme plans to divert more water from Halam Road side of town into this ditch which is partially blocked on Greet side of Southwell Trail, preventing flow to river and would cause flooding to surrounding houses;
- There is a headwall in the ditch flanking the western boundary and covers 105mm discharge pipe to direct storm water from fishponds areas of Norwood Park and prevent it adding to flooding on Springfield Road. This ditch is already inadequate and any surge of water would result in the flooding of the development site, so measures must be taken to manage flow from the discharge pipe and balancing pond needs to accommodate surface water run-off from the whole site;
- To use the proposed road to act as a conduit to channel excess water into surrounding watercourses would increase flooding elsewhere (including a septic tank);

Highway concerns

- Traffic congestion is a problem already;
- Existing roads and footpaths inadequate already, this site, the Vineries allocated site and land on Allenby Road will make traffic situation worse;

- Access onto Lower Kirklington Road would be very dangerous;
- Existing roads too narrow and winding and not safe and would be parked up;
- Holpkiln Road is so narrow, 2 cars can hardly pass, with no footpaths and is used as a rat-run which will only get worse as a result of this development, which is dangerous;
- Lack of natural surveillance of parking forecourts;
- Traffic survey focuses on too limited an area;
- Roundabout should be more off-set to prevent cars driving straight through at high speeds;
- Flashing traffic lights would be in close proximity to windows of existing houses causing disturbance;
- Traffic lights would make it more difficult to access their property;
- Traffic lights would encourage people to speed to get through the lights and cause accidents, a roundabout would be better;

#### Other impacts

- Insufficient infrastructure to serve the town in its current size – medical centre, dentists, schools, car parks are full, this would make things worse;
- Traffic, lights, noise would result in total urbanization of rural approach to the town;
- Loss of trees/hedgerows;
- Detrimental to privacy of existing properties adjacent to the site;
- Overshadowing and loss of light to house and garden;
- Detrimental impact on wildlife – barn owls, bats, wrens, hedgehogs;
- Will have a further negative impact on the town like the Burgage site;
- De-value neighbour's property;

#### Other matters

- Wrong site to develop;
- Allocated sites SS4 and SS5 must work together;
- The existing hedgerow is jointly owned, concern as to how will it be reinforced and who would maintain going forward;
- Plans don't show neighbour's access to their field;
- The owner of the dyke adjacent to the site needs to keep this maintained given floods of 2007 and 2013;
- Neighbour would like to get Right of Way diverted from his land;
- Need to increase security to their properties given likely increase of people using Rights of Way;
- Private rights of access across the site must be preserved;
- Reserve right to use water pipe across the site;
- Site boundary plan incorrect as it includes trees and hedgerow that are privately owned;
- Substantial return for a few that don't live there;
- What is the point of the Neighbourhood Plan, if it is ignored;
- Will the town circular bus route be extended?
- How does this sit with the long-term tourism vision for the town?

#### Comments of the Business Manager

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types

of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 11 October 2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

#### Principle of residential development

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. This site, which is allocated and this part of the Development Plan supply, would clearly contribute to the Council's 5 year land supply if approved. This is a significant material planning consideration to be weighed in a planning balance.

The Core Strategy outlines the settlement hierarchy of the District identifying Southwell as a Service Centre with a function to act as a focus for service provision for a large local population and a rural hinterland. It is intended that Southwell will accommodate 15% of the overall housing growth for Service Centres. The site, located at the northwestern edge of the town, lies within the settlement boundary and forms part of a site that is allocated for around 60 dwellings as part of Policy So/Ho/5 of the Allocations and Development Management DPD. It is therefore considered that the principle of residential development on the site can be supported subject to a site specific assessment.

Policy So/Ho/5 (and Policy SS5 in the Southwell Neighbourhood Plan (SNP)) provides the framework for how development should be brought forward. Whilst the principal of development is acceptable it still remains that the detail of the proposal needs to be carefully assessed, especially given the 'transitional' nature of the site on arrival into the Town.

I therefore consider that a key issue is whether the proposal would prejudice the delivery of the rest of the site allocation. The owner of the north-eastern corner of the site does not wish to dispose of the land at present, a matter which may well need to be considered at the Plan allocation stage. However, the development of this majority part of the allocation site does not prejudice development on the remainder coming forward at some time in the future as there is the ability to provide vehicular access to it via the main part of the site. The agent has stated that the supporting material submitted continues to take into account the cumulative impact of development, for example on the local highway and local flood risk. I am therefore satisfied that the development on the remainder of the allocation would not be prejudiced through any potential approval on this site, but would be assessed on its own merits. There is acknowledgement however, that additional units on this adjacent but allocated site would result in even greater numbers beyond that envisaged by the original allocation.

### Housing Density and Mix

Policy SS5 requires appropriate design, density and layout which addresses the site's gateway location and manages the transition into the main built up area. Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. It goes on to say that development densities below this will need to be justified, taking into account individual site circumstances.

The wider site allocation relates to c3.25ha which would give an average density of 18dph based on around 60 dwellings. This application proposes 80 dwellings on a site area of c2.76 hectares of land equating to an average density of c28.9 dwellings per hectare. Therefore proportionately the site would have a slightly lower density than is envisaged by the policy. The agent states that 18 dph is not considered to represent the best and most effective use of the land and in order to comply with the density requirements set out in Table HE1b of the SNP, the allocation of 60 dwellings on site would be exceeded.

The agent refers to the Allenby Road site, where there was an uplift of units from around 65 to 67 and refers to the report to Members which stated:

*“The main aim of the allocations process was to deliver the minimum number of dwellings to satisfy the requirements of the Core Strategy and this was endorsed by the Inspector who conducted the examination of the DPD... The key aspect in considering the greater level of development is therefore whether the proposal remains able to satisfy relevant policy requirements, and whether it would give rise to any unacceptable local environmental, highway or amenity impacts. Where the policy requirements can be met and no unacceptable impacts are identified then there is no reason to resist more development and particularly not for statistical reasons alone. As explained above, the figures quoted within the DPD were minimum estimates, not maximum capacities. Where sites can deliver a greater amount of development this will benefit both the settlements in which they lie and the whole district. Developer contributions for use within the settlement will be proportionally higher and there may be less need to find new sites in future rounds of site allocation. District wide, a greater amount of development helps to maintain the 5 year land supply and thereby provide protection from inappropriate development.”*

It is certainly true that often housing numbers envisaged can become a minimum delivery figure rather than a maximum. Indeed, in the context of the recently adopted Amended Core Strategy (March 2019) the Inspector was clear that if the document were to be found sound development levels promoted must be viewed as minimums for quantum rather than maximums, subject to the usual assessments on acceptability of layout, scale, and impacts of a particular proposal.

In terms of mix, Policy So/HN/1 seeks to secure a majority of one or two bedroom units, Policy HE1 of the Southwell Neighbourhood Plan (SNP) is more prescriptive and seeks the following mix on Greenfield sites:

<b>Dwelling Type</b>	<b>Proportion</b>	<b>Density</b>
1 or 2 Bedroom (incl. starter homes)	40%	50 dph
1 or 2 bedroomed bungalows	20%	30 dph
3 Bedroom (Family Homes)	15%	40 dph
4 + Bedroom (Executive Homes)	25%	20 dph

The policy goes on to state a strong support for developments which provide bungalow and other types of accommodation for elderly and disabled people.

The proposed development includes a range of housing sizes and tenure types including 1 and 2 bed units; terraces; semi-detached and detached dwellings. As is outlined by the proposal section above, the scheme incorporates 30% affordable housing (and would be secured by a Section 106 agreement). This is shown in the table below:

<b><i>Dwelling Type</i></b>	<b>No. Units</b>	<b><i>Proportion</i></b>
1 or 2 Bedroom	38	47.5%
3 Bedroom (Family Homes)	17	21%
4 + Bedroom (Executive Homes)	25	31.5%

This shows there is an over-provision of 1 and 2 beds of 7.5%. There is also a marginal over-provision of 3 beds (1%), but also an over-provision of 4+ beds of 6.5%, compared to the policy requirements.

No bungalows are proposed within the development and as such compliance with Policy HE1 (Table HE1b) which requires 20% of any development on Greenfield sites of 11 or more dwellings to comprise 1 or 2 bed bungalows is not achieved. The agent seeks to argue that due to the peripheral location of the site, away from main facilities in the town (600 metres to the nearest small convenience shop, 1200 metres from the Coop supermarket and doctor’s surgery and 1500 metres to the Town Centre), it is not considered to be an appropriate location for the elderly, or those with health or mobility issues who typically occupy bungalows and as such would be more appropriately located closer to facilities. Whilst there is an acknowledgement that there is a demand for bungalows in the town, Nottingham Community Housing Association (NCHA) who would deliver the affordable housing part of this scheme and an experienced provider of specialist housing states bungalows, typically occupied by the elderly or disabled, are not best suited on this site.

To be policy compliant, the scheme would have to provide some 16 bungalows, which the agent argues would be inefficient use of land on a site that is already constrained by the shape of the site and the need for substantial structural landscaping, especially on the north-western and northern boundaries.

Whilst it is acknowledged that the proposed density is considerably above the 60 referred to in the policy, the density falls below that set out within Core Policy 1 of 30 dph and as such this need not be fatal, depending on the detailed impacts which are explored further below. I accept that due to the site’s location on the edge of the settlement, there is a requirement both to provide a substantial landscape buffer to the west and to manage the transition to the countryside beyond – a matter acknowledged in both Policies So/Ho/5 and SS5.

The site secures much needed affordable and smaller dwellings, however it also makes over-provision for larger dwellings and provides no bungalows, which does not reflect policy requirements and as such weighs negatively against the proposal when weighed in the overall planning balance.

*Affordable Housing*

Core Policy 1 of the Amended Core Strategy states that 30% affordable housing should be provided with a tenure mix to reflect local housing need and a break down of 60% for social rent and 40% affordable home ownership products.

The submitted scheme is policy compliant in terms of quantum of units and reflects the stated tenure mix delivering 24 units, 14 for rent (58%) and 10 (42%) for shared ownership.

In terms of the proposed layout on site, the affordable units are located together in a courtyard arrangement, centrally positioned and adjacent to the eastern boundary of the site. Concern has been raised by the Town Council and third parties regarding this layout and views expressed that it is creating a “ghetto” and such ‘segregation’ should not be supported. The Council’s Affordable Housing SPD recommends that affordable housing units are pepper potted around sites and should be tenure blind and the comments received from the Council’s Strategic Housing have been duly noted. It is acknowledged that this layout does not reflect this policy aspiration, however, I am also aware that registered providers desire close proximities in terms of future management and that such compromises have been accepted on the many other development sites in this regard. Whilst it is acknowledged that the terracing of units (which is not present on the rest of the site) and the cul-de-sac layout enclosed with hedging intensifies the perceived separateness of this area, I do not consider that this necessarily should be fatal to the overall scheme. Indeed, from a design perspective keeping and making features of existing hedgerow is considered appropriate if acceptably managed and designed into a comprehensive scheme.

#### Layout/Scale/Design

Core Policy 9 and Policy DM5 seek development to reflect its local context in terms of rich local distinctiveness of the District’s landscape and character of built form which should be reflected in the scale, form, mass, layout, design, materials and detailing of new proposals. With a single vehicular point of access to the site, the layout of the development was always going to result in a cul-de-sac design and the limited width of the site has also resulted in a number of smaller cul-de-sac layouts. However, the PRow and the Southwell Trail at the northern end of the site will continue to encourage movement through the site from walkers and cyclists. Through negotiation, the amended layout has sought to reflect its edge of site location with development considerably reduced along the western boundary.

The large properties are positioned towards the rear part of the site and although strictly two storey in appearance, with dormers and rooflights, accommodation is clearly provided at second floor level. This has resulted in ridge levels of over 9m and up to max of 9.7m in height in some house types, which causes some concern given its sensitive position. However, the land levels do reduce and slope downwards towards the northern end of the site and it is also acknowledged that the existing and proposed hedgerow and trees planting would help to provide some mitigate of the impact of this scale. The case officer sought to resist development with dormer windows given that they are not typical of the area but they remain in place on a large number of the units towards the rear, albeit in catslide features that are less prominent than standard dormers with ridged roofs. In terms of other detailing, the scheme presented is appropriate traditional design.

In terms of materials the predominant use of brick is acceptable (with only two properties with a rendered finish, however, the proposed use of the stated buff brick is not acceptable and would be conditioned out on any approval.

#### Highway Safety

Policy DM5 seeks to ensure adequate access and parking is provided for development and Spatial Policy 7 relates to sustainable transport. So/Ho/5 states that development on this site would be subject to *‘the preparation of an appropriate Transport Assessment as part of any planning*



*application to identify the impact of the development on the highway network. This assessment should specifically include the impact of the site's access on Lower Kirklington Road and Kirklington Road junction, the achievement of acceptable visibility and the provision of appropriate mitigating measures.'* This is echoed by Policy SS5 of the Southwell Neighbourhood Plan (SNP). Policy TA3 of the SNP also looks to ensure that the provision of new highways provide suitable measures to accommodate traffic, improve the safety and attractiveness of the street-scene and integrate traffic calming measures.

The applicant initially submitted a Transport Assessment (TA) by Armstrong Stokes & Clayton Ltd dated July 2018 in support of this application. This assessment set out the provision and design of a 4-armed roundabout to provide access to the application site. However, the Highway Authority objected on a number of grounds, including highway safety, as set out in the consultation section above. The applicant sought to provide additional clarification over the following months in an attempt to demonstrate their opinion that the roundabout was safe and secure the support of the Highway Authority. However, an objection was maintained and much to the frustration of the applicant, the case officer confirmed that any recommendation would not be made contrary to the expert advice of the NCC highway engineers on matters of safety.

With extreme reluctance therefore, the applicant amended the access design to a traffic light controlled junction and re-submitted to that effect and another round of consultation commenced. However, on consideration of the traffic light scheme, the Highway Authority were concerned that the dimensions of the junction needed to be increased and so there was insufficient information to demonstrate that this access design could be accommodated safely. A revised access design has therefore been submitted and been re-consulted upon. At the time of print the highway authority are satisfied with the revised design, subject to planning condition(s) and is currently being assessed. The final comments of the Highway Authority will therefore have to be reported on the Late Items Schedule or verbally at the Planning Committee. As such, officers respectfully request the right to alter the recommendation presented to Members, in the event that the Highway Authority reach the conclusion that the proposed junction design is unacceptable in highway safety terms.

In addition to providing safe access to this allocated site, the junction design must also not prejudice a safe access being provided to serve the allocated housing site on the south side of Lower Kirklington Road (So/Ho/4), known as the Vineries, which appears to have been adequately demonstrated.

In their latest comments received on 15 May 2019, the Highway Authority have raised two matters. The first in relation to the detail of the scheme, firstly that the term "shared surface" should be removed from the plans and on adoptable roads there should be clear physical definition (ie a kerb) to differentiate between the carriageway and the footway on safety grounds. The applicant has requested that this matter be conditioned on any planning consent. Secondly, the scheme continues to rely on 3 tandem parking spaces being provided for the larger houses in the scheme. This matter has been raised previously but the applicant has chosen not to amend the scheme to deal with this concern and clearly matters of layout cannot be conditioned. The Highway Authority is of the view that because such arrangements make parking on the site more difficult, it would result in more cars being parked on the highway. The applicants are not willing to amend parking arrangements and refer to para 7.15, the supporting text of Policy DM5 which states that 'the Council will seek to be flexible and pragmatic towards parking provision in connection with new development.' The applicant states the fact that the site is in a sustainable location with other forms of transport available such as walking/cycling and national and local

planning policy seeks to move away from car dependency. However, they accept that residents will have cars and therefore the scheme provides sufficient off street parking for each dwelling and they state that there will be no displacement of parking onto the wider public highway and so no adverse impact on the free and safe flow of traffic or the amenity of residents outside of the proposed scheme. Whilst this is correct, Members need to consider whether 3 spaces in a tandem arrangement is likely to lead to impacts on the free and safe flow of traffic and residential amenity **within this new development** site and whether this is acceptable.

As the application currently stands, the objection of the Highway Authority remains, principally on the grounds that a safe access to and from the site has not yet be adequately demonstrated, however, this situation will be up-dated at the Committee meeting.

### Drainage/Flooding

Policy SS5 of the SNP provides that development of the site should be subject to 'The positive management of surface water through the design and layout of development to ensure that there is no detrimental impact in run-off into surrounding residential areas or the existing drainage regime;' Policy E1 of the SNP sets out what Flood Risk Assessments should contain and achieve whilst Policy E2 relates to Flood Resilient Design, which seeks to restrict run-off to relevant green field rates, via inclusion of a standard which proposals are expected to meet.

So/Ho/5 provides that development will be subject to the following; 'co-operate with the infrastructure provider to carry out an assessment of the drainage infrastructure required to serve the development, the impact on the local drainage network serving the site and the identification of appropriate mitigating measures to ensure that there is adequate capacity in the local drainage network to serve the development' and 'the positive management of surface water through the design and layout of development to ensure that there is no detrimental impact in run-off into surrounding residential areas or the existing drainage regime'.

Core Policy 9 requires developments to pro-actively manage surface water and DM5 mirrors this.

The site lies within Flood Zone 1 (at lowest risk of fluvial flooding) according to the EA Flood Maps. However, small localized areas of the site are identified as being specific risk of surface water flooding as advised by the EA. It is also noted there are flood sensitivities in the Town following the flooding event that was experienced in July 2013 which arose from surface water flooding.

The application was accompanied by a Flood Risk Assessment and Drainage Strategies dated July 2018 by Armstrong Stokes & Clayton Ltd, which has been up-dated by a further FRA dated January 2019 and a Technical Note dated April 2019.

Paragraph 79 of the NPPG provides that 'New development should only be considered appropriate in areas at risk of flooding [if priority has been given to the use of sustainable drainage systems](#). Additionally, and more widely, when considering major development, as defined in the [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#), sustainable drainage systems should be provided unless demonstrated to be [inappropriate](#).' For the avoidance of doubt this scheme is considered to be a major development and this is the starting point therefore.

Paragraph 80 of the NPPG goes on to say that 'Generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable:

1. into the ground (infiltration);

2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

The FRA submitted indicates that based on ground conditions infiltration SUDS is not viable in this instance. Thus in line with the hierarchy of drainage options, an attenuation based surface water strategy with restricted discharge (10.3 l/s) to the watercourse running along the western boundary of the site is to be promoted.

Based on the current proposed development layout, the potential impermeable area has been established at approx. 1.29ha. The likely size of balancing pond required (plan area of approx. 976.7 sq metres) and attenuation volume required (700.7 cubic metres) have been calculated. The attenuation pond can accommodate 387.3 cubic metres with an allowance for a 300mm freeboard. Therefore the remaining flows would be attenuated within a permeable paving storage structure situated below the northern most access road and will support the attenuation volume offered by the pond to the total requirement of 700.7 cubic metres.

The FRA states that the drainage system for the site will be designed at detailed stage to not surcharge in a 1 year storm, not to flood in a 30 year storm and not to flood for the 100 year + 30% climate change, which can be conditioned on any planning consent.

The balancing pond would be maintained for the life time of the development by a management company.

NCC Lead Local Flood Authority now raise no objection to the proposal, subject to certain criteria, that can be conditioned as part of any planning approval. Whilst I fully understand the concerns raised by the Town Council, Civic Society and numerous local residents regarding flood risk both on the site and on the surrounding land, (as well as wider concerns regarding surface water that already drains onto this site from higher land closer to Halam Road), the surface water drainage expert at NCC has confirmed that the run-off of surface water from the site could be controlled and would prevent any increase in flood risk on adjoin sites and on this basis, I consider the development accords with the flood risk policies contained within the Development Plan and as such is acceptable.

#### Landscaping, Visual & Tree/Hedgerow Impacts

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.'*

In respect of managing the sites gateway location at the edge of the settlement So/Ho/5 provides that *'in order to assimilate the development, provision should be made, in accordance with the landscape character, for the retention and enhancement of the site's existing landscaping screening.'* This policy also goes on to require that *'provision of appropriate landscape buffering to the Southwell Trail within the design and layout of any planning application.'*

Policy SS5 of the SNP, also sets out clear requirements regarding addressing the gateway location, in order to manage the transition into the main built up area. Central to this is the retention of landscape buffer strips *'between the north western boundary of the site, the Southwell Trail and the boundary footpath and the boundaries of individual building plots and arrangements are to be*

*put in place for the maintenance of the strips and hedges for the lifetime of the development.’ SS5 also states that ‘wherever possible, the layout should retain existing mature trees and vegetation on the site, based on a thorough survey of the quality and health of trees within the site.’*

*The Design Guide attached to the SNP states that “unless it can be shown to be unreasonable, the width of a buffer/standoff should be a minimum of 8m and sufficient to allow for machine maintenance...”*

A Landscape and Visual Impact Assessment supports the application, which has been revised and added to through the course of its consideration. The main LVIA concludes that the proposal would result in a loss of current agricultural fields (inevitable given the sites allocation or housing), and some hedgerow and tree cover as well as excavation of earth, minor re-profiling of the site’s topography and introduction of built form and residential land use. However, the site’s boundary features will be protected and enhanced where possible restricting impact both within the site and at its boundary. In general construction and operational activities would have a high impact on existing site character and condition and considered to be a moderate adverse impact. The report states that *“there would be a slight diminution in a sense of openness which will impinge on the semi-rural feel. However, the scale, mass and form of the proposed development is consistent with that present in the immediate area and it will be viewed as part of the existing surrounding landscape fabric. Considering the small proportion of land affected and its contiguity with the existing urban edge impact on this LPZ will be at most low and minor adverse effect....In terms of the wider landscape character of the whole study area, it is assessed that any change resulting from the proposals would be absorbed by and imperceptible against current baseline conditions.”*

In terms of visual assessment, the LVIA considers the perceived visual effects resulting from the development would be very limited in the context of the entire LVIA area. This is due to the site’s low lying, relatively flat landform and enclosed nature, being bounded by substantial vegetation to the north and west. The existing urban edge serves to screen views of the proposed development from the south and east. The report acknowledges that there are several residential receptors located in close proximity to the site (Pear Tree Cottage and properties in Orchard Close) which will be subject to high levels of visual disturbance during construction and operational periods. Mitigation measures include peripheral tree screening along the eastern and southern boundary. The resulting change in character of the view and loss of a sense of openness are assessed as major adverse. Impact on The Beacon, High Gables and Redroof on Lower Kirklington Road and at Maltkilns/Hopkilns Cottages to the north-east are more screened and distant from the development and the impact here is defined as medium in magnitude by the report. However, it concludes that given the high sensitivity of the receptor group this will still constitute a major adverse effect. Users of short sections of PRow FP57 and FP58 will experience high levels of visual disturbance, which will be at close range and represent a complete change to existing character, so magnitude of effect is high resulting in a major adverse effect. Other visual receptors in the wider area include users of Southwell Trail and Robin Hood Way would not be greater than low adverse with a moderate adverse level of effect, according to the report which following full mitigation measures, would expect to decline further in the long term to negligible adverse levels. The LVIA states that the development proposals are considered to not impinge on protected key designations as identified in the SNP nor would they have a significant visual impact on any other landscape or conservation designation in the locality, including Southwell Conservation Area.

The report concludes:-

*“The proposals will have some impact on landscape character and degree of openness in the immediate area. However, the effects will be localized and will generally not impinge on the quality and character of the wider landscape. Following the establishment of mitigation measures it is likely that adverse landscape effects will be moderate further. In general, visual effects will also be contained with only a limited number of immediate close range residential receptors using a relative small stretch of local PRow being subject to major adverse levels of effects. In general, the development will be perceived as part of the existing peri-urban, residential land use with the development proposals providing a transition between the countryside and settlement edge. In addition, topography and the presence of built form and tree cover in the wider landscape will serve to limit views from receptors located at over 1km distance. Taking these factors into consideration, it is concluded that the proposed development can be accommodated in the surrounding landscape without unacceptable landscape and visual impact.”*



View of western boundary of site from the west (within the LVIA)



Indicative visual looking north into site from Lower Kirklington Road (within the LVIA)

The latest Addendum to the LVIA seeks to assess the landscape and visual impact of the new traffic light junction. The document describes the works that would be associated with Appendix B (Possible signalized access junction (Figure 3.5 of the Transport Assessment) carried out by Armstrong Stokes & Clayton Ltd). However, as already indicated in the Highway Safety section of this report, this has raised concerns from the Highway Authority that the junction dimensions are too tight, and so amendments to the junction have been received. The applicants were not

willing, and do not consider it necessary to provide revised visuals to show the revised design. They are firmly of the view that there is sufficient information to assess the scheme. I agree that the principle of a signal control junction and its impacts can be assessed.

The existing Addendum describes the superseded junction as having:-

- a traffic signal post to the left hand side of the carriage way that would equate to a total of 4no. signal posts to the junction;
- 3no. uncontrolled pedestrian crossings, 1 to Kirklington Road and 2no. to Lower Kirklington Road (east and west);
- Existing sign is proposed to be relocated and supported by additional signage;
- Existing footpaths and cycleways are proposed to be widened on the approach to the junction and within the visibility zone of the junction;
- A section of existing hedgerow to the southern boundary of the site, which runs along Lower Kirklington Road is to be removed to form the proposed access into the site;
- A further short section of hedgerow to the west of the proposed access may require additional pruning or removal if required, to accommodate and allow visibility splays for the proposed junction to operate safely.



Indicative photomontage, but it does not reflect the amended junction design and as such it must be given **very limited weight in the determination of this application.**

The report states that largely due to the winding nature of roads, topography and intervening built form and vegetation, potential views of the proposed junction and associated traffic lights would be contained to within 0.3km to the west and 0.2km to the east. The report includes one indicative photomontage (see above) and several existing viewpoints of the extent of the proposed junction area only, however, this has not been amended by the revised access design currently under further consideration.

The summary conclusions of the LVIA Addendum state:

*“The introduction of the traffic lights at the western gateway into Southwell will compromise some of the existing character features. Any highway intervention in this location will add an obstruction but as set out in Policy So/HO/5 of the Southwell Neighbourhood Plan;*

- *Appropriate design, density and layout which addresses the site’s gateway location and manages the transition into the main built up area.*

*With reference to landscape character, the traffic lights introduce a new element more commonly associated with a more suburban environment, into the countryside edge. However, the lights do not break the existing skyline, are located at the existing point of the settlement edge and would not be the dominating feature – the mature trees in this location remain the defining settlement edge feature.*

*Visually and perceptibly the change is upon the free-flowing nature of the existing transition between the countryside and the settlement. The traffic lights create a definite point of change and will likely result in vehicles stopping or slowing down, altering the experience of the current movement from the countryside into Southwell suburban area. The actual traffic lights and associated road markings introduce a physical and visible change at this point on the road. It should be noted that the change described is experienced within a short physical and perceptual period.*

*Should a roundabout have been proposed the movement of the traffic would have been altered, the unrestricted nature of it diluted by a junction solution. The traffic lights are judged overall to have, at worst a medium adverse impact, on the western gateway of Southwell.”*

The proposed signalized junction will clearly have a visual impact. However, in attaching weight to the comments of the highway authority this is the only solution which is appropriate to deliver the site allocations. Officers and the applicant have a preference for a roundabout solution at this location (with a 3 arm roundabout on lower Kirklington Road having previously been approved). That said, NCC are clear that this solution is harmful. On this basis, and in attaching weight to the need to deliver site allocations, the proposed solution, in an overall planning balance (and given NCC’s support) is considered acceptable.

Turning now to landscape within the site, the SNP identifies the existing hedges both around and within the site as important landscape vegetation. Whilst there is no definitive width set out within either So/Ho/5 or SS5 for the proposed landscape buffers, however there is reference to buffer widths being a minimum of 8m within the Design Guide of the SNP. I note that the landscape buffer shown on the indicative drawing is shown as being c3m wide along the northern boundary – which excludes the existing tree planting between the site and Southwell Trail. The buffer comprises additional hedgerow planting and a maintenance strip. Along the western boundary of the site the submitted plan show a c5m wide landscape buffer (although the Addendum to the LVIA refers to it being 8m wide) that sits inside the existing hedgerow along this boundary. Both these are considered to be Strategic landscape buffers that need to be conditioned to be retained and appear to be separate from any adjacent garden space which the applicant advises would be maintained by a management company. Whilst not considered to be a Strategic landscape buffer, the existing hedgerow that runs along the eastern boundary of the site is to be preserved and reinforced with a maintenance strip. The existing hedgerow along the southern boundary of the site and existing hedgerows to be retained within the site are also to be preserved and reinforced, although as these form the boundary between private residential gardens, their future maintenance is not proposed to be secured by a management company. This

clearly results in the hedgerows being left vulnerable to new owners on the site that may wish to rip out the hedgerows and replace them with some other form of enclosure. Unfortunately this could not be easily prevented once they fall within the ownership of third parties, but given that the majority of the hedgerow forms the rear boundaries of the affordable housing units, it maybe that Nottinghamshire Community Housing Association may agree to take on its maintenance into the future.

The application is supported by an Arboricultural Survey by Welch Design dated April 2018 which covers the application site.

Whilst there are not numerous trees present, none of the trees surveyed on the site or on the highway close to the proposed site entrance has been classified as a Category A tree and only one tree has been classified as a Category B tree (a sliver birch adjacent to High Gables – which is outlined in blue on the site location plan and so outside the red line plan); all the remaining trees are Category C or lower. The Survey does not identify any Category A hedgerow on the site, but there are a number of Category B hedgerows, the majority of which are located on the outer boundaries of the site with 4 internally within the site and others along both sides of Lower Kirklington Road. The majority of the Category B hedgerows are to be retained and reinforced as part of the proposals. There are smaller sections of hedgerows within the site that are proposed to be removed. As such, it is considered that based on the Arboricultural Survey that has been undertaken has informed the development of the site and largely retained existing significant hedgerows which would be added to by a condition that required additional new soft landscaping and as such, I consider the proposals to be acceptable and accord with the Development Plan.

### Residential Amenity

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers.

There would be approx. 21m between the side elevation of Plot 1 and the main side elevation of Pear Tree Cottage and 27m to the side elevation of the rear projection of Pear Tree Cottage. In addition there is a c3.5m high mature hedgerow that runs along the western boundary of Pear Tree Cottage that would acts as a screening feature between these two properties. The privacy of the rear garden of Pear Tree Cottage would also be adequately protected from front elevation window openings within Plots 2 and 3. There are distances of 50 m or more between the rear elevations of Plots 4, 54 to 61 and the rear elevations of properties fronting Lower Kirklington Road which are considered to be ample in amenity terms. Distances from the rear elevations of properties fronting Orchard Close to the east to the proposed new dwellings adjacent to this boundary sit between c19.5m and 22m in a back to back relationship and 15m and 17m in a rear to side blank gable elevation orientation. These separation distances are considered to be acceptable in terms of creating a good standard of amenity for both existing occupiers adjacent to the site and future occupiers on the site. I am therefore satisfied that residential amenity would be safeguarded in line with Policy DM5.

### Ecology

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



In support of the application, two Ecology and Protected Species Surveys have been submitted, one dated March and one dated May 2018 by Scarborough Nixon Associates which relates to the application site.

With regards to bats the reports concluded that the site has potential to be used by common reptile species and foraging and commuting bats and as such precautionary working practices should be used to ensure that bats are not disturbed, which include appropriate lighting on site and enhancements and roosting provision for bats within the proposed development. The reports recommend a minimum of 10 nesting features should be incorporated into the external fabric of the new buildings across the site. Works should also commence outside the active bird nesting season and precautionary approaches be taken towards possible hedgehogs, badgers, creation of wildlife friendly pond and use of native species and flowering lawn mixture/wildflower areas within any landscaping scheme. All these preventative/precautionary approaches are recommended all of which could be conditioned if the application were to be approved. These would involve the inclusion of an external lighting scheme to avoid harm to bats, covering of trenches and pipes overnight during construction in respect of badgers, clearance works to avoid bird breeding season and an ecologist conducting a search prior to commencement to check the site for reptiles, given surrounding landscape has the potential to support this species.

Both the Development Plan and the NPPF require ecological enhancements and the ecologist recommends enhancements through habitat creation, through an ecological landscape management plan and the provision of artificial roost boxes/bricks for bats. I am satisfied that all of these enhancements could be secured by condition if the application were to be permitted. I am therefore satisfied that the scheme in respect of ecology is acceptable and poses no conflicts with the Development Plan.

### Other Matters

#### *Archaeology*

CP14 and DM9 seek to secure the preservation and enhancement of the districts heritage assets including archaeology sites. So/Ho/5 also states that development will be subject to *'pre-determination archaeological evaluation and any necessary post determination archaeological mitigation measures secured by condition on any planning consent are likely to be required reflecting the high archaeological potential of the site.'* This is also reflected in Policy SS5 of the SNP.

A Desk Based Assessment was submitted with this application and following the request of the Council's Archaeology Consultant a further Geophysical Survey has been completed and submitted. This concluded: This "detected no anomalies of archaeological potential; however a former field boundary shown on historic mapping was located. Parallel linear anomalies are due to past agricultural activity, either ridge and furrow, orchards, other crops or drainage. Several weak trends are probably due to agricultural or natural effects."

On this basis the Council's Archaeological Consultant was satisfied that there was no archaeology on the site to warrant any further investigation or conditions being imposed on any approval of planning permission. I therefore conclude that there would be no conflict with the identified Development Plan policies.

### *Rights of Way*

Policy So/Ho/5 states that *'development will be required to seek to maintain and enhance the current provision of Right of Ways which transverse the site.'*

SS5 of the SNP states *'development will be required to seek to maintain and enhance the current provision of Rights of Way which transverse the site including avoiding then being diverted into estate roads, but wherever possible routed through landscaped or open space areas, to ensure a contribution to the Green Infrastructure. The scheme must offer pedestrian and cycle access onto the Southwell Trail from both ends and the centre of the site.'*

The existing site is transversed by both FP57 and FP58. The proposal seeks to retain both but FP57 is to be diverted to the west from its current coarse in order to run within the proposed open space adjacent to the western boundary This reflects the aspirations of the SNP. It is accepted however that where FP58 branches away from FP57, it will for a short section run along the proposed estate road. Given that this is an allocated site, it is inevitable that the rural nature of the PRow would be impacted in some way, however, the diversion of FP57 within the open space represents a successful negotiation and given that there is now no objections raised from NCC Rights of Way officers or the Ramblers Association, and with the proposed diversions secured through the correct legal process, it is considered that this element of the scheme is acceptable.

Although no details have been submitted, the proposed site layout shows a new link to be provided between the site and the Southwell Trail. As such this feature, its siting, together with its detail needs to be secured through condition, in order to accord with the Development Plan.

### *Secured By Design*

The Notts Police Architect has been a welcomed contributor within the consultee process and initially concerns were raised regarding the design of parking courts and their lack of natural surveillance in order to provide a secure design. The applicants have taken on board the comments raised and as a result, the last amendment of the scheme submitted has resulted in no further concerns being raised by the Police Architect.

### *Developer Contributions and Other Infrastructure required for the Wider Site Allocation*

Spatial Policy 6, Policy DM2 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. This infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where appropriate funding assistance from the District Council. It is critical that the detailed infrastructure needs arising from development proposals are identified and that an appropriate level of provision is provided in response to this. The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure.

The applicant has expressed a willingness to enter into a S106 Obligation to secure the required developer contributions which are set out below.

### *Affordable Housing*

Affordable housing provision makes a valuable contribution towards the creation of mixed and balanced communities and is integral to a more sustainable form of development.

Core Policy 1 sets out that qualifying schemes should secure 30% affordable housing on site. The proposal would exceed the revised affordable housing thresholds (11 units or more, or where the combined gross floor space exceeds 1000m<sup>2</sup>) and thus is a qualifying development.

The scheme proposes 24 of the 80 units to be affordable which equates to the 30% of on-site provision set by the Development Plan policy. The provision can be broken down into 14 units for rent and 10 units for shared ownership which reflects the rough breakdown set out with Core Policy 1 of the Amended Core Strategy of 60% rent; 40% shared ownership.

#### *Public Open Space*

The Council's SPD on Developer Contributions states that the scheme would need to provide for open space in the form of provision for children and young people, amenity open space and natural and semi natural green space.

#### *Provision for children and young people*

As a development of 80 dwellings, this application should make provision for public open space in the form of space for children and young people which should equate to 1,440sq m based on 18m<sup>2</sup> per dwelling.

The proposed site layout shows that 1,440m<sup>2</sup> would be provided on site adjacent to the western boundary. I note that the SNP provides that the public open space should be a focal point for the development under Policy SS5. The Town Council has raised concerns regarding its location on the site stating that it is too close to the busy road and some distance from the affordable housing units. In my opinion the play space is at a focal point at the head of an area of open space and therefore complies with SNP Policy SS5.

#### *Amenity Open Space*

As a development of 80 dwellings, this application should make provision for amenity open space which should equate to 1,152sq m based on 14.4sq m per dwelling.

The proposed site layout plan shows that 1,210sq m would be provided adjacent to the western boundary. This area would also be used as an attenuation pond.

The applicant has confirmed that the maintenance of the open space and landscape buffers would be charged to a management company.

#### *Natural and semi-natural green space*

The Newark & Sherwood Green Spaces Strategy has set local provision standards for a number of different types of open space. Those of relevance to new housing developments are as follows: Natural and semi-natural green spaces – 10ha per 1,000 population. However in recognition of the difficulty of achieving this standard in urban areas the Strategy recommends that all residents of the district should live within 300m of an area of natural and semi-natural green space. Given that the site is on the edge of the settlement there are fields adjacent to the development which I consider would meet the aspirations of the policy.

### *Community facilities*

Community facilities are defined as including Community Halls; Village Halls, Indoor areas for sport, physical activity, leisure and cultural activity and Halls related to places of worship. The Council's SPD provides where existing infrastructure exists or where small scale developments do not warrant new infrastructure, a contribution may be appropriate to support the existing infrastructure such as a village or community hall or other community asset. It goes on to say that 'it is further recognised that some community facilities are not fulfilling their potential to meet the needs of residents and thus may appear to be underused. In such circumstances qualitative improvements to such facilities would increase their ability to make a positive contribution to meeting the needs of the community.'

The site itself in my view is too small to provide community facilities on it and therefore any additional pressure upon community facilities that this scheme would place upon the community should be met off-site. There are a number of projects that an off-site contribution could be used towards and the applicants have confirmed they are willing to enter into an agreement to secure this.

The contribution would be based on £1,384.07 (figure from SPD but indexed at 2016) per dwelling equating to a maximum of £110,725.60.

### *Education*

The Developer Contributions and Planning Obligations SPD indicates that development which generates a need for additional primary school places will be secured via a legal agreement. Nottinghamshire County Council has reviewed the proposals and their latest comments state that a development of 80 dwellings would yield an additional 17 primary places. Therefore the primary education contribution required would be £232,152.00 (17 x £13,656) to enable primary provision to accommodate the additional pupils projected to arise from the proposed development.

The applicant has agreed in principle to this.

The proposed development is also expected to yield 13 secondary places, NCC as education authority, have confirmed that currently both the primary and secondary schools within the planning area of Southwell are at capacity and unable accommodate the additional pupils generated from this development. Therefore, the County Council would seek both primary and secondary education contributions, although the secondary places would be secured through CIL.

**Please note the cost per place may change if a number of developments come forward in an area which will require master planning and will result in an extension to an existing school or a complete new school build with land. This would be based on builds cost which would be subject to final confirmation.**

For secondary, to accommodate the additional 13 places, these would be funded by the collection of Community Infrastructure Levy (CIL) operated by NSDC. As a guide, the contribution would be approximately 13 x £17,753 = £230,789.00

### *Health*

£982.62 per dwelling which equates to £78,609.60

### *Library*

£47.54 per dwelling which equates to £3,803.20

*NCC - transport*

£15,000 for the provision of two new bus stops

*NCC – waste*

£21,805.42 to cover costs of installation of additional litter and dog bins at the entrance of the new path that links with the Southwell Trail and the emptying of these bins plus the costs of additional grass cutting, litter picking and fly-tipping removal, cutting back overhanging vegetation on the new link path.

The applicant has maintained that this development would be fully compliant in terms of S106 contributions and as such, all the elements set out above would be secured through the Section 106 legal agreement.

*Overall Balance and Conclusion*

All the material planning considerations raised by local residents during the course of this application have been considered and taken into account in the determination of this application, however, some matters raised are private civil matters that cannot be afforded any weight.

The residential development of the site is clearly, given its allocation, acceptable in principle. This proposal would contribute further to the Council's 5 year housing land supply. The proposal also represents a scheme that is fully compliant with all the S106 developer contribution requirements, and is acceptable with respect to a range of technical and design matters which includes ecology, archaeology, rights of way, design against crime, impact on existing trees and hedgerows and residential amenity. Subject to conditions, surface water drainage engineers at NCC have confirmed that the proposal can adequately deal with surface water from the development without resulting in increased risk of flooding elsewhere. Having regard to the allocation, although considerably higher than the "about 60" quoted within the policy, I have concluded on balance that the quantum of 80 dwellings on this part of the site is acceptable with two strategic landscape buffers along the western and northern boundaries that will be secured and retained by condition.

Weighing negatively against the scheme is the layout and segregation of the affordable housing units, the absence of bungalows, tandem parking layouts of 3 parking spaces and the moderate harm identified by the applicant's consultants to the character and visual amenities of Lower Kirklington Road by the traffic light junction (although it is acknowledged that any alteration to the junction to this allocated site would have some negative impacts on the rural character of the road in this locality), a matter I accept is required if I (as I do) attach weight to NCC highways comments that this is the only acceptable highways solution to serving site allocations and developments to the north and south of Lower Kirklington Road.

As a professional officer one can sometimes refer to a 'balanced' decision. All decisions are certainly balanced in that all matters are considered in coming to a view. That does not always mean however that a decision is finely balanced. In this case, I consider the decision is just that. There are clear benefits and in my submission clear deficiencies. That said, in coming to this fine balance I land on the side of delivery of the allocations in a largely acceptable manor. On this basis,

approval is recommended, subject to conditions.

**RECOMMENDATION**

**That planning permission is approved subject to**

- i) S106 legal agreement to secure the required developer contributions and new access onto the Southwell Trail**
- ii) the conditions and reasons to follow in a separate report**

**BACKGROUND PAPERS**

Application case file.

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

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

**Matt Lamb**  
**Director Growth and Regeneration**

Committee Plan - 18/01363/FULM







## PLANNING COMMITTEE –4 JUNE 2019

<b>Application No:</b>	<b>19/00689/FUL</b>		
<b>Proposal:</b>	<b>Application for variation of conditions 02, 03, 04 and 05 of planning permission 16/01369/FUL to allow the new access junction to be constructed wholly within highway land or that owned by the applicant (Retrospective)</b>		
<b>Location:</b>	<b>Springfield Bungalow Nottingham Road Southwell NG25 0QW</b>		
<b>Applicant:</b>	<b>23.04.2019</b>		
<b>Registered:</b>	<b>9<sup>th</sup> April 2019</b>	<b>Target Date:</b>	<b>4<sup>th</sup> June 2019</b>
	<b>Extension of time agreed</b>		

This application is before the Planning Committee for determination as the officer recommendation differs from the views of the Town Council and at the request of the Local Ward Member, Councillor Penny Rainbow on the grounds of highway and pedestrian safety, concerns that the conditions in the initial application have not been met and insufficient drainage plans are in place. It is also stated that the intended buffer strip does not comply with the Southwell Neighbourhood plan.

### The Site

This application relates solely to an access located between no.s 36 and no.s 38 Halloughton approved by Planning Committee in March 2017 which has been now been constructed (although this is not in accordance with the previously approved plans.

Previously there has been an overgrown access in this location which has historically served land to the rear of Springfield Bungalow, a detached bungalow with an additional access close to the junction of Halloughton Road and Nottingham Road. The land to the rear of the bungalow is allocated in the Newark and Sherwood LDF Allocations and Development Management DPD (2013) for housing development - Southwell Housing Site So/Ho/2. Planning permission was issued in December 2017 for a residential development on this site for 38 dwellings and the conversion and extension of existing residential property to form 12 supported living units as detailed below.

The immediately adjoining properties to the north and North West of the site are a mix of single and two storey detached dwellings. The immediately adjoining properties No.s 36 and 38 Halloughton Road are detached bungalows.

The site lies to the west of the Conservation area.

## Relevant Planning History

### **Access**

16/01369/FUL – At a meeting on the 22nd March 2017 Members resolved to grant conditional planning permission for the alteration of an existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay. Condition 3 of this permission required details of drainage of the access. Condition 4 required the submission of precise details of the access.

19/00076/DISCON – An application was submitted in January 2019 seeking to discharge conditions 3 and 4 of planning permission 16/01639/FUL. These conditions were discharged by correspondence dated 1<sup>st</sup> March 2019.

The access has been constructed prior to the determination of the current application.

### **Residential Development**

15/01295/FULM – At a meeting in June 2016 Planning Committee resolved to grant full planning permission for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units subject to conditions to be delegated to the business manager, vice chair of planning committee and the leader of the Council and to the signing and sealing of a S106 Agreement. The conditions were presented to and agreed by Planning Committee in September 2016.

Following the submission of revised site location and site layout plans this application was re-presented to Planning Committee on the 22nd March 2017. Members resolved to grant full conditional planning permission subject to the signing and sealing of a Section 106 Planning Agreement to secure the provision of Springfield Bungalow being gifted to the Reach Project (including relevant pay back clause(s)), on-site affordable housing (2 no. units), and developer contributions for open space, community facilities, education, and transport enhancements. The S106 was signed and sealed and the planning permission issued in December 2017.

19/00317/DISCON – an application was submitted in February 2019 seeking to discharge conditions 3, 4, 5, 6, 11, 13, 14, 17, 19, 20 and 21 attached to planning permission 15/01295/FULM – these conditions were discharged by correspondence dated May 7th 2019.

19/00456/DISCON – an application was submitted in March 2019 seeking to discharge 14, 15 and 16 attached to planning permission 15/01295/FULM – These conditions were discharged by correspondence dated May 7th 2019.

19/00779/FULM – a S73 application has been deposited seeking to vary condition 12 of planning permission 15/01295/FULM which requires a minimum visibility splay of 2.4m x 43m to be provided at the junction with Halloughton Road. This application is also being presented to the Planning Committee as part of this agenda.

Works have commenced on site prior to the determination of the current application and are therefore in breach of the planning permission granted in 2017.

## The Proposal

This is a retrospective application which seeks to vary conditions 2, 3, 4 and 5 of planning permission 16/01369/FUL as detailed below to enable an amendment to retain the redesigned access as constructed April 2019.

Condition 2 relates to the approved plan and stated that:-

*'The development hereby permitted shall be carried out in accordance with the following approved plan:-*

*o 12/1889/750*

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

Condition 3 stated that :-

*'No development shall be commenced until details of drainage and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.'*

Condition 4 stated that :-

*'No part of the development hereby permitted shall take place until details of the new access road have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of utilities services, and any proposed structural works. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.'*

Condition 5 stated that :-

*'No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m shown on drawing no. 12/1889/750 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 0.25 metres in height unless otherwise agreed with the Highway Authority.'*

The following amendments have been made to the previously approved scheme and are indicated on drg.no. HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019:-

- The 6m corner radii have been amended to 5m.
- The footway fronting Halloughton Road has been reduced from 2.0m to 1.8m in width, with a pinch point of 1.6m at the corner.
- The visibility splays have been reduced:
  - a) From 2.4m x 43m to the right/east to 2.3m x 43m

b) From 2.4m x 43m to the left/west to 2.3m x 29m

The plan deposited with the application includes details of drainage, gradients and sections.

These revisions have been made to ensure that works wholly take place within the undisputed boundary of the public highway, which has been agreed by Nottinghamshire County Council to be at least 6 feet (1.83m) from the southern carriageway kerb line. Members will see from the report and history to this site that land ownership, including that pertinent to the positioning of the site access, has been on ongoing matter of dispute between parties.

#### Departure/Public Advertisement Procedure

Occupiers of 116 properties have been individually notified by letter. A site notice has also been displayed near to the site.

#### **Planning Policy Framework**

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

##### **Southwell Neighbourhood Plan**

Policy TA1: Cycle and Pedestrian Routes

Policy TA3: Highways Impact

Policy SS2: Land South of Halloughton Road (So/Ho/2)

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

Spatial Policy 7 – Sustainable Transport

Core Policy 9 – Sustainable Design

##### **Allocations and Development Plan Development Plan Document (DPD) Adopted July 2013**

Policy DM5 Design

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

National Planning Policy Framework (NPPF) 2019

National Planning Practice Guidance (NPPG) 2014

NCC highways Design Guide

#### **Consultations**

**Southwell Town Council** - Southwell Town Council reconsidered application 19/00689/FUL Springfield Bungalow Nottingham Road and agreed unanimously to object to this application and to ask a district councillor to call in to NSDC for the following reasons:

High Way and Pedestrian Safety

STC agreed that N&SDC enforces the conditions as agreed some two years ago and opposes any alteration to the conditions imposed then.

The conditions in the initial application have not been met.

-The completed visibility splays do not meet the national and local highway safety standards and the conditions of the original decision, the constructed splays are in fact only 32mtrs to the East and 26mtrs to the West. These are unsafe for the 30mph road.

The new access and pavements are in contravention of Southwell Neighbourhood Plan policy TA8.1 Pg 52 Cycle and pedestrian routes –

The pavements constructed at the access to the site are not suitable for disabled and wheelchairs users, as the camber and gradient of the pavement are too high and too close to an existing dropped kerb.

The construction of the access does not allow for larger vehicles to safely enter the site without swinging across to the other side Halloughton road, therefore causing a potential a traffic hazard.

The entrance itself is very narrow for vehicles to pass.

This site is in a high flood risk area with many natural springs. We object to the Drainage plans because the drains on the south boundary and in the north west corner will destroy the exiting hedges which form landscape barriers. These are required to be maintained in the Southwell Neighbourhood plan see Policy SS2 policy 3".

#### **NCC Highways Authority – latest comments received 16<sup>th</sup> May 2019**

Further to comments dated 2 May 2019 I wish to provide additional information that may assist the LPA consider this application.

The Highway Authority is aware that the applicant has been unable to achieve the originally conditioned standard visibility splays in land that is undisputed public highway. The applicant has therefore sought approval for a modified access arrangement. The role of the Highway Authority in advising the LPA on this variation is whether, in the opinion of the Highway Authority, it is safe for all road users. The standard local specifications relating to visibility splays are provided as guidance and as such it is within the remit of the Highway Authority to consider each case where these standard specifications cannot be achieved and make a judgement as to whether what the applicant can achieve is both safe and reasonable given the individual circumstances that are applicable. The Nottinghamshire Highway Design Guide allows flexibility to meet local circumstances.

It is recognised that the splays in the current application have been drawn slightly differently to those in the previously approved drawings i.e. to a line 1.0m offset from the kerb line, but this now matches more closely the method of measurement within this Authority's Design Guide.

On the basis of the above and for the reasons pointed out in the Highway Authority's comments dated 2 May 2019 which were prepared by an experienced and senior Highways Officer in conjunction with other experienced Highway Authority colleagues, the Authority is content that the submission details will not compromise highway safety in this instance and have therefore raised no objections.

The Highway Authority, as a Statutory Consultee, provide comments to Planning Authorities throughout Nottinghamshire on the highway aspects of approximately 3500 planning applications per year (on average). It is with this experience that a revised Transport Statement is not considered necessary by the Highway Authority.

There has been some local concern raised regarding the juxtaposition of the new access with the existing vehicle dropped kerb crossing associated with No 38 Halloughton Road. This has been considered in light of local and national guidance, and; local conditions, and found to be acceptable. There are many examples of this arrangement throughout the County.

Likewise, local concern has been raised regarding the dropped kerb pedestrian crossing point outside 38 Halloughton Road in meeting the needs of those with mobility impairment in terms of camber/gradient. The applicable standards are that the gradient of a footway should not, except in exceptional circumstances, exceed 1 in 12 and where a dropped crossing is in place the gradient should not exceed 1 in 11. The Highway Authority is of the understanding that as standard kerbs have been used in the construction of the access and that the local topography is not unduly steep the above gradients have not been exceeded. It is therefore the view of the Highway Authority that the access does meet with relevant policies and guidance and is not a barrier to those with a disability.

The Planning Authority may be aware that the access itself was constructed by the County Council's highway partner organisation, Via East Midlands, who have vast experience in constructing accesses both for third parties as well as part of their normal highway related work.

In further support to the Highway Authority's stance on considering that Halloughton Road is lightly trafficked, a traffic count suggests flows are around 900 vehicles per day (2 way flow). In the peak hour the flow is around 110 vehicles, which equates to about 1 vehicle every 33 seconds (average). The majority of pedestrians will accept a gap of 4-6 seconds at normal urban vehicle speeds to cross two lanes of traffic. Although other groups may need twice this time, it is reasonable to assume that all pedestrians should be able to cross the road safely without much delay, even at peak times. Similarly cars leaving the side road junction safely should be able to see a gap of about 3.2s or more. Again, flows are so low that there should be no difficulty in leaving the side road. I have concluded therefore that flows can be described as low.

The decision on determination of the application is within the remit of the Planning Authority. However the advice of the Highway Authority is that the application scheme is safe for all road users given the specific site constraints; is constructed such that it can be used by all road users including those with a disability, and; provides a safe access to the development.

The Planning Authority should be aware that in the judgement of the Highway Authority it would not be able to evidence a defence to a Planning Inspector should this particular application be subject of an Appeal process.

I reaffirm that no objections are raised.

#### **Comments received 3<sup>rd</sup> May 2019**

I confirm that the latest submission allows the variation to condition 2 of 15/01295/FUL to be agreed from a Highway Authority perspective.

#### **Comments received 2<sup>nd</sup> May 2019**

In terms of highway matters this application seeks a variation to conditions 4 and 5 which refer to the access details and visibility splays.

Drawing HALL-BSP-ZZ-XX-DR-C-100-P6 is acceptable to agree the variation.

This drawing has been used to construct the access under license from the Highway Authority without prejudice to the decision of the Planning Authority.

The main changes to the details from previously approved plans are:

1. 6m corner radii have been changed to 5m. This is a minor amendment and given that the access road is to remain privately owned/maintained with low flows, it is considered that this can be accepted.

2. The footway fronting Halloughton Road has been reduced from 2.0m to 1.8m in width, with a pinch point of 1.6m at the corner. This is a minor amendment and will not restrict pedestrian movements significantly. Pinch points as low as 1.2m can be allowed under the NCC Highway Design Guidance.

3. Visibility splays have been reduced:

- From 2.4m x 43m to the right/east to 2.3m x 43m

This is a marginal (almost indiscernible) change and Manual for Streets suggests that an 'x' distance as low as a 2.0m set back can be used under certain circumstances:

*"A minimum figure of 2 m may be considered in some very lightly-trafficked and slow-speed situations, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered".*

- From 2.4m x 43m to the left/west to 2.3m x 29m (or 2.0m x 43m).

This is measured in the less critical direction where vehicles are not expected to travel along the nearside, southern kerb line. Sight distances to vehicles travelling in the eastbound lane will be significantly more than those figures quoted above. 29m is commensurate with 20mph approach speeds, but here again a splay of 2.0m x 43m is available; commensurate with the Manual for Streets statement above. 43m is commensurate with an approach speed of 30mph.

All of these changes have been made to ensure that works wholly take place within the undisputed boundary of the public highway which has been agreed to be at least 6 feet (1.83m) from the southern carriageway kerb line.

It should be emphasised that, in the opinion of the Highway Authority, the position of the highway boundary is not necessarily restricted to the 6 foot dimension mentioned above. However, the scheme submitted clearly attempts to steer clear of that argument. Should the public highway boundary be proven to extend beyond the 6 feet, increased visibility splay distances would be/are available.

Under the circumstances it is considered that the variations to conditions 4 & 5 can be agreed. No objections are raised.

**Severn Trent Water** - No comments received

**Environment Agency** – No comments received

**NCC Flood Authority** – The application has no impacts on surface water and as such we have no further comments to make.

**Anglian Water** – No comments received

**Representations have been received from 14 local residents/interested parties (as of 16.05.19) which raise the following concerns:-**

#### **Retrospective Applications**

- The access was approved in 2017
- The developer has flagrantly ignored permissions and conditions in the hope that works will be approved retrospectively
- Why are views being sought when the access has already been constructed?
- This is retrospective application seeking to lower highway safety standards given that the developer has control of insufficient land to enable it to meet the pre commencement conditions.
- It is a disgrace

#### **Highway and Pedestrian Safety**

- The access as constructed breaches the conditioned visibility splays and safety for the residential site.
- Given the excessive speeds along Halloughton Road visibility of and for vehicles leaving development is essential. Halloughton Road is used as a rat run and cut through to/from Nottingham Road and the speed limit rarely adhered to – highways restrictions are ignored.
- Halloughton Road is an important relief road and is heavily used at school times by school aged pedestrians and young drivers
- The application makes no reference to 15/01295/FULM which granted permission for 38 dwellings – the access is inadequate for this.
- Pedestrians will not use the designated crossing area as it is too shallow and steep and does not conform to standards and will cross at the splay head further hindering visibility for cars exiting the junction
- No Risk Assessment has been undertaken and no evidence put forward that the access is safe – one should be undertaken before permission is granted



- The Transport Assessment submitted with application 15/01295/FULM is irrelevant and out of date.
- The comments of the Highway Officer that the road is lightly trafficked are incorrect (photo evidence of Halloughton Rpad during a school run attached)
- The splays as constructed fall well short of minimum standards and cannot be improved without additional frontage land;
- A material reduction in safety standards cannot be justified on land ownership grounds
- Previous transport statements deposited on the 2015 permission related to the provision of a visibility splays of 43m being the minimum required for highway safety – reduced splays therefore go against the TS findings and national and local highway standards and no evidence or calculations have been put forward to support any relaxation of standards.
- The splays as constructed are too shallow unsafe and do not meet minimum standard on a 30mph road; this would result in stationary/ reversing vehicles on the east side of the road particularly in front of the designated pedestrian crossing exacerbating pedestrian access
- The access is poorly sited and immediately adjoins an existing vehicular dropped kerb which is not normally allowed (a safe distance is normally 10-15m to prevent pedestrian/vehicular conflict).
- Pedestrians who cross from side of Halloughton Road reach a crossing with tactile paving and then have to cross the vehicular dropped kerb access creating conflict with vehicles crossing this access. This is exacerbated by the design of the footpath given its gradient which fails to meet the minimum recommended slope for wheelchair users. Its camber is regarded as dangerous to wheelchair users who could fall into the highway.
- The footpath therefore fails to meet the relevant policies because it represents a severe barrier to the disabled.
- The proposal therefore should be refused on the grounds of health and safety, highway safety and discrimination as it fails to provide a safe access to the estate road.
- The access is too narrow -there is insufficient room for vehicles turning into or leaving the site nor passing room for two vehicles
- The development exacerbates dangers to vehicles and pedestrians – some residents of the Reach site will use this access.
- Accidents seem likely and it would be difficult for the Council to adequately defend any legal action which might result – would they be liable.
- The access and limited pavement contravene the neighbourhood plan
- The access into the junction is too narrow resulting in vehicles to swing over into oncoming traffic to manoeuvre impeding traffic flow
- The submitted drawings are inaccurate they do not show a bend in the road which further impedes visibility
- Increased traffic would exacerbate existing highway issues.

- The highways assessment of the road is flawed in their calculations and calculations misleading and incorrect.

### **Drainage**

- The road surface deteriorates due to the amount of water it carries and is particularly bad in winter not being gritted. The camber results in much water spray. The drainage being proposed is inadequate for this junction

### **Breach of Conditions/permissions**

- The Council should instruct the developers to cease work immediately.

### **Other Matters**

- The application refers to land owned by the applicant – it is owned by Springfield Ecohousing Ltd – the application is therefore invalid.

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

#### Background

An application (application ref. 16/01369/FUL) for the alteration of the existing access on Halloughton Road was deposited in order to resolve the issue of works on 'disputed land' previously, as part of the consideration of an original residential planning application (15/01295/FULM). The proposal was therefore assessed separately and on its own merits and in relation to highway and pedestrian safety, land ownership and Rights of Way over the land. The application was presented to planning committee on 22<sup>nd</sup> March 2017 where Members resolved to grant conditional planning permission in accordance with officer recommendation. The relevant conditions have been subsequently discharged.

The principle of the development (i.e. an access serving a residential, in this case allocated site) is therefore established through the granting of the permission for the access in March 2017

Since the approval discussions between the applicants and Nottinghamshire County Council have resulted in the proposed access being 'moved' at least 6 feet southwards from the current kerb line. This is in order, we have been informed, for the access to be sited on land which is undisputedly (in the opinion of NCC and the applicant) on the public highway ownership. The works have been installed by Via construction (wholly owned by NCC) and this application essentially seeks to retain the works constructed (in addition to various other matters, including viability splays shown on the submitted plans).

Although the Amended Core Strategy has been adopted since the granting of the original permission 16/01369/FUL and the NPPF has been updated in 2019, there has been no significant material change to policy context relevant to the consideration of the amendment of the conditions which would affect determination of this application.

Therefore the main issue to consider is whether it is appropriate to allow the development to be retained as constructed and in accordance with the amended plans deposited with the application.

## Principle of Development

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

Following public consultation and independent examination, at its council meeting on 11 October 2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed in the policy section above and are considered against the relevant aspects of the proposal in the assessment below.

This application seeks to vary condition 2, 3 4 and 5 of planning permission 16/01369/FUL to enable the retention of an access that has already been constructed which differs to that previously approved (as detailed in the proposal section of this report).

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

The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

The principle of development is therefore considered acceptable subject to an assessment of site specific issues including highway and pedestrian safety, land ownership.

## Highways Matters

Spatial Policy 7 sets out the criteria for assessing whether a development encompasses a sustainable approach to transport. Core Policy 9 requires proposals to be accessible to all. Policy DM5 of the DPD states that provision should be made for safe and inclusive access to new development and that parking provision should be based on the scale and location of the development.

Policy TA3 of the Southwell Neighbourhood Plan seeks to ensure that new development does not adversely affect the highway network.

I acknowledge the concerns received with regards to impact on existing highway conditions, highway and pedestrian safety and increased traffic which relate to both the access on Halloughton Road and in relation to its perceived association with the residential development to the rear of Springfield Bungalow (which Members resolved to approve in March 2017 - application ref. 15/01295/FULM). You will note that there is also an application also on the agenda for debate at this planning committee meeting (application ref. 19/00779/FULM) seeking to vary a condition

attached to the planning permission for the residential development requiring the provision of a minimum visibility splay of 2.4m x 43m (minimum) at the access on Halloughton Road which has not been achieved in the access that has been constructed.

Officers have sought the professional views of the Highway Authority whose formal consultation comments are detailed above within the consultations section of this report

Specific Highway concerns that have been raised are discussed below:-

### **Visibility Splay**

Local residents have raised concerns with regards to the revised visibility splays to the east which now measure 2.3m x 43m and measure 2.3m x 29m to the west, rather than 2.4m x 43m to both directions as previously approved.

It is acknowledged that the visibility splays are proposed to be reduced compared to those previously approved and conditioned to be retained. However, the Highway Authority has confirmed that standard local specifications in relation to visibility splays are guidance and that the Highway Authority considers each individual case where such standards are not met. Indeed the Highways Design Guide does allow for flexibility in assessing individual circumstances.

It is noted that the Highway Authority have commented that the reduction in the eastern splay is 'marginal and almost discernable' and although there is a reduction in the western splay, sight distance would be greater than that quoted.

In simple terms the Highway Authority has assessed the access and splays and has concluded that this will not compromise highway safety. This includes having been asked to reconsider the matter on several occasions given the very clear levels of local concern.

Given that these comments are made by experienced highway professionals representing the highway authority there is nothing before officers which would contradict their advice. That does not mean as a professional officer that I would advocate the process followed in this particular case of works being done in advance of obtaining a revised permission, a matter I discuss below. Nevertheless focusing solely on planning merits, the proposal is acceptable in this regard.

### **Reduced footway widths**

The footway has been reduced in width to 1.8m (0.2m less than previously approved) with a pinch point section reduced to 1.6m. The Highway Authority considers that this complies with the minimum width of 1.2m allowed under the Highway Design Guide and therefore raises no concerns in this regard. It is therefore considered that given this advice the reduced footway width would not compromise pedestrian safety.

### **No updated Transport Statement**

The Highway Authority has confirmed that an updated Transport Statement is not considered necessary in this instance, given the proposal is submitted via the s73 process and the short length of time which has elapsed since the original permission.

### **Proximity of access to existing dropped kerb**

This has been considered in light of local and national guidance and in light of the local circumstances. The Highway Authority has raised no concerns that this proximity would

compromise highway or pedestrian safety and that it is not an unusual situation within the County.

### **Access width**

The Highway Authority has confirmed with officers that the access is of sufficient width to accommodate 2 passing vehicles. It is therefore considered that the access would not result in vehicular conflict.

### **Disabled highway and footpath users**

The comments received with regards to the safety of disabled pedestrians by virtue of the camber and gradient of the dropped kerb that has been constructed are duly noted. The Highway Authority has advised that they are satisfied that the standards in relation to the gradient of a footway have not been exceeded in this instance. The applicable standards are that the gradient of a footway should not, except in exceptional circumstances, exceed 1 in 12 and where a dropped crossing is in place the gradient should not exceed 1 in 11. The submitted drawings show a gradient of 1 in 40.

Therefore the access as constructed is considered to meet the relevant policies and highway guidance.

### **Drainage**

The Highway Authority has assessed the drawings deposited with the application which details drainage measures and has raised no objections to the variation of conditions 4 and 5 of the original permission in relation to the access drainage details. Officers are therefore satisfied that the revised access raises no drainage issues.

### **Landownership**

It is acknowledged that the developer has constructed the access to be within land within the ownership of the Nottinghamshire County Council, albeit notice has also been served (without prejudice) on neighbouring properties. In order to achieve this, the access has been constructed in accordance with the revised design noted within the proposals section of this report. Given the comments of the Highway Authority officers are satisfied that the revised access within land owned by the County Council does not result in a reduction in safety standards. If this land ownership is to be disputed Members will be aware that this will be a matter for the interested parties to resolve via the courts.

The agent has confirmed in writing that the applicant is Springfield Ecohousing and the application has been revised accordingly.

### **Inaccurate plans and highway calculations**

Officers are satisfied that the details and drawings deposited with the application are satisfactory and adequate for the purposes of determining the application and as confirmed by the Highway Authority are in accordance with their Highway Design Guidance. In terms of calculation of traffic flow the Highway Authority have confirmed in their latest comments that this is considered to be low.

### Other matters

#### Breach of Planning Conditions

I note the comments received with regards to the application being retrospective and that the development has been carried out in breach of the planning permission issued in March 2017 together with the requests that the Council should therefore take action. This Council, as with many across England, is well versed and frustrated (I say that as part of the Officer cohort) by the issue of retrospective permissions where works take place which are not in accordance with what has been consented. Indeed, there are other such examples on the agenda this evening.

As Members will be aware the National Planning Policy Framework (NPPF) captures national guidance as to when an LPA should consider enforcement action for a breach of planning control. This is supplemented by the Planning Policy Guidance (PPG) on-line tool. Both the NPPF and PPG make clear that "Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

Specifically Paragraph: 011 (Revision date: 06 03 2014) of the PPG states that:

"In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed."

It is clear that there has been a breach of planning control in that the access has been constructed not in accordance with the plans and details approved in the 2016 application or the subsequent discharge of condition application.

The Highway Authority has advised the developer and the Council that the proposed revisions are acceptable in highways terms and have confirmed in their formal consultation comments that there are no highway objections. Being mindful of the current applications, the comments of the highway authority, and the government guidance in the NPPF and PPG with respect to when enforcement action should be taken, it was not considered appropriate to take any action at this time pending the determination of the applications on this agenda. Should Members be minded to refuse permission then this position would be reviewed.

This matter notwithstanding, the developer has been advised both verbally and in writing by the Council that they are currently in breach of planning permission and that any works that have been undertaken or any continuation of works on site are entirely at their own risk pending any decision by Planning Committee. This has already had an impact in that commencement means that any retrospective planning permission can no longer benefit from CIL affordable housing relief.

#### Highway Restrictions

Comments received with regards to highway users ignoring existing traffic regulations on Halloughton Road is not a matter for the Local Planning Authority but would be a police matter.

## Assessment of conditions

The PPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this case as the development has begun, the time condition does not need to be re-imposed. Conditions 3 and 4 of the original permission in relation to drainage and matters such as gradients, sections, lighting, construction specifications etc. have been formally discharged. Notwithstanding this the plans submitted with this current retrospective application include these details and the Highway Authority advise no objections are raised and that conditions 2, 3, 4 and 5 can therefore be varied accordingly

For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with strikethrough text used to represent parts of the condition no longer required and bolded text used to indicate new wording. The conditions have been reworded where details have been provided through the discharge of conditions or revised plans. Commentary is also provided where this is considered necessary.

## Conclusion and Planning Balance

It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration given the other matters discussed above. In this instance this relates to highway implications and acceptability of the scheme. Nottinghamshire County Council Highways Authority has been consulted as the relevant technical experts who conclude that the revised access which has been constructed by VIA East Midlands would not cause highway harm and I would accept their conclusion in light of no technical evidence to the contrary.

## RECOMMENDATION

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

~~01~~

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

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

~~02-01~~

The development hereby permitted shall be ~~carried out~~ **retained** in accordance with the following approved plan:-

~~• 12/1889/750~~

- **HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7<sup>th</sup> April 2019**

~~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.

~~03-02~~

~~No development shall be commenced until~~ **The development shall be retained** in accordance with details of drainage and surface water disposal ~~have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.~~ as shown on the plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019

Reason: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

~~04-03~~

~~No part of the development hereby permitted shall take place until details of the new access road have been submitted to and approved in writing by the Local Planning Authority including~~ **The development shall be retained in accordance** with longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals and construction specification as **shown on the approved plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019** provision of utilities services, and any proposed structural works. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.

Reason: To provide a suitable standard of access and to allow for future maintenance.

~~05-04~~

~~No part of the development hereby permitted shall be brought into use until~~ The visibility splays of 2.4m x 43m shown on drawing no. 12/1889/750 are provided.

- **2.3m x 43m to the right/east of the access**
- **2.3m x 29m to the left/west of the access**

**shall be retained in accordance with the plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019**

The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.25 metres in height unless otherwise agreed with the Highway Authority.

Reason: For the avoidance of doubt.

### **Note to Applicant**

01

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is



fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.

03

Severn Trent Water have advised that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Bev Pearson on ext 5840

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 and Regeneration**



## PLANNING COMMITTEE –4 JUNE 2019

<b>Application No:</b>	<b>19/00779/FULM (MAJOR)</b>	
<b>Proposal:</b>	<b>Application for variation of condition 11 of planning permission 15/01295/FULM to allow the new access junction to be constructed wholly within highway land or that owned by the applicant</b>	
<b>Location:</b>	<b>Springfield Bungalow Nottingham Road Southwell NG25 0QW</b>	
<b>Applicant:</b>	<b>Springfield Eco Ltd</b>	
<b>Registered:</b>	<b>23<sup>rd</sup> April 2019</b>	<b>Target Date: 26th July 2019</b>

This application is before the Planning Committee for determination as the officer recommendation differs from the views of the Town Council and at the request of the Local Ward Member, Councillor Penny Rainbow on the grounds of highway and pedestrian safety, concerns that the conditions in the initial application have not been met and insufficient drainage plans are in place. Intended buffer strip does not comply with the Southwell Neighbourhood plan.

### The Site

This application relates to circa 1.92 hectares of land situated on the western side of Nottingham Road at its junction with Halloughton Road on the southern approach into Southwell. It consists of a detached bungalow (Springfield Bungalow) and associated land to the rear which abuts the rear gardens of the existing dwellings on Halloughton Road to the north, open countryside to the west and the detached property, Springfield House and its associated land to the south.

The gradient of the site rises steeply by some 14m towards the western boundary.

The immediately adjoining properties to the north and North West of the site are a mix of single and two storey detached dwellings. No.s 36 and 38 Halloughton Road are detached bungalows and adjoin the proposed access.

The adjoining property located immediately to the south of Springfield Bungalow, Springfield House, is a large two storey detached dwelling.

The site lies to the west of the Conservation area boundary within the Southwell Protected Views corridor. The site is allocated in the Newark and Sherwood LDF Allocations and Development Management DPD (2013) for housing development - Southwell Housing Site So/Ho/2.

### Relevant Planning History

#### **Residential Development**

92/51034/FUL- Planning permission was refused for the erection of a residential development

94/51619/FUL- Planning permission was refused in 1994 for the erection of 18 bungalows. This was dismissed on appeal.

15/01295/FULM – At a meeting in June 2016 Planning Committee resolved to grant full planning permission for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units subject to conditions to be delegated to the business manager, vice chair of planning committee and the leader of the Council and to the signing and sealing of a S106 Agreement. The conditions were presented to and agreed by Planning Committee in September 2016.

Following the submission of revised site location and site layout plans this application was represented to Planning Committee on the 22nd March 2017. Members resolved to grant full conditional planning permission subject to the signing and sealing of a Section 106 Planning Agreement to secure the provision of Springfield Bungalow being gifted to the Reach Project (including relevant pay back clause(s)), on-site affordable housing (2 no. units), and developer contributions for open space, community facilities, education, and transport enhancements. The S106 was signed and sealed and the planning permission issued in December 2017.

19/00317/DISCON – an application was submitted in February 2019 seeking to discharge conditions 3, 4, 5, 6, 11, 13, 14, 17, 19, 20 and 21 attached to planning permission 15/01295/FULM – these conditions were discharged by correspondence dated May 7th 2019.

19/00456/DISCON – an application was submitted in March 2019 seeking to discharge 14, 15 and 16 attached to planning permission 15/01295/FULM – These conditions were discharged by correspondence dated May 7th 2019.

### **Access**

16/01369/FUL – At a meeting on the 22nd March 2017 Members resolved to grant conditional planning permission for the alteration of an existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay. Condition 3 of this permission required details of drainage of the access. Condition 4 required the submission of precise details of the access.

19/00076/DISCON – An application was submitted in January 2019 seeking to discharge conditions 3 and 4 of planning permission 16/01639/FUL. These conditions were discharged by correspondence dated 1st March 2019.

19/00689/FUL – A retrospective application has been submitted seeking the variation of conditions 02, 03, 04 and 05 of planning permission 16/01369/FUL to allow the new access junction to be constructed wholly within highway land or that owned by the applicant. This application is also being presented to the Planning Committee as part of this agenda.

### **The Proposal**

This application seeks retrospective permission to vary condition 11 of planning permission 15/01295/FULM. This stated:-

*No part of the development shall be brought into use until visibility splays of 2.4m x 13m (minimum) are provided at the junction with Halloughton Road.*

The access was approved under planning permission 16/01369/FUL and has been constructed. The dimensions of the visibility splays to the east and west of the access do not comply with condition 11 of this permission hence this application seeks to revise the wording as follows:-

*No part of the development shall be brought into use until visibility splays of:-*

*2.3m x 43m to the right/east of the access*

*2.3m x 29m to the left/west of the access*

*are provided at the junction with Halloughton Road.*

The design of the access has been revised to ensure that the access has been constructed wholly within the undisputed boundary of the public highway which has been agreed by Nottinghamshire County Council to be at least 6 feet (1.83m) from the southern carriageway kerb line.

#### Departure/Public Advertisement Procedure

Occupiers of 112 properties have been individually notified by letter. Site notices have also been displayed near to the site and an advert has been placed in the local press.

#### **Planning Policy Framework**

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

##### **Southwell Neighbourhood Plan**

Policy TA1: Cycle and Pedestrian Routes

Policy TA3: Highways Impact

Policy SS2: Land South of Halloughton Road (So/Ho/2)

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

- Spatial Policy 1: Settlement Hierarchy
- Spatial Policy 2: Spatial Distribution of Growth
- Spatial Policy 7: Sustainable Transport
- Core Policy 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

##### **Allocations and Development Plan Development Plan Document (DPD) Adopted July 2013**

- Policy DM1: Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM2: Development on Allocated Sites
- Policy DM3: Developer Contributions and Planning Obligations
- 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
- Policy So/PV: Southwell Protected Views
- Policy So/HN/1: Southwell Housing Need

### **Other Material Planning Considerations**

- National Planning Policy Framework (NPPF) 2012
- Planning Practice Guidance (NPPG) 2014
- Newark and Sherwood Developer Contributions and Planning Obligations SPD, 2013
- Newark and Sherwood Affordable Housing SPD, 2013
- Southwell Conservation Area Appraisal July 2005
- Newark and Sherwood Landscape Character Assessment SPD December 2013
- Nottinghamshire County Council Highway Design Guide

### **Consultations**

**Southwell Town Council** – Southwell Town Council reconsidered application 19/00689/FUL Springfield Bungalow Nottingham Road and agreed unanimously to object to this application and to ask a district councillor to call in to NSDC for the following reasons:

#### **Highway and Pedestrian Safety**

STC agreed that N&SDC enforces the conditions as agreed some two years ago and opposes any alteration to the conditions imposed then.

The conditions in the initial application have not been met.

The completed visibility splays do not meet the national and local highway safety standards and the conditions of the original decision, the constructed splays are in fact only 32mtrs to the East and 26mtrs to the West. These are unsafe for the 30mph road.

The new access and pavements are in contravention of Southwell Neighbourhood Plan policy TA8.1 Pg 52 Cycle and pedestrian routes –

The pavements constructed at the access to the site are not suitable for disabled and wheelchairs users, as the camber and gradient of the pavement are too high and too close to an existing dropped kerb.

The construction of the access does not allow for larger vehicles to safely enter the site without swinging across to the other side Halloughton road, therefore causing a potential a traffic hazard.

The entrance itself is very narrow for vehicles to pass.

This site is in a high flood risk area with many natural springs. We object to the Drainage plans because the drains on the south boundary and in the north west corner will destroy the exiting hedges which form landscape barriers. These are required to be maintained in the Southwell Neighbourhood plan see Policy SS2 policy 3".

## **NCC Highways Authority – latest comments received 16<sup>th</sup> May 2019**

Further to comments dated 2 May 2019 I wish to provide additional information that may assist the LPA consider this application.

The Highway Authority is aware that the applicant has been unable to achieve the originally conditioned standard visibility splays in land that is undisputed public highway. The applicant has therefore sought approval for a modified access arrangement. The role of the Highway Authority in advising the LPA on this variation is whether, in the opinion of the Highway Authority, it is safe for all road users. The standard local specifications relating to visibility splays are provided as guidance and as such it is within the remit of the Highway Authority to consider each case where these standard specifications cannot be achieved and make a judgement as to whether what the applicant can achieve is both safe and reasonable given the individual circumstances that are applicable. The Nottinghamshire Highway Design Guide allows flexibility to meet local circumstances.

It is recognised that the splays in the current application have been drawn slightly differently to those in the previously approved drawings i.e. to a line 1.0m offset from the kerb line, but this now matches more closely the method of measurement within this Authority's Design Guide. On the basis of the above and for the reasons pointed out in the Highway Authority's comments dated 2 May 2019 which were prepared by an experienced and senior Highways Officer in conjunction with other experienced Highway Authority colleagues, the Authority is content that the submission details will not compromise highway safety in this instance and have therefore raised no objections.

The Highway Authority, as a Statutory Consultee, provide comments to Planning Authorities throughout Nottinghamshire on the highway aspects of approximately 3500 planning applications per year (on average). It is with this experience that a revised Transport Statement is not considered necessary by the Highway Authority.

There has been some local concern raised regarding the juxtaposition of the new access with the existing vehicle dropped kerb crossing associated with No 38 Halloughton Road. This has been considered in light of local and national guidance, and; local conditions, and found to be acceptable. There are many examples of this arrangement throughout the County.

Likewise, local concern has been raised regarding the dropped kerb pedestrian crossing point outside 38 Halloughton Road in meeting the needs of those with mobility impairment in terms of camber/gradient. The applicable standards are that the gradient of a footway should not, except in exceptional circumstances, exceed 1 in 12 and where a dropped crossing is in place the gradient should not exceed 1 in 11. The Highway Authority is of the understanding that as standard kerbs have been used in the construction of the access and that the local topography is not unduly steep the above gradients have not been exceeded. It is therefore the view of the Highway Authority that the access does meet with relevant policies and guidance and is not a barrier to those with a disability.

The Planning Authority may be aware that the access itself was constructed by the County Council's highway partner organisation, Via East Midlands, who have vast experience in constructing accesses both for third parties as well as part of their normal highway related work.

In further support to the Highway Authority's stance on considering that Halloughton Road is lightly trafficked, a traffic count suggests flows are around 900 vehicles per day (2 way flow). In the

peak hour the flow is around 110 vehicles, which equates to about 1 vehicle every 33 seconds (average). The majority of pedestrians will accept a gap of 4-6 seconds at normal urban vehicle speeds to cross two lanes of traffic. Although other groups may need twice this time, it is reasonable to assume that all pedestrians should be able to cross the road safely without much delay, even at peak times. Similarly cars leaving the side road junction safely should be able to see a gap of about 3.2s or more. Again, flows are so low that there should be no difficulty in leaving the side road. I have concluded therefore that flows can be described as low.

The decision on determination of the application is within the remit of the Planning Authority. However the advice of the Highway Authority is that the application scheme is safe for all road users given the specific site constraints; is constructed such that it can be used by all road users including those with a disability, and; provides a safe access to the development.

The Planning Authority should be aware that in the judgement of the Highway Authority it would not be able to evidence a defence to a Planning Inspector should this particular application be subject of an Appeal process.

I reaffirm that no objections are raised.

### **Comments received 2<sup>nd</sup> May 2019**

In terms of highway matters this application seeks a variation to condition 11 regarding access visibility splays.

Drawing HALL-BSP-ZZ-XX-DR-C-100-P6 is acceptable to agree the variation.

This drawing has been used to construct the access under license from the Highway Authority without prejudice to the decision of the Planning Authority.

The main changes to the details from previously approved plans are:

1. Visibility splays have been reduced:

- From 2.4m x 43m to the right/east to 2.3m x 43m

This is a marginal (almost indiscernible) change and Manual for Streets suggests that an 'x' distance as low as a 2.0m set back is can be used under certain circumstances:

“A minimum figure of 2 m may be considered in some very lightly-trafficked and slow-speed situations, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered”.

- From 2.4m x 43m to the left/west to 2.3m x 29m (or 2.0m x 43m).

This is measured in the less critical direction where vehicles are not expected to travel along the nearside, southern kerb line. Sight distances to vehicles travelling in the eastbound lane will be significantly more than those figures quoted above. 29m is commensurate with 20mph approach speeds, but here again a splay of 2.0m x 43m is available; commensurate with the Manual for Streets statement above. 43m is commensurate with an approach speed of 30mph.



These changes have been made to ensure that splays fall wholly within the undisputed boundary of the public highway which has been agreed to be at least 6 feet (1.83m) from the southern carriageway kerb line.

It should be emphasised that, in the opinion of the Highway Authority, the position of the highway boundary is not necessarily restricted to the 6 foot dimension mentioned above. However, the scheme submitted clearly attempts to steer clear of that argument. Should the public highway boundary be proven to extend beyond the 6 feet, increased visibility splay distances would be/are available.

It is considered that speeds and flows are not high on Halloughton Road and given all the circumstances mentioned above it is considered that the variation to condition 11 can be agreed. No objections are raised.

**Representations have been received from 11 local residents/interested parties (as of 18.05.19) which raise the following concerns:-**

#### **Retrospective application and works being undertaken on the site**

- This is retrospective application seeking to lower highway safety standards given that the developer has control of insufficient land to enable it to meet the pre commencement conditions.
- The access has been constructed albeit the access road is incomplete given the presence of Western Power metering equipment.
- Work has been allowed to continue even though large volumes of ground, which is known to contain springs, have been shifted.

#### **Highway and Pedestrian Safety**

- The new road doesn't have the required visibility splays resulting in shorter visibility splays which do not meet the distances required by conditions attached to the planning permission nor do they meet minimum necessary standard as laid down by National and local standards.
- The splays cannot be improved without additional frontage land.
- There is therefore a risk to life of road users and pedestrians. If this is accepted the council would become liable for damages in the event of an accident.
- The splays as constructed do not meet minimum standard on a 30mph road – given the excessive speeds many vehicles travel on this stretch of road and therefore adequate visibility is essential.
- Previous transport statements deposited on the 2015 permission related to the provision of a visibility splays of 43m being the minimum required for the development in terms of highway safety – the proposal is contrary to this and national and local highway standards and no evidence has been put forward to justify the proposed reduction in splay distances.
- A material reduction in safety standards cannot be justified on land ownership grounds.

- The highways assessment of the road is flawed and their calculations are misleading and incorrect. They claim to have made a 10cm adjustment when it's 110cm.
- The drawings provided by the developer are incorrect and don't show that there is curve in the road, which further limits viability.
- No calculations of how the new splays are acceptable have been given.
- The risk of incident has been outweighed by commercial or political incentive.
- The pedestrian access is unsafe and it discriminates against the elderly and disabled. The gradient and camber of the pedestrian access means it would throw a wheelchair user into the main road (my daughter uses a wheelchair. The proposal breaches national, local policy and the Equalities Act
- The pedestrian access cuts across a drive way before the road crossing, this is against legislation
- The access is poorly sited and immediately adjoins an existing vehicular dropped kerb which is not normally allowed (a safe distance is normally 10-15m to prevent pedestrian/vehicular conflict). This together with the configuration and width of the footpath raises serious pedestrian safety issues.
- The gradient of the footpath and significant camber does not meet the relevant standards and guidance and therefore fails to meet the relevant policies because it represents a severe barrier to the disabled.
- The access is wholly inadequate to serve 38 dwellings.
- The access is too narrow -there is insufficient for vehicles turning into or leaving the site nor passing room for two vehicles, particularly vans and lorries.
- The proposal therefore be refused on the grounds of health and safety grounds and should and previous conditions should be adhered to.
- There is already a new access road on Halloughton for no.s 37-39 Halloughton Road.
- The development exacerbates dangers to vehicles and pedestrians – some residents of the Reach site will use this access.
- The access into the junction is too narrow resulting in vehicles having to swing over into oncoming traffic to manoeuvre impeding traffic flow.
- Increased traffic would exacerbate existing highway issues.
- Existing highways restrictions are ignored.

### **Flooding**

Existing flooding issues will be exacerbated by works that are ongoing on site and when it is developed with tarmac and buildings.

### **Breach of Conditions/permissions**

The Council should instruct the developers to cease work immediately.

## **Comments of the Business Manager**

### **Background**

Application ref. 15/01295/FULM was presented to Planning Committee in June 2016 and represented in March 2017 where Members resolved to grant conditional planning permission in accordance with officer recommendation and subject to the signing and sealing of a S106. The relevant conditions have been subsequently discharged.

The principle of the development is therefore considered to have been established through the granting of the permission for the development in March 2017

With regards to the current situation given land ownership issues raised with the previous applications, together with the current advice of the Nottinghamshire County Council that the adopted highway extends at least 6 feet southwards from the current kerb line, the applicant has subsequently designed and constructed the access on Halloughton Road associated with the residential development so as to not encroach beyond land within the undisputed adopted highway. It has now not been constructed in accordance with the plans approved under planning permission 16/01369/FUL and therefore an application for retrospective permission is also before this committee seeking to regularise this – application ref 19/00689/FUL.

As a consequence of the revisions to the design of the access, it is not possible to achieve the visibility splays required by condition 11 of 15/01295/FULM and consequently this application is before committee seeking to vary the wording of the conditions to be in line with the splays that are in place with the constructed access

Although the Amended Core Strategy has been adopted since the granting of the original permission 16/01369/FUL and the NPPF has been updated in 2019, there have been no significant material changes to policy context relevant to the consideration of the amendment of the condition which is the subject of this application.

Therefore the main issue to consider is whether it is appropriate to allow the variation of the wording of condition 11.

### **Principle of Development**

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

Following public consultation and independent examination, at its council meeting on 11 October 2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed in the policy section above and are considered against the relevant aspects of the proposal in the assessment below.

This application seeks to vary condition 11 of planning permission 15/01295/FULM to enable the retention of the reduced visibility splays now provided by the amended access constructed onto Halloughton Road.

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

The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

The principle of development is therefore considered acceptable subject to an assessment of site specific issues with regards to the highway impacts of reduced visibility splays.

### Highways Impacts

Spatial Policy 7 sets out the criteria for assessing whether a development encompasses a sustainable approach to transport. Core Policy 9 requires proposals to be accessible to all. Policy DM5 of the DPD states that provision should be made for safe and inclusive access to new development and that parking provision should be based on the scale and location of the development.

Policy TA3 of the Southwell Neighbourhood Plan seeks to ensure that new development does not adversely affect the highway network.

I acknowledge the concerns raised with regards to the acceptability of the visibility splays that have been provided at the access. Comments received have also raised strong concerns with regards to wider highway issues in terms of the physical design of the access, the impact on existing highway conditions, highway and pedestrian safety, safety issues for disabled users of the highway and footpaths, Health and Safety, drainage and impact of increased traffic.

Given that this application relates solely to the reduced visibility splays that have been provided these wider issues are discussed in detail within the report relating to retrospective application seeking to vary conditions attached to the planning permission for the redesigned access on Halloughton Road which is also on the agenda for debate at this planning committee meeting (application ref. 19/00689/FUL).

In considering this retrospective application, officers have sought the professional views of the Highway Authority whose formal consultation comments are detailed above within the consultations section of this report

### *Visibility Splay*

Local residents have raised concerns with regards to the revised visibility splays provided at the access on Halloughton Road. To the east these now measure 2.3m x 43m and 2.3m x 29m to the west rather than 2.4m x 43m to both the east and west as required by condition 11 of 15/01295/FULM.

It is acknowledged that the visibility splays have been reduced compared to those previously approved and that these now do not comply with the dimensions required to be provided by this condition. However, the Highway Authority has confirmed that standard local specifications in relation to visibility splays are guidance and that the Highway Authority considers each individual case where such standards are not met. Indeed the Highways Design Guide does allow for flexibility in assessing individual circumstances.

It is noted that the Highway Authority have commented that the reduction in the eastern splay is 'marginal and almost discernable' and although there is a reduction in the western splay, sight distance would be greater than the distance quoted.

The Highway Authority has assessed the access and revised splays and has concluded that highway safety will not be compromised.

Given that these comments are made by experienced highway professionals it is considered that the reduced splays comply with highway technical guidance and would not result in undue impact on highway or pedestrian safety to justify refusal on these grounds.

#### *Landownership*

It is acknowledged that the developer has constructed the access to be within land within the ownership of the Nottinghamshire County Council, albeit notice has also been served without prejudice on neighbouring properties. In order to achieve this, the design of the constructed access has been revised which as detailed above consequently reduces the visibility splays such that they remain within land owned by the NCC. Given the comments of the Highway authority officers are satisfied that the revised access, including the splays which is within land owned by the County Council, does not result in a reduction in safety standards.

#### Other matters

##### Breach of Planning Conditions

I note the comments received with regards to the application being retrospective given that the access on Halloughton Road has already been constructed and reduced splays provided. It is also commented that work has commenced on the residential development site in breach of the planning permission issued in December 2017 and in breach of the pre commencement condition which the applicant is now seeking to vary.

Requests have been made that the Council should therefore take action and works on the residential site should cease.

The National Planning Policy Framework (NPPF) captures national guidance as to when a Local Planning Authority should consider enforcement action. This is supplemented by the Planning Policy Guidance (PPG) on-line tool. Both the NPPF and PPG make clear that "Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

Specifically Paragraph: 011 (Revision date: 06 03 2014) of the PPG states that:

"In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.”

It is clear that there has been a breach of planning control in that the visibility splays at the access that has been constructed do not comply with condition 11 of planning permission 15/01295/FULM.

However the applicant has submitted this current application seeking to vary the condition attached to the original permission to reflect the amended visibility splays which is before Members for determination.

The Highway Authority has advised the developer and the Council that the proposed revisions are acceptable in highways terms and have confirmed in their consultation comments that there are no highway objections. Being mindful of the current applications, the comments of the highway authority together with government guidance in the NPPF and PPG with respect to as to when enforcement action should be taken, it has not been considered appropriate to take any action at this time.

Notwithstanding this the developer has been advised both verbally and in writing by the Council that they currently are in breach of planning permission and that any works that have been undertaken or any continuation of works on site are entirely at their own risk pending any decision by Planning Committee.

#### Assessment of conditions

The PPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this case as the development has begun, the time condition does not need to be re-imposed.

For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with strikethrough text used to represent parts of the condition no longer required and bolded text used to indicate new wording. The conditions have been reworded where details have been provided through the discharge of conditions or revised plans. Commentary is also provided where this is considered necessary.

#### Buffer Zone

I note the comments received from the Town Council regarding the buffer zone. This was previously assessed when permission was granted for the residential development approved in 2017 (15/01295/FULM) and does not form part of the consideration of this application as noted above.

## Flooding

I note the comments received regarding flooding impact. This was also previously assessed when permission was granted for the residential development approved in 2017 (15/01295/FULM) and does not form part of the consideration of this application as noted above.

## Conclusion and Planning Balance

It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration. In this instance this relates to highway matters. Nottinghamshire County Council Highways Authority has been consulted as the relevant technical experts who conclude that the revised access which has been constructed by VIA East Midlands would not cause highway harm and I would accept their conclusion. .

## RECOMMENDATION

**That full planning permission is approved subject to:-**

**(a) the following conditions: and**

**(b) the signing and sealing of a Deed of Variation of the S106 Planning Agreement**

~~01~~

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

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

**01**

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and documents unless otherwise agreed in writing by the local planning authority through the approval of a non material amendment to the permission.

Drawing No. 12/1889/LP Rev D Revised Site plan

Drawing No. 12/1889/101/Rev F - Revised site layout

Drawing No. 12/1889/102/Rev A - proposed roofscape

Drawing No. 12/1889/103/Rev A - proposed street elevation

Drawing No. 12/1889/120/Rev A - House type A

Drawing No. 12/1889/121/Rev A - House type B

Drawing No. 12/1889/122/Rev A - House type B

Drawing No. 12/1889/123/Rev A - House type C

Drawing No. 12/1889/124/Rev A - House type D

Drawing No. 12/1889/125/Rev A - House type E

Drawing No. 12/1889/126/Rev A - House type F

Drawing No. 12/1889/05/Rev A - Springfield Bungalow Proposed ground floor layout

Drawing No. 12/1889/06/Rev A - Springfield Bungalow Proposed first floor layout

Drawing No. 12/1889/07/Rev A - Springfield Bungalow Proposed Elevation

Reason: So as to define this permission.

## 02

~~No development shall be commenced until details and samples of the materials identified below have been submitted to and approved in writing by the local planning authority. The Development shall thereafter be~~ **The development hereby approved shall be carried out in accordance with the following external materials approved by the Local Planning Authority in correspondence dated 7<sup>th</sup> May 2019 under application ref. 19/00317/DISCON unless otherwise agreed in writing by the Local Planning Authority.**

### **Bricks--Butterley Forterra Woodside Mixture**

#### **Roof - traditional single clay pantile**

Reason: In the interests of visual amenity.

## 03

~~No part of the development shall be commenced until details of the existing and proposed ground and finished floor levels of the site and approved building[s] and the extension to the bungalow have been submitted to and approved in writing by the local planning authority.~~

**The development hereby approved shall be carried out in accordance with the ground and finished floor levels approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON. unless otherwise agreed in writing by the local planning authority.**

Reason: In the interests of residential and visual amenity.

## 04

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

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



- ~~• existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;~~
- ~~• proposed finished ground levels or contours;~~
- ~~• means of enclosure;~~
- ~~• hard surfacing materials;~~
- ~~• minor artefacts and structures for example, furniture, refuse or other storage units, signs, lighting etc.);~~
- ~~• the planting and screening along the southern boundary with Springfield House shown within the site boundary edged in red on the revised site plan ref. 12/1889/LP Rev D~~

**The development hereby approved shall be carried out in complete accordance with the details of hard and soft landscaping approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON unless otherwise agreed in writing by the local planning authority.**

Reason: In the interests of visual amenity and biodiversity.

## **05**

~~Before the development is commenced a landscape management plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall include time periods for implementation, including long term objectives, management responsibilities and maintenance schedule for all landscape areas, other than privately owned, domestic gardens. Once the landscape management plan is approved in writing the approved landscaping shall be completed in accordance with the approved timescales, or such longer period as may be agreed in writing by the local planning authority.~~

~~No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent in writing of 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.~~

**The development hereby approved shall be carried out in accordance with the Landscape Management Plan produced by Influence Environmental Ltd ref. INF N0559 R01-RevA deposited on the 16th April 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent in writing of the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.**

Reason: To ensure the development conserves and enhances biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

## **06**

No part of the residential development hereby permitted shall be occupied until all associated drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for

a minimum of 2 metres behind the Highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.

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

#### **07**

Any garage doors shall be set back from the highway boundary a minimum distance of 5 metres for sliding or roller shutter doors, 5.5 metres for up and over doors or 6 metres for doors opening outwards.

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

#### **08**

The new shared private driveway serving Springfield Bungalow shall be laid out to a width of not less than 4.8 metres for at least 10 metres back from the nearside edge of carriageway and shall provide for vehicle parking and turning areas in accordance with the approved plan. The vehicle parking and turning areas shall not be used for any purpose other than the turning and parking of vehicles.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and to ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems in the area; all in the interests of Highway safety.

#### **09**

No part of the Supported Living Units hereby permitted shall be brought into use until the new dropped vehicular verge crossing serving Springfield Bungalow is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of Highway safety.

#### **010**

**No part of the development shall be brought into use until visibility splays of:-**

**2.3m x 43m to the right/east of the access**

**2.3m x 29m to the left/west of the access**

**are provided at the junction with Halloughton Road**

Reason: In the interests of Highway safety.

#### **011**

No residential unit or 'supported living unit' hereby permitted shall be occupied until its associated private access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway in

accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

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

#### **012**

~~No part of the development hereby permitted shall be commenced until details of the drainage and outfall proposals for the new residential access road have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.~~

**The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the details of the drainage and outfall proposals for the new residential access road as indicated on drg.no. Drawing HALL-BSP-ZZ-XX-DR-C-240-P2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.**

Reason: To ensure the development is constructed to adoptable standards.

#### **013**

~~Before the development is commenced drainage plans for the disposal of surface water and foul sewerage drainage and precise drainage design details in accordance with the Flood Risk Assessment dated July 2015 and the Flood Risk Assessment Addendum dated 18th December 2015 and the comments of the Nottinghamshire County Council Flood Authority have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.~~

~~The development hereby approved shall be implemented in complete accordance with and to the satisfaction of the Local Planning Authority with the details of the drainage and outfall proposals for the new residential access road as indicated on drg.no. Drawing HALL-BSP-ZZ-XX-DR-C-240-P2 approved by the LPA in correspondence dated 7th May 2019.~~

~~Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy DPD 2011) and Policy So/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD 2013).~~

**The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the following drainage plans for the disposal of surface water and foul sewerage drainage and precise drainage design approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00456/DISCON.**

- **Drainage Strategy produced by bsp Consulting dated 01/12/19**
- **Storm Sewer Design produced by bsp Consulting dated 04.03.19**

- **Additional correspondence dated 03/04/19 from bsp Consulting**
- **Private Drainage Layout plan (bsp consulting) drg. ref. HALL-BSP-22-XX-DR-C-240 rev P2**

**014**

The drainage system on site shall be designed so that the positive discharge will be restricted to a maximum ~~of 5.7/s~~ **of 3.5 l/s in accordance with confirmation stated in correspondence deposited on the 8<sup>th</sup> March 2019** and connected to the public combined sewer in accordance with paragraph 3.9 of the Flood Risk Assessment Addendum produced by ACS and dated 28/10/15 revised 18/12/15.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy DPD 2011) and Policy So/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD (2013).

**015**

There should be no surcharge of the pipes on a 1year storm. No surcharge in a 30 year storm and no flooding outside the site boundary in a 100 year +30 climate change storm.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy DPD (2011 and Policy So/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD (2013).

**016**

~~No development shall take place within the application site until a written scheme for archaeological mitigation has been submitted to and approved in writing by the Local Planning Authority.~~

~~Thereafter, the scheme shall be implemented in full accordance with the approved details.~~

**The Written Scheme of Investigation produced by Locus Consulting Ltd dated 31/01/2019 approved by the Local Planning Authority in correspondence dated 7th May 2019 shall be implemented in full accordance with the approved details under application ref. 19/00317/DISCON.**

Reason: To ensure that satisfactory account is taken of the potential archaeological interest of the site.

**017**

Removal of vegetation (including any trees to be removed following confirmation and approval of precise details through a reserved matters application) should not take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted

to the local planning authority prior to removal of any such vegetation and once approved all works shall be in accordance with these details.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

#### **018**

~~Before development is commenced detail of methods to protect trees and hedgerow within and adjacent to the development in accordance with 855837:2012 as well as a proposed timetable for these measures to be retained shall be submitted to and approved in writing by the Local Planning Authority. Once approved in writing the agreed protection measures shall be put in place prior to commencement of development and shall be retained in accordance with the agreed timetable.~~

Reason: To ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation in accordance with the aims of Core Policy 12.

**The tree and hedgerow protection measures including timetable for these measures to be retained shall be implemented in full accordance with the Arboriculture Method Statement produced by Influence Environmental (ref. RSE\_2057-01-V2) and Tree Protection Plan (Drg, ref. RSE\_2057-7PP Revision-V2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.**

#### **019**

Before development is commenced the Poplar Tree identified as being within G3 in Appendix 1 of the Tree Survey prepared by Chris Barker and dated 11th November 2015 shall be checked for the presence of roosting bats in accordance with the recommendations of the Ecological Appraisal and letter prepared by CBE Consulting dated 9th November 2012 and 5th January 2015.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

#### **020**

~~Before development is commenced precise details of ecological enhancement and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. These shall include details of:-~~

- ~~• A Habitat Management Plan~~
- ~~• Proposed grassland seed mix for the proposed wildflower meadow and the Square~~
- ~~• Fencing to allow the passage of small mammals~~
- ~~• Enhancement of swales to benefit wildlife, by providing areas of continuous standing water and appropriate planting of native species of a local provenance.~~
- ~~• Installation of bird and/or bat boxes on retained trees.~~
- ~~• Native species proposed for the planting of native woodland~~

**The details of ecological enhancement and mitigation measures contained within the Habitat and Ecological Management Plan produced by Influence Environmental Ltd ref. RSE\_2057-02-V1 dated January 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 shall be fully implemented in accordance with the approved details under application ref. 19/00317/DISCON.**

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

**021**

Management of hedgerows should be undertaken in an ecologically sensitive manner. Only one third of (the total length of) hedgerows onsite should be cut each year, on a three year rotation. These should be cut in January/February, outside of the bird breeding season, and to allow wildlife to utilise the winter berry crop. Cutting hedgerows into an "A" shape will prolong the life of the hedgerow and create denser cover for wildlife.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

**022**

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 dwelling house, 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 D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse .

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class B: Means of access

Class C: The painting of the exterior of any building

Unless consent has firstly be granted in the form of a separate planning permission.

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

**Note to Applicant**

01

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

02

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.

03

Severn Trent Water have advised that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

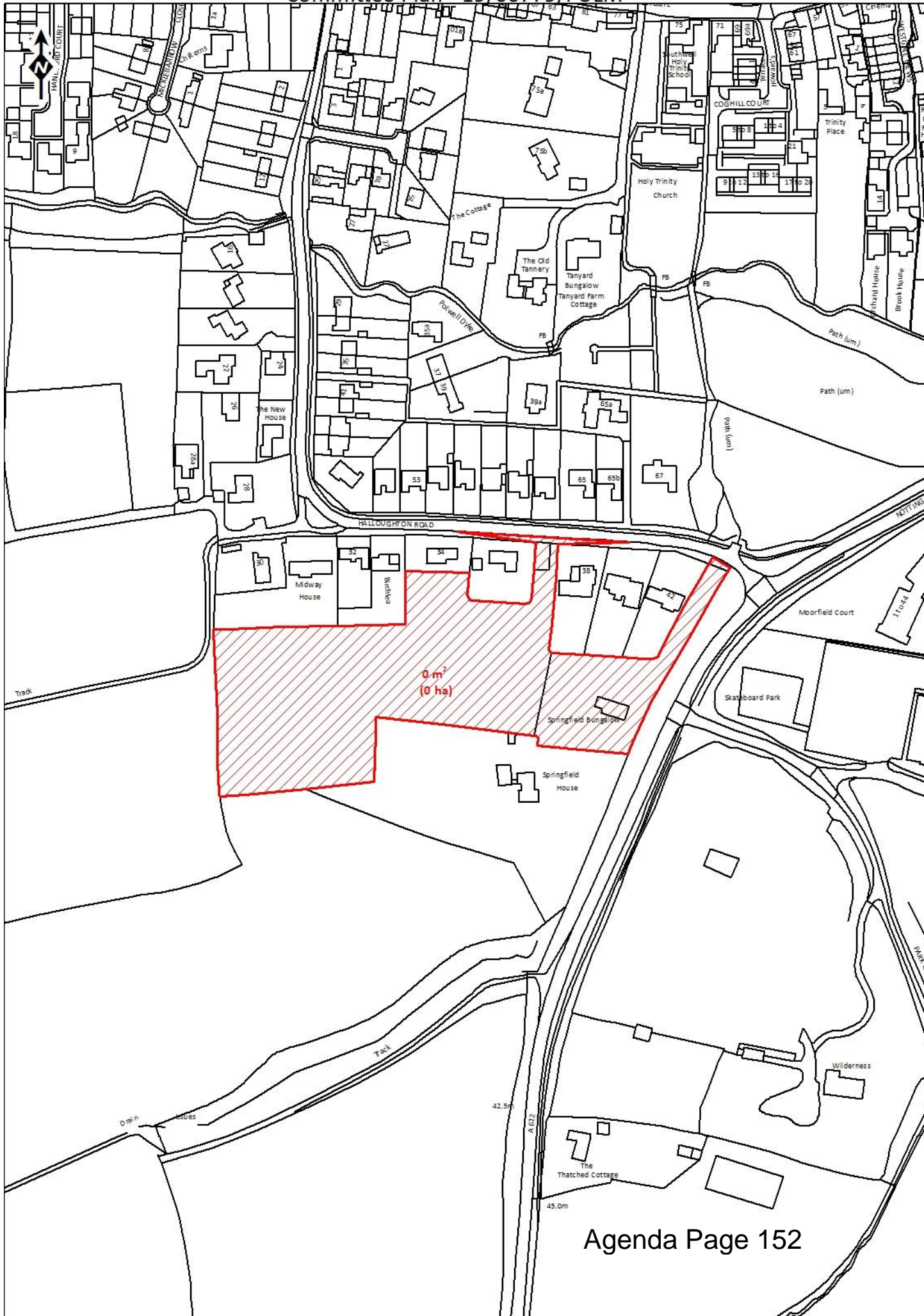
#### BACKGROUND PAPERS

Application case file.

For further information, please contact Bev Pearson on ext 5840

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 and Regeneration**





## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>18/01137/OUTM</b>
<b>Proposal:</b>	<b>Variation of condition 25 attached to planning permission 13/00997/OUTM for Proposed Erection of Retail Development Bulky Goods/Open A1/Open A1 Convenience uses and provision of car parking to serve same. Proposal submitted to allow the use of Unit B as A1 (non-food).</b>
<b>Location:</b>	<b>Land Off North Gate, Newark On Trent</b>
<b>Applicant:</b>	<b>Newark Property Development Ltd – Mr Phillip Rowe</b>
<b>Registered:</b>	<b>29 June 2018</b> <b>Target Date: 28 September 2018</b>
	<b>Extension of time agreed until 7 June 2019</b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Newark Town Council currently objects to the application which differs to the professional officer recommendation. If Newark Town Council withdraw the objection and the Council’s retail consultants conclude, as expected, that there is no significant adverse impact of this (and cumulatively other schemes) upon Newark Town Centre this matter will be delegated.**

### The Site

The application site forms an area of vacant land approximately 1.65 hectares in extent accessed via North Gate. The site abuts the river edge and forms part of the wider North Gate development site which as discussed below has been subject to an extensive planning history.

The proposal site is situated within Newark Conservation Area and is adjacent to the former malting of Northgate Brewery (which is Grade II listed) and the substantial former officers and brew house which front North Gate (also Grade II listed). The proposal site was formerly part of the Wellington Foundry, being part of an extensive industrial landscape along the river. The Millennium Bridge is located to the south-west of the site and Kings Marina is located to the north-west on the opposite side of the riverbank. To the south-west are offices and car parking belonging to No. 67 North Gate, together with a BP petrol filling station which fronts North Gate.

The surrounding area has a mixed commercial and residential character, taking in modern edge of centre retail stores, a petrol station and office development intermixed with Edwardian and Victorian terraced dwellings.

The majority of the site is within Flood Zone 2 and a small proportion immediately adjacent to the River Trent is within Flood Zone 3 according to the Environment Agency maps.

The site, including the Warwick and Richardson’s Brewery site is identified in the Allocations and Development Management DPD Map 1 - Newark North Proposals map as R/Ho PP ‘retail housing site with planning permission.’

## Relevant Planning History

The site has been subject to an extensive planning history which has been detailed below. The applications highlighted in bold text are considered most relevant to the determination of the current application.

**16/01958/RMAM** - Reserved Matters Application for the erection of retail development Bulky Goods/Open A1/Open A1 Convenience uses and provision of associated parking pursuant to outline permission 13/00997/OUTM. Approved 29 March 2019.

**18/02320/DISCON** - Application for confirmation of discharge of planning conditions 2, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 19, 22, 24 of planning permission 13/00997/OUTM Proposed Erection of Retail Development Bulky Goods / Open A1 / Open A1 Convenience uses and provision of car parking to serve same. Approved 8 January 2019.

**18/01160/NMA** - Application for a non-material amendment to planning application 13/00997/OUTM to allow amendment to Condition No. 7. Approved 28 December 2018.

**18/01154/NMA** - Application for a non-material amendment to planning permission 13/00997/OUTM to request minor amendments to the footprint of proposed Unit C. Withdrawn.

**17/00904/NMA** - Application for a non-material amendment to planning application 13/00997/OUTM - Proposed Erection of Retail Development. Approved 7 June 2017.

**15/01858/OUTM** - Application to vary condition 25 of planning permission 13/00997/OUTM for Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Proposal submitted to allow the use of Unit B as A1 (non-food). Application refused by committee in February 2016 for the following reason:

*“The proposal to vary Condition 25 in order to allow for the sale of non-food goods would result in a broadening and change in character of goods sold, resulting in an intensification of the retail use of Unit B, with the effect that there would be a greater level of trade draw from the Town Centre when compared with the consented scheme. It is considered that this increased level of trade draw would result in an unacceptable level of harm to the vitality and viability of the Town Centre and so be contrary to the provisions of Core Policy 8 of the Core Strategy DPD, Policy DM11 of the Allocations & Development Management DPD and the National Planning Policy Framework which forms a material consideration. Accordingly the applicant has failed to adequately demonstrate that the Condition deemed necessary to control the range of goods sold from the development in order to protect the vitality and viability of the Town Centre is no longer necessary.”*

Appeal allowed 9 September 2016. However, the time period for applying for reserved matters approval pursuant to this outline planning permission has now expired, and this outline permission has therefore now lapsed.

**14/01864/OUTM** - Proposal consists of 28 semidetached townhouses/mews houses with 56 integral car parking spaces, these intended to occupy a site currently consented for 99 apartments and two retail units. Application withdrawn.

**13/00997/OUTM** - Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Application approved by Committee in December 2013 (sought to amend the retail layout on the site of 11/01607/OUTM).

**11/01607/OUTM** (Appeal Reference APP/B3030/A/12/2174284) – Proposed erection of retail development comprising bulky good/open A1/open A1 convenience uses and provision of car parking to serve same. Appeal allowed 8 February 2013.

**10/01489/OUTM** - Application for replacement outline planning permission for residential development in order to extend the time limit for implementation. The application was withdrawn.

**07/01608/RMAM** - Erection of 90 dwellings and 116 car parking spaces. Approved 16<sup>th</sup> April 2008 under delegated powers. This related to the south-eastern part of the wider site (adjacent to the Almshouses and brewery). According to the applicants this approval was commenced on site within the lifetime of the application and is therefore extant.

**05/02004/OUTM** - Residential development was approved on 6<sup>th</sup> December 2005 by Committee as recommended. This related to the south-eastern part of the site (adjacent to the Almshouses and brewery).

**05/01984/FULM** - Erection of 99 apartments with integral parking and creation of 2 retail units and public piazza space. Approved under delegated powers on 6<sup>th</sup> December 2005. This application is considered an extant application due to a lawful commencement in December 2008. Crucially the application was subject to a legal agreement which connected to the outline scheme considered on the wider site at the same time (05/02004/OUTM). The S106 required the works in application 04/01241/FULM for the Brewery and Maltings Building to be completed. These have been done and as such the terms of the S106 have been met.

**04/03092/OUTM** - Residential Development relating to the south-eastern part of the site adjacent to North Gate was refused on 16<sup>th</sup> June 2005 by Committee due to lack of affordable housing and inadequate play facilities.

**04/01241/FULM** – The refurbishment and extension of adjacent Warwick & Richardson Brewery & Maltings to form 49 residential units and 3 retail units and the refurbishment and extension of Maltings to form bar/café/ restaurant plus associated parking was approved 23<sup>rd</sup> December 2004. This permission has been implemented.

**03/02997/FULM** - Erection of 99 apartments with integral parking and creation of 2 retail units and public piazza space. This application was refused on 16<sup>th</sup> June 2005 by Committee on the grounds of a lack of affordable housing and play facilities and detrimental impact on the Conservation Area and Listed Brewery building.

### The Proposal

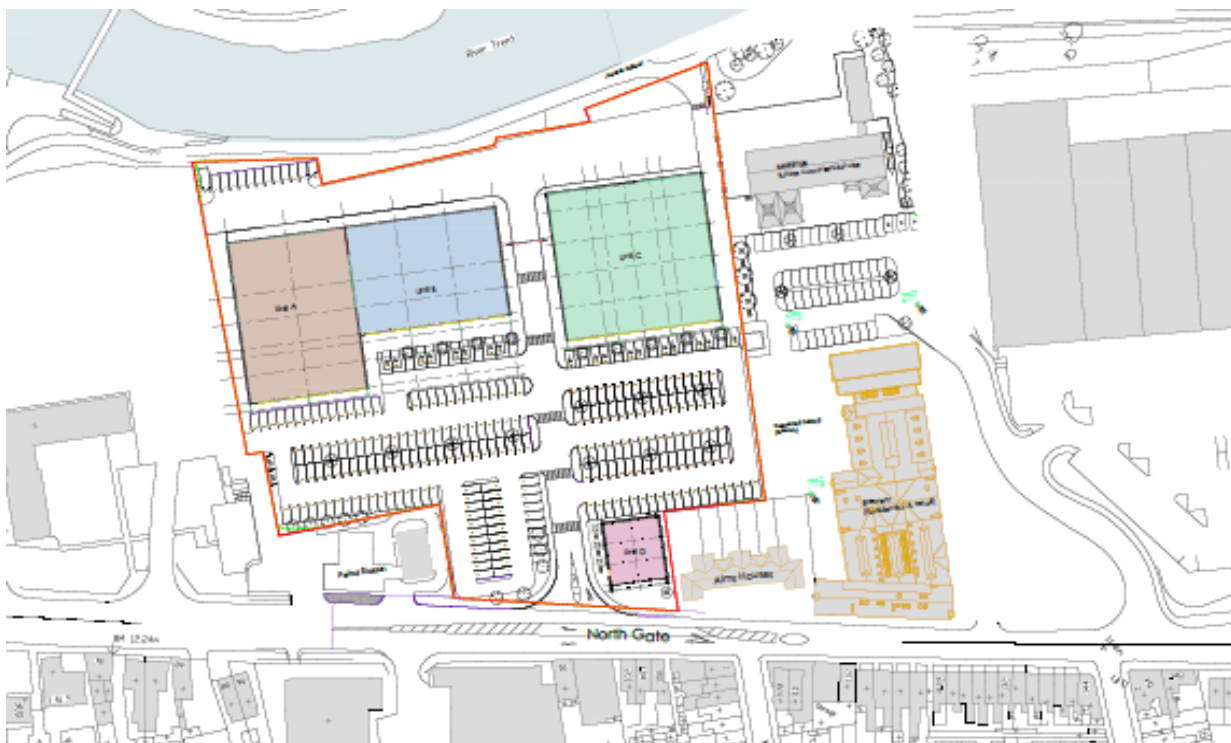
In December 2013 outline planning consent (13/00997/OUTM) was granted for the erection of a retail development comprising 4 units. The units comprised a total gross floor space of 6753m<sup>2</sup> and were broken down as follows:

Unit No.	Use	Proposed Floor Space (gross)
A	Open A1/Open A1 Convenience	1,520 sq m
B	Bulky Goods	1,325 sq m
C	Bulky Goods	1,850 sq m

D	Open A1	264 sq m
Mezzanine Space	Bulky Goods/Open A1/Open A1 Convenience	1,794 sq m details of the units to be provided with mezzanines is not specified
		<b>Total of 6,753 sq m</b>

The application relied on the submission documents of the 11/01067/OUTM application which was allowed at appeal.

The development was laid out with the access and spine road located in the position previously approved under 11/01067/OUTM. The remainder of the site was reconfigured with the units, other than Unit D being towards the rear of the site (riverside boundary). Units A and B were positioned in the western quarter of the site whilst Unit C was located in the northern quarter abutting The Malting's building. Units A and B were separated from Unit C by the access road which serves the customer parking to the front. A shared servicing area was shown to the rear of Units A, B and C extending across the rear of the site. Unit D was proposed located adjacent to the Almshouses and is significantly smaller than the approved building in the same position under 11/01067/OUTM. Unit D was not provided with a service area and would be serviced from the customer parking area.





The 13/00997/OUTM application was permitted subject to numerous conditions and condition 25 stated:

*Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 as amended and the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended:*

*Unit A on Drawing PL08 Rev K shall not exceed 1,520 square metres gross floorspace;*

*Units B and C on Drawing PL08 Rev K shall not in aggregate exceed 4,705 square metres gross floorspace and shall not be used for the sale of any goods other than those within the following categories:*

*(a) Electrical goods and other domestic appliances*

*(b) Bathroom suites - furniture and accessories; kitchen units - furniture and accessories, floor and wall tiles*

*(c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles*

*(d) Motor and cycle goods*

*(e) Furniture, bedding, floor coverings, soft furnishings and textiles;*

*Unit D on Drawing PL08 Rev K shall not exceed 528 square metres gross floorspace and shall not be used for the sale of convenience goods, but may be used for the bulk sale of wine and spirits.*

*Reason: In order to protect the vitality and viability of the town centre from significant harm, to ensure that the range of goods sold is appropriate for the sites location and layout and to control the character of the development.*

An application was submitted in 2015 (15/01858/OUTM) to revise the wording of the above condition to essentially remove the restriction points a) to e) from Unit B thus allowing a more open A1 use within Unit B, to allow more than just bulky goods to be sold, but prevent the sale of convenience goods (ie food). This application was refused by Committee in February 2016 but approved on appeal in September of the same year. The revised wording of the condition stated:

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended and the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended:

Unit A on Drawing PL08 Rev K shall not exceed 1,520 sq m gross floorspace;

Unit B on Drawing PL08 Rev K shall not exceed 2,225 sq m gross floorspace and shall not be used for the sale of convenience goods;

Unit C on Drawing PL08 Rev K shall not exceed 2,480 sq m gross floorspace and shall not be used for the sale of any goods other than those within the following categories:

- (a) Electrical goods and other domestic appliances
- (b) Bathroom suites – furniture and accessories; kitchen units – furniture and accessories, floor and wall tiles
- (c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles
- (d) Motor and cycle goods
- (e) Furniture, bedding, floor coverings, soft furnishings and textiles;

Unit D on Drawing PL08 Rev K shall not exceed 528 sq m gross floorspace and shall not be used for the sale of convenience goods, but may be used for the bulk sale of wine and spirits.”

However, the time period for applying for reserved matters approval pursuant to this outline planning permission has now expired and this outline permission has therefore now lapsed.

The purpose of the current application is to seek approval for the identical revision to Condition 25 attached to 13/00997/OUTM, as previously approved under reference 15/01858/OUTM. The covering letter with the application states:

*The District Council will be aware that the previous amendments to condition no 25 were sought to meet the requirements of Next which had been seeking to relocate from its existing store within Newark. The Council will also be aware that on the basis of changing market conditions, retailers such as Next have been re-considering their store investment and opening programmes. However, this should have no bearing on the acceptability of amendments now sought as the appeal decision in respect of planning permission 15/01858/OUTM made very clear that these amendments would be acceptable in policy terms regardless of whether Unit B was occupied by Next or another retailer.*

*Paragraph 16 of the appeal decision in respect of planning permission 15/01858/OUTM stated that:*

*“whether Unit B would or would not be taken up by Next is irrelevant; the key issue whether the change to the condition relating to Unit B would have a significant adverse impact on the town centre, irrespective of the end occupier. Both retail experts for the appellants and the Council consider that it would not. Whilst I note that this relates to the specific use of the unit by Next, given the range of sales/density and net floorspace figures tested by PBA and AN, including a higher net floorspace ratio by AN, a reasonably*

*robust range of potential occupiers and demonstration of their impacts would be encompassed by the retrospective reports.”*

*Critically, paragraph 17 of the appeal decision goes on to state that:*

*“based on the evidence presented to me and the respective reports the difference between the effect of the scheme with or without the proposed condition would not, in my view, result in a significant adverse effect on the vitality and viability of the town centre, even if Next are not the eventual occupiers of the unit.”*

*Given the range of scenarios that were tested as part of the previous application (including a worst case scenario which the Council’s retail expert concluded would not give rise to significant adverse impacts), and the conclusions of the previous appeal decision, we do not consider it necessary for this application to be supported by a new retail impact assessment.*

However, following receipt of an objection from Newark Town Council on the grounds that an updated Retail Impact Assessment has not been provided, additional information has been submitted to seek to demonstrate that there will be no material change in the retail impacts arising from this proposal since the matter was previously considered at appeal in 2016.

*“Since the time of the previous appeal, the Council has published a new Town Centre and Retail Study prepared by Carter Jonas. As noted in our previous submissions, this study found that the overall health of Newark Town Centre had improved in recent years. The Town Centre and Retail Study also provided updated estimates of the existing and future comparison retail turnover of Newark Town Centre. Taking a proportionate approach, we have applied these updated figures to the turnover and trade diversion assumptions applied by Alyn Nicholls Associates in its advice to the District Council in respect of planning application 15/01858/OUTM.*

	2016	2021
Turnover of Newark Town Centre	£131.0 million	£150.8 million
Approved Development		
Trade Diversion		£7.98 million
Trade Impact		-5.3%

<i>Proposed Development</i>		
<i>Trade Diversion</i>		<i>£9.26 million</i>
<i>Trade Impact</i>		<b>-6.1%</b>

*This revised assessment shows that, notwithstanding the updated comparison retail turnover figures for Newark Town Centre presented within the Council's Town Centre and Retail Study, trade impacts would be identical to those considered previously by the appeal Inspector. It is clear on the basis of these figures that, as with planning permission 15/01858/OUTM (to which Newark Town Council did not object), the proposed variation of condition no 25 would have no significant adverse impacts on Newark Town Centre. The application proposals would therefore accord with Core Policy 8, Policy DM11 and para 89 of the NPPF."*

However, having sought further advice from retail consultants, the case officer requested further information to demonstrate an up-to date assessment. A Retail Statement was submitted by White Young Green dated March 2019 which provides more detailed assessment of the retail impact of the proposal. This report concludes that :-

- a sequential assessment finds that there are no available, suitable or viable sequentially preferable sites to accommodate the proposed development and as such the application site remains the most sequentially preferable site to accommodate the proposed development;
- an up-to-date health check and quantitative impact assessment, accounting for all commitments, has been prepared which demonstrates low levels of impact that are not likely to give rise to any significant adverse impact on any existing, committed or planned public or private investment within the town centre, nor its vitality and viability;
- considers that the proposal represents "sustainable development" for which there is a 'presumption in favour' and as such should be 'approved without delay;'
- The proposal is considered to continue to accord with both the Development Plan and national guidance contained within the NPPF and PPG; and
- There has been no material change in circumstances which would justify a different decision to that taken previously in permitting the proposals under 15/01858/OUTM.

#### Departure/Public Advertisement Procedure

Occupiers of fifty-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



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 6: Shaping our Employment Profile  
Core Policy 8: Retail & Town Centres  
Core Policy 9: Sustainable Design  
Core Policy 10: Climate Change  
Core Policy 14: Historic Environment  
NAP1: Newark Urban Area

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

Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM3 – Developer Contributions and Planning Obligations  
Policy DM5 – Design  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM10 – Pollution and Hazardous Materials  
Policy DM11 – Retail and Town Centre Uses  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014
- Newark and Sherwood Town Centre and Retail Study 2016

### **Consultations**

**Newark Town Council** – “Objection was raised to this application as Members felt they were unable to assess the application properly without an updated Retail Capacity Study for the Town.”

**The Town Council has been re-consulted on the latest Retail Statement that has been submitted and their comments will be reported as an up-date to this report at Committee.**

**NSDC Retail Consultants** – “In summary, we are of the opinion, the applicant in planning terms has not fully provided a sequential or impact assessment (especially cumulative impact) or current health check of Newark town centre to enable a robust assessment of the application.”

**The Council’s retail consultants have been re-consulted on the latest Retail Statement that has been submitted and their comments will be reported as an up-date to this report at Committee.**

**NCC Highways Authority** – “This proposal will have negligible impact on the public highway. Therefore, no objections.”

**Environment Agency** – No formal comment to make as the EA did not request the planning condition that the applicant is seeking to vary.

**Canals and Rivers Trust** – No comment to make.

**Trent Valley Internal Drainage Board** – “The site is outside of the Trent Valley Internal Drainage Board district but within the Board’s catchment. There are no Board maintained watercourses in close proximity to the site. Surface water run-off rates to receiving water courses must not be increased as a result of the development. The Design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local planning Authority.”

**NCC, Lead Local Flood Authority** – 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 the Government for those applications that do require a response from the LLFA.

**NSDC Archaeology Consultant** – “No archaeological input is required for the variation of condition 25 on this site.”

**NSDC, Planning Policy** – “The Development Plan context is provided by Core Policy 8 (as adopted) and Policy DM11, both of which set a 2,500 sq m threshold for application of the impact test. Nevertheless CP8 as proposed for amendment through the Amended Core Strategy is a material consideration and, applying the tests at Para 216 of the NPPF, can in my view be afforded significant weight. Within Newark Urban Area this would require impact from retail development located outside of a defined centre and which has a gross floorspace equaling or exceeding 400 sq m to be considered through the undertaking of a proportionate assessment. The proposal clearly exceeds this threshold.

I am mindful of the need for any assessment to be proportionate, and that the no longer extant consent which previously varied Condition 25 was supported by an impact assessment. This was assessed on our behalf by Alyn Nicholl Associates, who tested a worst case scenario and recommended that the level of impact on Newark Town Centre fell below significant adverse. Following refusal by Planning Committee the Inspector which dealt with the appeal considered that on the basis of the range of sales/density and net floorspace figures tested a reasonably robust range of potential occupiers and demonstration of their impacts had been provided for, and neither suggested an significant adverse impact. Significantly there is also a fallback position provided by the consent which remains extant, and on which the Inspector concluded that the difference between the scheme with and without the propose condition would also not result in a significant adverse impact on the vitality and viability of Newark Town Centre.

From my perspective the key issue is therefore whether anything has materially changed, or whether there are other reasons why the previous assessment and conclusions reached by the appeal Inspector should be considered no longer relevant. I am unaware of any change in conditions, including the health of Newark Town Centre, which would indicate a revisit of the assessment as being necessary from that point of view. Moving on, the applicant’s assessment was undertaken in December 2015, over 2 ½ years ago, and through the appeal process we highlighted concerns that the applicants assessment took trade draw figures from 2011 as their starting point, now potentially approaching 7 years ago. Nevertheless the Inspector was satisfied that the assessment provided a suitable basis for contributing towards a decision issues in September 2016, almost 13/4 years ago now. On balance whilst I still hold some reservations about the use of a trade draw dating back to 2011, I am therefore inclined to advise that in my opinion, the assessment (and conclusions reached through its appraisal) would continue to indicate a level of likely impact below that of significant adverse.

I would therefore offer no objection to the proposal on that basis.”

**NSDC, Environmental Health (Contaminated Land)** - “The original application (13/00997/OUTM) is subject to a contaminated land planning condition for which matters are still outstanding. This latest application appears to be for variation of conditions which are not related to contamination, we would therefore have no comments to make, providing that the requirements of the contamination condition on 13/00997/OUTM are still in place.”

**NSDC, Access and Equalities Officer** – No observations.

**Representations have been received from one local resident/interested party objecting to the application on the following grounds:**

- Object to the use of this site for retail, despite this use having been previously allowed on appeal;
- Prior to that previous application, the site has been proposed and permitted for housing – a more appropriate use for the location and one for which need has only increased in the meantime;
- The existing consent should be allowed to lapse and use for housing should be resurrected by the owner.

#### Comments of the Business Manager

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. In determining such an application the local planning authority is only able to consider the question of the conditions subject to which planning permission should be granted, and—

- (a) if the authority decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the authority shall grant planning permission accordingly, and
- (b) if the authority decides that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, the authority shall refuse the application.

Whilst the application has defined the condition that is sought to be varied, the local planning authority has the power to vary or remove other conditions if minded to grant a new planning consent.

The outline planning permission (13/00997/OUTM) was granted in December 2013 (which remains extant) subject to a number of conditions. The condition sought to be varied is Condition 25, to allow for open A1 (non-food) use in Unit B.

Essentially the principal assessment will be the impacts that would arise from the variation of the condition proposed, notably on the retail impact on Newark Town Centre. Exactly the same proposal was approved on appeal in September 2016, when the Inspector concluded:

*“A key factor in this case is clearly the effect of the extant consent. This represents a significant fallback position. Given the reasonably small difference in the AN report worst case figures of an effect of -6.1% as opposed to -5.3% of the scheme on the turnover of Newark Town Centre (comparison goods) in 2020, as based on the evidence presented to me and the respective reports the difference between the effect of the scheme with and without the proposed condition would not, in my view, result in a significant adverse effect on the vitality and viability of the town centre, even if Next are no the eventual occupiers of the unit.”*

The crucial material planning consideration will be whether there has been any material change to the retail impact on the town centre since September 2016. Much of the discussion from the 2013 approval (13/00997/OUTM) is still relevant and for clarity the text from this committee report has been included in italics.

### Principle of Retail Development

In policy terms the application site is classed as ‘out of centre’. It lies outside the defined boundaries of the Newark Town Centre, identified on the Allocations and Development Management DPD Map 1 – Newark North Proposals but has the benefit of a very recent extant planning permission, allowed on appeal in February 2013 after the Inspector’s Examination had closed and proposed modifications had been published.

The Inspector’s appeal decision letter made clear that the Council and the appellant, both of whom had undertaken a detailed assessment of the retail capacity of Newark for bulky goods provision and a town centre Retail Impact Assessment.

The Inspector advised in paragraph 17 and 18 of his letter under the Statement of Common Ground that:

*“The parties agree that the appeal proposal would have no significant adverse impact on the vitality and viability of Newark town centre, subject to the imposition of appropriately worded conditions that have been agreed.”*

In assessing the proposal the Inspector commented:

Paragraph 54 *“Finally, I turn to consider the factors that weigh in favour of the appeal site as a sequentially preferable out of centre location for a retail warehouse development. The Framework at paragraph 24 states that “When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.”*

Paragraph 55. *“The principle factor in favour of the appeal site is its location on a main road between the town centre and Northgate Retail Park. It enjoys good accessibility and good visibility to the passing public.”*

Paragraph 56. *“It is adjacent to Northgate Retail Park, a well-established retail warehouse location that serves the Newark catchment area. While the profile of this retail park has strengthened in recent years, the profile of some solus retail warehouses elsewhere has declined. The appeal site*

*would benefit from the profile of the retail park and the clustering effect that comes from close proximity to it, as have the solus retail units of Aldi and Halfords. It would therefore be well placed to take advantage of the customer base that the retail park attracts.”*

Paragraph 57. *“I consider that the appellant company has applied the appropriate degree of flexibility to the appeal proposals. I conclude on the first main issue that there are no suitable or available sequentially preferable locations for this type of retail development in Newark.”*

The Inspector went on to conclude in paragraph 62 of his letter that *“There is no evidence to show that it would have a materially adverse impact on nearby centres, including the town centre, or that there is a better location in Newark for retail warehouse development of the type proposed. It would therefore assist, not undermine, the objectives of Core Strategy Policies CS8 and NAP1.”*

Paragraph 64. *“Moreover, it would assist the regeneration of under-used land that is close to Newark town centre and on an important arterial route to it. It would also assist in securing the retention and the effective use of ‘The Maltings’, a listed building which is in urgent need of restoration.”*

Paragraph 70 summarizes the Inspector’s assessment as *“I believe that significant benefits would arise from the appeal proposal and they should be realized sooner rather than later. Having regard to the presumption in favour of sustainable development, which is at the heart of the Framework, and the exhortation that decision making “means approving development proposals that accord with the development plan without delay” (paragraph 14), it is clear to me that planning permission should be granted.”*

Since the Inspector’s decision in 2011, the site has been subject to an extant permission for retail development noting the scheme has evolved through the approval of reference 13/00997/OUTM which altered the layout on the site. It is a material consideration that the site has an extant permission for retail development at this quantum of development and therefore the principal of development is already established.

Notwithstanding this, the variation in condition sought would have potential implications to the occupiers of the units proposed and thus could potentially impact upon the retail offer of the Town Centre. The original application submission included no justification or retail impact assessment (RIA) in connection with the current proposal. However a RIA was requested to assess the previous application to alter Condition 25 in 2015 (15/01858/OUTM) and this was produced by Peter Brett Associates LLP and dated December 2015.

That RIA confirmed that the purpose of the application was to meet the requirements of NEXT, who are currently located adjacent to the site at the Northgate Retail Park. It was intended that if condition 25 was to be varied, it would allow the unrestricted non-food retail sale of goods including clothing, footwear, fashion accessories and homewares. The RIA went on to detail the turnover and trade draw of the proposed development before moving on to outline the Town Centre impacts. The RIA concluded that the proposed development would not lead to any significant adverse impacts on the vitality and viability of the Town Centre. This same information was originally submitted in summary form to support this current application.

The RIA was based on the RIA submitted with the 2011 application (the appeal application). At the time of the appeal, various criticisms and reservations were raised in regard to the RIA. An independent review was undertaken by Carter Jonas on behalf of the LPA during the assessment of the 2015 application, which estimated that the potential turnover of the proposed development at 2020 is about £21.5 million. The potential uplift in turnover arising from the occupation of Unit B by NEXT is a little under £3.5 million. This separate impact assessment undertaken on behalf of the LPA was completed adopting the same set of information and analysis as utilised in the assessment of the 2011 appeal proposal. It was concluded that the existing scheme (without the change to Condition 25) diverts about -£7.8 million of expenditure from the town centre which amounts to an impact of -5.3%. The proposed scheme (with the proposed change to Condition 25) may divert -£9.26 million which represents an impact of -6.1%.

For the purposes of the planning appeal in 2016, it was accepted that the appeal proposal would not have a significant adverse impact on the vitality and viability of the town centre so long as a condition was imposed to ensure that the character of retail uses on the site did not change from that proposed at that time. The Inspector also concluded that this was the case whether Unit B was to be occupied by NEXT or some other comparison retailer.

In response to the Town Council's initial objection to this application, the agent (Peter Brett Associates) submitted some additional information (but no new assessment). The additional information has taken the existing and future comparison turnover of Newark Town Centre from the 2016 Carter Jonas Study and applied Alyn Nicholl's turnover and trade diversion assumptions from the 2016 appeal to those figures. The agent also takes the view that the health of Newark Town Centre was shown to have improved in the 2016 Carter Jonas Study and so this would cancel out any increased impact from an increased turnover and trade diversion and therefore the level of impact on Newark Town Centre of the 2016 appeal and the existing proposed application to vary Condition 25 is effectively the same. However, the Town Council continued to object on the lack of a new Retail Impact Assessment.

Following the advice from the Council's retail consultants, additional and up-to-date information was requested to be submitted to draw on the outputs of the Council's 2016 Retail Study and also take into account other commitments in the intervening period to provide a cumulative impact, a fresh sequential assessment and a broader assessment of the current health of Newark town centre. A Retail Statement dated March 2019 has been submitted by new agents (White Young Green) and a summary of its findings set out within the Proposals section of this report above. The comments of the Council's Retail Consultants were not available at the time of writing this report, but they will be reported in full to the Planning Committee prior to the determination of the application. The Town Council's response to the new Retail Assessment will also be reported to the Planning Committee.

To conclude, there is no guidance or rule of thumb as to the level of impact on a town centre that would be unacceptable. Each case has to be assessed on the particular circumstances arising at that time. The key issue is therefore whether anything has materially changed, or whether there are other reasons why the previous assessment and conclusions reached by the appeal Inspector should be considered no longer relevant. There have been changes since 2016 in terms of the

departure of M&S and Brighthouse in the town centre (and the effect on the health of the centre) and the likely impact of consented or resolved out of centre and District schemes, notably in South Kesteven. In addition, it has been confirmed that NEXT will not be moving to this site as a Certificate of Lawfulness (Proposed use) was approved last year for the expansion of the existing NEXT store at Northgate Retail Park via a mezzanine. That said. The initial view of the Council's retail consultants (to be confirmed post agenda print) is that would not be detrimental to the vitality and viability of Newark Town Centre.

#### Other material matters

Issues of scale, layout and access of the development on the site have been assessed in detail within the extant outline permission under 13/00997/OUTM. Since this approval the scale and layout of the proposed development have undergone some minor alterations through the approval of non-material amendments and the Reserved Matter application (which also approved appearance and landscaping and reduced the height of Units A, B and C). The currently approved scheme is shown on the plan and street scenes inserted within the Proposals section of this report.

Material planning considerations such as impact on heritage assets, highway safety, flood risk and amenity matters have all been considered within the applications already approved on the site. Given that the current proposal relates to a change of use restricted by condition, I see no reason to deviate from the approval of previous applications and therefore find that the scheme is acceptable in relation to all other material planning considerations.

The approval of a discharge of condition application pursuant to 13/00997/OUTM was consented in January in 2019 and therefore any conditions imposed on this new Section 73 outline consent would need to reflect the details already approved through the discharge of all the pre-commencement conditions.

#### Other matters not material to this determination

Following the determination of this application, the developers have indicated their desire to re-arrange the retail uses on the site and 'swop' the approved uses between Unit A and Unit C. This would transfer the open A1 retail use from Unit A to Unit C and transfer the sale of bulky goods only from Unit C to Unit A. This would require the submission of a further Section 73 application to amend Condition 25 but provided the gross floorspaces of each of the retail use does not change, there would be no additional retail impacts that would require assessment, as legal Counsel has now confirmed. It is understood that this is to facilitate the occupation of Unit C by a Marks and Spencer food store. This information is not a material consideration in the assessment of this application and is offered for information only to be dealt with via another s73 application should this permission be granted.

#### Conclusion

It is my view that the proposal requires assessment as to the impact of the lifting of the current restrictions on the sale of bulky goods only within Unit B on the vitality and viability of Newark

Town Centre. In September 2016 an application for the identical variation was considered to be acceptable and concluded to not result any significant adverse effect on the town centre.

In the context of the 2016 appeal decision and having regard to changes at the time it is likely (subject to the final report from the Council's retail consultants) that the proposed alteration to the wording of Condition 25 (again) would not have a significant adverse impact such as to justify refusing planning permission.

#### Assessment of the remaining conditions

The NPPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this case as the development has not begun, the time condition needs to be re-imposed.

For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with ~~striketrough~~ text used to represent parts of the condition no longer required and **bolded text** used to indicate new wording. The conditions have been reworded where details have been provided to discharge previously imposed conditions. Commentary is also provided where this is considered necessary.

#### **RECOMMENDATION**

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

#### Conditions

01

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

The development hereby permitted shall begin not later than ~~two years from the date of approval of the last of the reserved matters.~~ **29 March 2021.**

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

*All reserved matters have now been approved and the implementation date must reflect that of the original permission.*

02

~~No development shall be commenced on site until details of a phasing scheme has been submitted to and approved in writing by the Local Planning Authority. This scheme shall also detail how the phases that are not developed out in the early stages, will be secured and treated. The development shall thereafter be constructed in accordance with the approved phasing scheme unless otherwise agreed in writing by the Local Planning Authority.~~



**The development hereby approved shall be built out in one single phase within a continuous build programme in accordance with the details submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.**

Reason: In the interests of visual amenity.

*The single phasing detail has been approved as part of the discharge of condition application.*

~~03~~

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

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

*No longer required as all reserved matters have now been submitted and approved.*

~~04~~

~~Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and illustrated in the following documentation, unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the consent.~~

~~Maximum scale parameters for the buildings are: Buildings A to c would be a maximum height of 14m (including any chimneys) whilst Building D would have a maximum height of 7m.~~

~~Drawing No. PL01 (Location Plan)~~

~~Drawing No. PL02 (As Existing Site Plan)~~

~~Drawing No. PL03-05 Rev A (As Existing Site Sections AA, BB, CC, DD)~~

~~Drawing No. PL07 Rev A (Site Layout)~~

~~Drawing No. PL08 Rev K (Proposed Ground Floor Plan)~~

~~Drawing No. PL09 Rev A (Proposed Roof Plan)~~

~~Drawing No. PL10-12 Rev C (Proposed Site Sections AA, BB, CC)~~

~~Drawing No. BMT-120-TT-001-RP3 (Proposed access arrangements)~~

~~Design and Access Statement (dated July 2013)~~

~~Reason: The application is in outline and the Local Planning Authority wishes to ensure that the details which have not yet been submitted are in accordance with the scale parameters set out in the outline application.~~

*No longer required as the reserved matters application has now been approved in accordance with this condition.*

~~05 03~~

~~No development shall take place within the application site until details of a scheme for archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in full accordance with the approved details. **The scheme shall be implemented in full accordance with:-**~~

- **SW146-001 Archaeology Statement;**
- **Method Statement for the Archaeological Excavation and Recording at the Former Warwick's and Richardson's Brewery, Northgate, Newark by Archaeological Project Services Nov 2008;**
- **Archaeological Evaluation and Watching Brief on Land at the former Warwicks & Richardsons Brewery, Northgate, Newark by Archaeological Project Services Report No: 34/11 dated March 2011;**
- **1 March 2018 submission of revised Mitigation Strategy and Method Statement for Archaeological Monitoring and Recording at North Gate, Newark by Peak and Trent Archaeology dated February 2018;**

**comprising the written scheme of investigation submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.** The developer shall afford access to the site at all reasonable times to any archaeologist nominated by the local planning authority and allow the archaeologist to observe the excavations and record items of interest and finds.

Reason: In order to afford appropriate protection for the potential archaeological significances of the site.

06 04

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

**Part A: Site Characterisation**

~~An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include the matters i) to iii) below:~~

~~(i) a survey of the extent, scale and nature of contamination;~~

~~(ii) an assessment of the potential risks to:~~

- ~~• human health,~~
- ~~• property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,~~
- ~~• adjoining land,~~
- ~~• groundwaters and surface waters,~~
- ~~• ecological systems,~~
- ~~• archaeological sites and ancient monuments;~~

~~(iii) an appraisal of remedial options, and proposal of the preferred option(s).~~

~~This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.~~

**Part B: Submission of Remediation Scheme**

~~A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and~~

~~historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.~~

**The scheme shall be implemented in full accordance with the Detailed Quantitative Risk Assessment at The Maltings Retail Park, Northgate, Newark, Report No: NE2711F, October 2016 by Sub Surface North East Limited submitted to discharge Parts A and B of this condition, and approved on 8 January 2019 under application reference 18/02320/DISCON.**

#### Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

07 05

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) 03/09/13-NWT/1500/FRA Rev C-BWB Consulting (D Harvey) and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1:100 critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
2. Provision of compensatory flood storage on a level for level basis as detailed in Appendix D and **Appendix E. the revised Floodplain Compensation Plan (Drawing No: MNN-BWB-DDG-XX-DR-D-1500 Rev P5 which was approved as a non-material amendment on 28 December 2018 under reference 18/01160/NMA.**
3. Finished floor levels are set no lower than 11.87 m above Ordnance Datum (AOD). The mitigation measures shall be fully implanted 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 prevent flooding by ensuring the satisfactory storage of disposal of surface water from the site. 2) To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided. 3) To reduce the risk of flooding to the proposed development and future occupiers.

08 06

~~Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in full accordance with:-~~

- **BWB Statement Summary – WJ/NTH2312 – dated 23 Nov 2016;**
- **500 – P1 – Existing Catchment Areas Layout;**
- **501 – P1 – Proposed Catchment Areas Layout;**
- **550 – P1 – Proposed Drainage Layout;**
- **560 - P1 – Drainage Details Sheet 1 of 2;**
- **561 – P1 – Drainage Details Sheet 2 of 2;**
- **WJ 25.11.16 BWB Micro-Drainage Model;**
- **WJ25.11.16 Micro-Drainage Network Details;**

~~before the development is completed which comprises the surface water drainage scheme submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:~~

- ~~The utilisation of holding sustainable drainage techniques;~~
- ~~The limitation of surface water run off to existing rates with a reduction in rates where practicable;~~
- ~~The ability to accommodate surface water run off on site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and~~
- ~~Responsibility for the future maintenance of drainage features.~~

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage system.

09-07

~~The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved in full accordance with~~

- **BWB Summary Statement – WJNTH2312 – dated 23 November 2016;**
- **Proposed Drainage Layout (dated 24.11.2016 ref: NTW/2380/550) incorporating the separators into the drainage plan**

**Submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.**

Reason: To protect ground and surface water from pollution

010 08 (unaltered)

No part of the development hereby permitted shall be brought into use until:

a) details of (i) the permanent closure of existing site accesses that have been made redundant as a consequence of this permission and (ii) the reinstatement of the access crossing as a footway, have been submitted to, and approved in writing by, the Local Planning Authority.

b) The works have been carried out in full accordance with the approved details.

Reason: In the interests of Highway safety.

*This condition remains undischarged and of relevance and should remain.*

~~011~~ 09

~~The development hereby permitted shall not be commenced until details of the pedestrian link between the development and the Riverside Walk and the adjacent Maltings in accordance with drawings PLO8 Rev K and PLO9 Rev A have been submitted to and approved in writing by the local planning authority. These details shall include a full specification of surface treatment and any means of enclosure. The approved scheme shall be implemented in full accordance with Drawing Nos: 03/360/16 Rev A and SW146-405A submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON prior to first occupation.~~

Reason: To provide adequate and safe access to neighbouring developments and promote sustainable transport links.

~~012~~ 010

No part of the development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority (LPA). The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the LPA and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the local planning authority.

Reason: To promote sustainable transport.

*This condition remains undischarged and of relevance and should remain.*

~~013~~ 011

~~No development shall be commenced until details of measures to prevent the deposit of debris upon the adjacent public highway shall be submitted and approved in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with Drawing No: SW146-101A and SW146-CM01 Issue A submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON prior to any other works commencing on site.~~

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

~~014~~ 012

~~No part of the development hereby permitted shall be brought into use until provision has been made within the application site for parking of cycles in accordance with Drawing No: SW146-400B submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON. details submitted to and approved in writing by the Local Planning Authority. The details shall include the design, materials, amount and specification. The cycle stands shall be located near to the main entrance to the development, be covered and t That area shall not thereafter be used for any purpose other than the parking of cycles. No part of the development hereby permitted shall be brought into use until provision has been made for the parking of cycles in accordance with the approved scheme.~~

Reason: To promote sustainable transport.

~~015~~ 013 (Unaltered)

No part of the development hereby permitted shall be occupied or brought into use until the parking/turning/servicing areas are provided in accordance with the approved plans. The parking/turning/servicing areas shall not be used for any purpose other than parking/turning/loading and unloading of vehicles.

Reason: To ensure that adequate off-street parking, servicing and turning provision is made to reduce the possibility of the proposed development leading to on-street parking in the area, and in the interests of safety and convenience on the site.

*This condition needs to be complied with in accordance with Drawing No: Proposed Site Plan (Drawing No: SW146-102 Rev C) received 19 November 2018 as approved under reference 16/01958/RMAM) and so is re-imposed.*

~~016~~ 014

~~The development hereby permitted shall not be commenced until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 of the matters listed a) to e) below been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved building details~~ **approved on 29 March 2019 under reference 16/01958/RMAM and listed below**, unless otherwise agreed in writing by the local planning authority.

~~a) external windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.~~

~~b) treatment of window and door heads and cills~~

~~c) verges and eaves~~

~~d) rainwater goods and~~

~~e) extractor vents~~

- **Proposed Units A, B, C Elevations (Drawing No: SW146-300 Rev B) received 4 February 2019;**
- **Proposed Units A, B, C Elevations Sheet 2 (Drawing No: SW146-301 Rev B) received 4 February 2019;**
- **Proposed Units A, B, C Elevations Sheet 3 (Drawing No: SW146-302 Rev B) received 4 February 2019;**
- **Proposed Unit D Elevations Sheet 4 (Drawing No: SW146-303 Rev A) received 4 February 2019;**
- **Proposed Visuals (Drawing No: SW146-304 Rev A) received 4 February 2019.**

Reason: In the interests of visual amenity.

~~017~~ 015

~~Any application for Reserved Matters shall be accompanied by a detailed scheme for both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species. The details shall include:~~

~~a) a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities.~~

~~b) proposed finished ground levels or contours;~~

~~c) proposed means of enclosures (including noise attenuation measures adjacent to the service yard);~~

~~d) car parking layouts and materials;~~

~~e) other vehicle and pedestrian access and circulation areas;~~

- f) ~~hard surfacing materials;~~
- g) ~~minor artefacts and structures for example, furniture, refuse units, signs, lighting etc.)~~
- h) ~~retained historic landscape features and proposals for restoration, where relevant.~~

Development shall be undertaken in accordance with the hard and soft landscaping details approved on 29 March 2019 under reference 16/01958/RMAM and listed below,

- Detailed Landscape Proposals (Drawing No: 01/360/16 Rev B) received 4 February 2019;
- Detailed Landscape Proposals 1 of 3 (Drawing No: 02/360/16 Rev B) received 4 February 2019;
- Detailed Landscape Proposals 2 of 3 (Drawing No: 03/360/16 Rev B) received 4 February 2019; and
- Tree Grilles added to Carpark 3 of 3 (Drawing No: 03/360/16 Rev B) received 4 February 2019.

Reason: In the interests of amenity and biodiversity.

~~018~~ 016 (Unaltered)

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping shall be implemented in full.

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

*This condition needs to be complied with and so is re-imposed.*

~~019~~ 017

No raw materials, equipment, finished products or waste materials shall be stored outside buildings other than in accordance with ~~details to be approved in writing by the local planning authority prior to the commencement of such storage.~~ **Drawing Nos: SW146-102 Rev C, SW 146-WM01, SW146-103 Rev A and the Waste Removal, Management and Recycling Statement submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.** ~~Thereafter~~ Any external storage shall be located in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

~~020~~ 018 (Unaltered)

The premises (Units A to D) hereby approved shall not be open to members of the public outside the following times: 08.00 a.m. to 20.00 p.m. on any day.

Reason: In the interests of amenity and to reduce conflicts between customers and deliveries/servicing of the units.

*This condition needs to be complied with and so is re-imposed.*

~~021~~ 019 (Unaltered)

Servicing of Units A to D of the development hereby approved shall not take place outside the following times: 9.00 am - 10.30 am and 19.00 pm- 21.00 pm.

Reason:

In order to reduce conflict between customers/pedestrians and service vehicles.

*This condition needs to be complied with and so is re-imposed.*

022-020

~~The development hereby permitted shall not be commenced until a Service Management Plan in relation to the servicing of Unit F of the development has been submitted to and approved in writing by the local planning authority. Thereafter Unit F D shall be serviced only in accordance with the agreed Plan~~ **set out on Drawing Nos: SW146-103 Rev A and SW 146-SM01 submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.**

Reason: In the interests of safety and convenience of the public using the adjacent parking area.

023-021 (Unaltered)

No part of the development hereby permitted shall be occupied or brought into use until full details of any proposed air conditioning equipment or other external plant has been submitted to and approved in writing by the local planning authority. The approved equipment and plant shall be installed strictly in accordance with the approved details.

Reason: In the interests of residential amenity.

*This condition needs to be complied with and so is re-imposed.*

024-022

~~The development hereby permitted shall not be commenced until a scheme detailing security measures for designing out crime at the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include the provision of CCTV covering the public spaces within the curtilage of the site, appropriate external lighting and details of any physical barriers to lock off areas when the premises are closed. The approved details approved on Drawing No: SW146-104 Rev C submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON,~~ shall be installed on site prior to first occupation.

Reason: In the interests of designing out crime and in order to fulfil the duties under Section 17 of the Crime and Disorder Act.

025-023

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 as amended and the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended:

Unit A on Drawing PL08 Rev K shall not exceed 1,520 square metres gross floorspace;

~~Units B and C on Drawing PL08 Rev K shall not in aggregate exceed 4,705 square metres gross floorspace and shall not be used for the sale of any goods other than those within the following categories:~~

**Unit B on Drawing PL08 Rev K shall not exceed 2,225 sq m gross floorspace and shall not be used for the sale of convenience goods;**

**Unit C on Drawing PL08 Rev K shall not exceed 2,480 sq m gross floorspace and shall not be used for the sale of any goods other than those within the following categories:**

(a) Electrical goods and other domestic appliances

(b) Bathroom suites - furniture and accessories; kitchen units - furniture and accessories, floor and wall tiles



- (c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles
- (d) Motor and cycle goods
- (e) Furniture, bedding, floor coverings, soft furnishings and textiles;

Unit D on Drawing PL08 Rev K shall not exceed 528 square metres gross floorspace and shall not be used for the sale of convenience goods, but may be used for the bulk sale of wine and spirits.

Reason: In order to protect the vitality and viability of the town centre from significant harm, to ensure that the range of goods sold is appropriate for the sites location and layout and to control the character of the development.

*Wording of condition revised as sought by this application.*

~~026~~-024 (Unaltered)

No retail unit shown on Drawing PL08 Rev K shall be subdivided to create a unit with a gross floorspace of less than 523 square metres.

Reason: In order to protect the vitality and viability of the town centre from significant harm and to control the character of the development.

*This condition needs to be complied with and so is re-imposed.*

~~027~~-025

No development shall commence on any part of the application site unless or until a priority junction on Northgate has been provided as shown for indicative purposes only on drawing BMT/120/TT/001 Rev P3 to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and capacity.

*This condition needs to be complied with and so is re-imposed.*

~~028~~-026

The development hereby permitted shall not be commenced unless or until improvements to the Northgate/Queens Road junction has been made to provide MOVA traffic signal control and nearside pedestrian detection facilities (or similar arrangements to provide the same effect) to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and capacity.

*This condition needs to be complied with and so is re-imposed.*

### **Note to Applicant**

01

The applicant's attention is drawn to those conditions on the decision notice, which should be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised.

02

An advisory booklet is available Developing Land in Nottinghamshire: A guide to submitting planning applications for land that may be contaminated. This is available from Planning Services, the Proactive Team of Environmental Services or the NSDC website using the following link:

<http://www.newark-sherwooddc.gov.uk/pp/gold/viewGold.asp?IDType=Page&ID=7895>.

Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

Natural England

Block 6 & 7 Government Buildings  
Chalfont Drive  
Nottingham  
NG8 3SN  
Tel: 0115 929 1191  
Fax: 0115 929 4886  
Email: [eastmidlands@naturalengland.org.uk](mailto:eastmidlands@naturalengland.org.uk)

English Heritage  
Ancient Monuments Inspector  
44 Derngate  
Northampton,  
NN1 1UH  
Tel: 01604 735400  
Fax 01604 735401  
E-mail: [eastmidlands@english-heritage.org.uk](mailto:eastmidlands@english-heritage.org.uk)

Heritage Planning Specialists  
Nottinghamshire County Council  
Trent Bridge House  
Fox Road  
West Bridgford  
Nottingham  
NG2 6BJ  
Tel: +44 (0)115 977 2162  
Fax: +44 (0)115 977 2418  
E-mail: [heritage@nottscc.gov.uk](mailto:heritage@nottscc.gov.uk)

to prevent damage or harm to the historic environment.

03

The Environment Agency advises that further information on SUDS can be found in:

The CIRIA C697 document SUDS manual

HR Wallingford SR666 Use of SUDs in high density developments

The Interim Code of Practice for Sustainable Drainage Systems. The Interim Code of Practice provides advice on design, adoption and maintenance issues and a full overview of other technical guidance on SUDS.

The Interim Code of Practice is available on [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) and CIRIA's website at [www.ciria.org.uk](http://www.ciria.org.uk)

04

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact David Albans tel 01623 520735 for details see [www.leics.gov.uk/index/htd.htm](http://www.leics.gov.uk/index/htd.htm)

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

Advice regarding travel plans can be obtained from the travel plans officer at Trent Bridge House, Fox Road, West Bridgford, Nottingham NG2 6BJ, tel 0115 9774523

05

The applicant is advised that under the CIL Regulations improvements to the Northgate/Queens Road junction will be made to provide MOVA traffic signal control and nearside pedestrian detection facilities (or similar arrangements to provide the same effect) and a priority junction shall be provided on Northgate.

06

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 not payable on the development given that there is no net additional increase of floorspace as a result of the development.

07

The applicant is advised that a public sewer is located within the site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent.

You are advised to contact Severn Trent Water to discuss the proposal further.

08

"The applicant is advised to contact the Works Engineers team of the Canal and River Trust at the Fazeley office (contact Jonathan Pritchett on 01827 252052) to ensure that any necessary consents are obtained and the works are compliant with the current Code of Practice for Works affecting the Canal & River Trust."

"The application documents indicate that surface water is to be discharged to the waterway. The applicant is advised that such discharge will require consent from the Canal & River Trust. Please be advised that canal and River trust is not a land drainage authority and that such consent is not granted as of right, and will be subject to completion of a commercial agreement where it is granted. Please contact Nick Pogson at the Newark office on 01636 675719 for further advice. Please note that it is likely that a silt trap/oil interceptor will be required."

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

09

The application as submitted is acceptable. In granting permission the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

#### BACKGROUND PAPERS

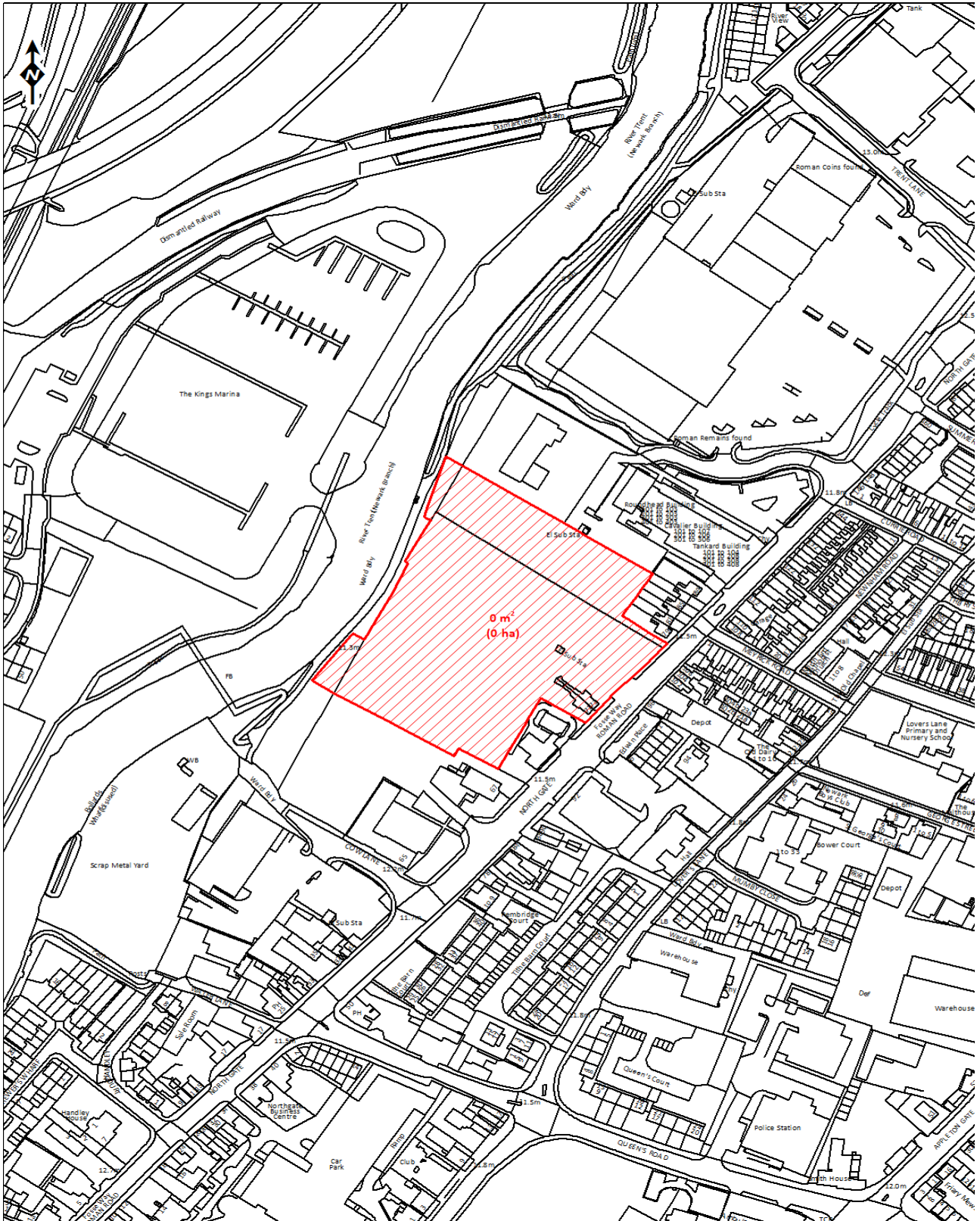
Application case file.

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

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

**Matt Lamb**  
**Director Growth and Regeneration**

Committee Plan - 18/01137/OUTM



© Crown Copyright and database right 2017 Ordnance Survey. Licence 100022288. Scale: Not to scale

## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>19/00681/FULM (MAJOR)</b>	
<b>Proposal:</b>	<b>Application to vary condition 23 of planning permission 18/00973/FULM to allow amendment of house types to plots 39 - 42, 23 - 24 and 43 - 44 (Previous application was for the Erection of 62 residential dwellings including new vehicular access road and removal of eight TPO trees (TPO N313))</b>	
<b>Location:</b>	<b>Site of The Bearings, Bowbridge Road, Newark on Trent</b>	
<b>Applicant:</b>	<b>Countryside Properties</b>	
<b>Registered:</b>	<b>15th April 2019</b>	<b>Target Date: 15th July 2019</b>

The original scheme (18/00973/FULM) was unanimously approved (as recommended) by the Planning Committee in January 2019. Given the committee's previous involvement and the anticipated objection from Newark Town Council (based on their previous comments) this application is being presented to the Planning Committee for consideration.

Given that the changes to the scheme are narrow in scope the previous report has been utilised below, with changes shown in bold italics for ease of reference.

### The Site

The site comprises a brown field site (previously developed land) that lies within the built up part of Newark.

The site is approximately 1.6 hectares in area that forms a basic rectangular shaped parcel of land. It was formerly occupied by 'RHP The Bearings' and used for commercial industrial use and for conferences and training. The two buildings that were on site have been demolished and the land is now a flat site covered in concrete hard standing although it is overgrown.

There are two access points into the site from Bowbridge Road.

There are various protected trees within the site, most of which are along the western and northern boundaries which provide a mature visual screen with existing residential properties. There are also protected trees to the north eastern and south eastern corners of the site. The southern boundary comprises established conifers which also provide a good level of screening. The frontage of the site with Bowbridge Road is bounded by metal railings, which are now looking unkempt because the paintwork is peeling off.

The site lies in a predominantly residential area with the terrace dwellings of Lime Grove to the west, Jubilee Street/Bowbridge Road to the north and Bowbridge Road to the east. Immediately to the south of the site is a terrace of commercial properties comprising 2 retail units and a café. With Newark Hospital and its associated buildings beyond.

The existing area is characterised largely by traditional Victorian terraces fronting the back edge of the footpath with long thin gardens. The rows of terraces together with the linear street form of the surrounding area create a strong grid-like character.

#### Relevant Planning History

**19/00133/ENF – A number of trees were felled at the site at the beginning of April 2019. This constituted a breach of two conditions attached to planning permission 18/00973/FULM.**

- **Condition 6 of this permission required that no works were to commence on site until a scheme of protection for trees/hedgerows to be retained on site had been submitted to and approved by the LPA; and**
- **Condition 7 stated that that no works or removal of trees should take place during bird breeding season.**

**No details of tree protection had been submitted to the LPA prior to the works being undertaken. The works had also been undertaken during the bird breeding season without the prior agreement of the LPA.**

**A Temporary Stop Notice and Breach of Condition Notice (taking effect 28 days later) were served on the 2<sup>nd</sup> April 2019. The Temporary Stop Notice expired on the 30<sup>th</sup> April 2019. The Breach of Condition Notice remains extant. Works have ceased on site.**

**19/00662/DISCON - Request for confirmation of discharge of conditions 2 and 6 attached to planning permission 18/00973/FULM was deposited in April 2019 – determined 21.05.19**

**19/00663/DISCON - Request for confirmation of discharge of conditions 3, 9B, 13 and 15 attached to planning permission 18/00973/FUL was deposited in April 2019 – this is currently under consideration.**

**18/00973/FULM – conditional planning permission was granted in January 2019 and the decision issued in March 2019 following the signing and sealing of a S106 agreement for the erection of 62 residential dwellings including new vehicular access road and removal of eight TPO trees (TPO N31).**

**10/01699/FULM – Full planning permission was granted on the 30 November 2011 for the demolition of existing building and erection of 89 units of residential accommodation (renewal of extant planning permission). This secured 30% Affordable Housing on site comprising 10 x shared ownership (1x1 bed apart, 3x2bed apart, 4x2bed houses, 2x3 bed houses) and 16 Social Rented Housing (11x1 bed apartments, 3x2bed apartments,1x2 bed house,1x3bed house), Community Facilities contribution of £110,137.50, Integrated Transport Contribution of £24,800 and Libraries contribution of £18,020.**

**07/01331/FULM – Full planning permission was granted on the 19 December 2007 for the Demolition of existing buildings and erection of 89 units of residential accommodation.**

#### The Proposal

Full planning permission is now sought for the erection of 62 no. dwellings (5 single storey and 77 two storey buildings) comprising:-

12 no. 1-bed flats;

33 no. 2-bed dwellings;

13 no. 3-bed dwellings; and

4 no. 4-bed dwellings.

A revised tenure type of 32 intermediate properties and 30 affordable rent properties has been deposited with the latest Viability appraisal on the 26 October 2018.

The development comprises 5 single storey properties the remainder being maximum 2 storey height properties. The majority of the units are semi detached although there are a few terraces of 3 units.

The scheme is served by a central access road which runs the full length of the site in an east to west direct with private drives running to the south and north western corner. There are three main pockets of open space together with smaller areas landscaped space within the site.

The application has been accompanied by the following documents:-

- Design and Access Statement;
- Planning Statement
- Affordable Housing Statement;
- Tree schedule
- Flood Risk Assessment
- Phase II Site Appraisal
- Transport Statement
- The following plans have been submitted for consideration:-
- 41040 001N – Revised site layout deposited 23.08.18
- 41040 02A – Amended Public Open Space Plan – deposited 02.07.18
- 41040 004 House type H57 Pair
- 41040 005 House type H68 Pair
- 41040 006 House type H98 Pair
- 41040 007 House type H82Pair
- 41040 008 House type H68 H75 Pair
- 41040 009 House type H68 H75 Pair Handed
- 41040 0010 House type H82 H75 Pair
- 41040 011 House type M46 Flats
- 41040 012 House type M46 Flats Side Entrance
- 41040 013 House type H68 H68 H75 Terrace
- 41040 014 House type 57 Terrace
- 41040 017B External Materials
- 41040 019 House type H68 H 82 Pair
- 41040 016C – Revised Boundary Treatment Plan deposited 17.12.18
- 41040 018C – Revised Street scene deposited 17.12.18

### **Current Proposal**

This application seeks permission to vary condition 23 (the plan condition) of planning permission 18/00973/FULM which relates to the approved drawing numbers.

Since the granting of the permission in January 2019 it has become apparent that the previously approved elevation and floor plans for plots 39-44 did not correspond to the footprint of these plots as shown on the approved layout plan as detailed below:-

Figure 1 -Previously approved site layout (18/00973/FULM)



Figure 2 - Currently Proposed Layout (showing trees along boundary with Lime Grove to be retained)



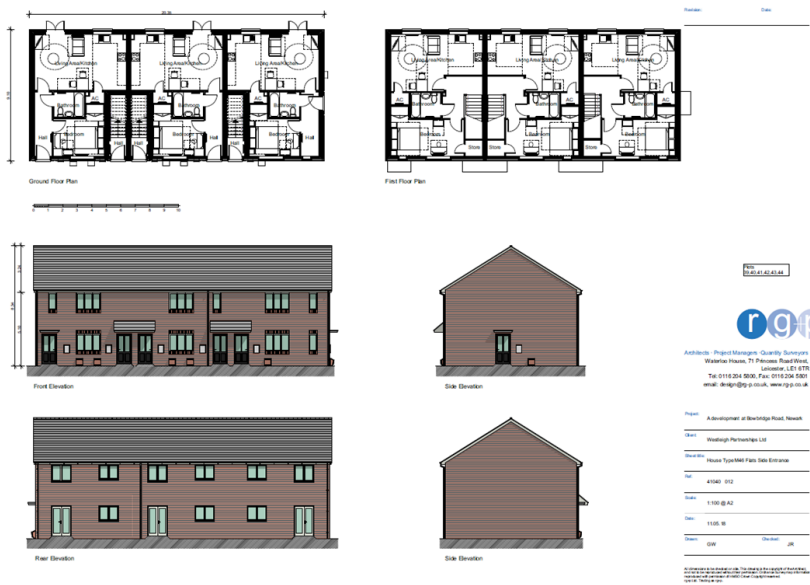
Below I list each amendment:

1. PLOTS 39-44 (south western corner of site) circled on the revised site layout plan;-

The approved scheme (18/00973/FULM) shows the elevation of Plots 39-42 to be a terrace of 3 properties (1 bed flats with dimensions of 20.35m wide, 9.1m deep, eaves height 5.1m and ridge height 8.34m) with a door to side elevation; see Figure 3.

Figure 3





However the current proposal before Members corrects an error as plots 39-42 should be a pair of semi-detached (1 bed flats with dimensions of 13.72m wide x 9.10m deep with eaves height 5.1m and ridge height 8.31m) with the side door removed; as shown below in Figure 4.

Figure 4



For plots 43-44, an additional plan showing a pair of semi-detached 1 bedroom flats (with dimensions of 13.72m wide, 9.1m deep, eaves height 5.1m and ridge height 8.31m) has been provided. This has principal room windows to front and rear and one side elevations; see Figure 5 below.

Figure 5



In respect of Plots 23 and 24, the approved scheme shows 2 bedroom dwellings which have had their internal layout handed. This does not affect the external appearance of these units.

The proposed site layout plan (see Figure 2) has also been revised to include the retention of a row of leylandii trees along the western boundary of the site with the rear gardens of Lime Grove.

This current application seeks to regularise corrections with regards to the revised house type and floor plans.

The following accommodation schedule of properties remains as approved under 18/00973/FULM, as does the proposed tenure type of 32 intermediate properties and 30 affordable rent properties (which all meet the definition of 'affordable'):-

- 12 no. 1 bed
- 33 no. 2 bed
- 13 no. 3 bed and
- 4 no. 4 bed

**The plans and details under consideration with this current application are as follows:-**

- **Revised layout Plan – drg. no 41040 001P**
- **Revised tree protection plan – drg. no. RSE\_1511\_TPP Rev V5**
- **Revised Arboricultural Impact Report (RammSanderson Dated May 19)**
- **House type H82 H75 Pair Plan – drg. no. 41040 010A**
- **House Type M46 Flats – drg. no. 41040 012B**
- **House Type M46 Flats Side Entrance – drg. no. 41040 022A**
- **All other details remain as previously approved.**

Departure/Public Advertisement Procedure

Occupiers of 140 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 Amended Core Strategy DPD (Adopted March 2019)**

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 2 – Spatial Distribution of Growth  
Spatial Policy 3 – Rural Areas  
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 DM4 – Renewable and Low Carbon Energy Generation  
Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM8 – Development in the Open Countryside  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM12 – Presumption in Favour of Sustainable Development

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

- National Planning Policy Framework ~~2012~~ 2019
- Planning Practice Guidance 2014
- SPD: Conversion of Traditional Rural Buildings, adopted November 2014

#### **Consultations**

**Newark Town Council – Comments awaited in respect of this scheme. However previous comments received during the original scheme were as follows:**

(Received 28.06.18) - It was decided to OBJECT to this application on the potential traffic and parking impact on Bowbridge Road, the concern of 3 egresses within close proximity of one another onto an already very busy road, the removal of trees on the site boundary with no plans to replace them and the need for better boundary landscaping.

Comments received 02.08.18 - Members felt that none of the issues raised in their previous comments from 27th June, 2018 had been addressed and therefore wish to raise Objection to this application on the same grounds as before:

'It was decided to OBJECT to this application on the potential traffic and parking impact on Bowbridge Road, the concern of 3 egresses within close proximity of one another onto an already very busy road, the removal of trees on the site boundary with no plans to replace them and the need for better boundary landscaping'.

**Environment Agency**– (received 31.05.18) The site falls in Flood Zone 1 and the LLFA should be consulted.

**Nottinghamshire County Council Lead local Flood Authority** (received 18.06.18) - No objections to the proposals based on the submitted documents.

**Comments received 23.05.19 - This application looks to amend house types and as such we have no comments to make.**

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

**Trent Valley Drainage Board 24.05.19 – 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.**

**No comments in respect of this consultation. .**

**Natural England – *Comments received 01.05.19 Natural England currently has no comment to make on the variation of condition 23. 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 any further consultations regarding this development, 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.***

**NSDC Environmental Health Contamination – No new comments received. Previous comments made in relation to original application are set out below:**

Received 08.06.18- I have now had the opportunity to review the Phase I Site Appraisal (Desk Study) and Phase II.

Site Appraisal reports submitted by GRM in support of the above planning application. The desktop includes a detailed description of the site, a review of the earlier site investigation report (Grontmij 2007), consideration of the site history and includes an Environmental Screening report. The report then goes on to propose an appropriate preliminary conceptual site model.

Following this work, intrusive sampling has identified areas where further works will be required which include completion of the gas monitoring program and remediation of the asbestos containing materials amongst several other recommendations.

I generally concur with the reports findings and shall await the submission of the suggested Remediation Strategy and Gas Verification Plan prior to commenting further at this stage. I would therefore recommend the use of our full phased contamination condition.

Comments received 12.08.18 – Please refer to previous comments dated 08.06.18

Latest comments received 05.12.18 - I have now received the Additional Contamination Report (21/5/18) and Gas Addendum Letter (16/6/18) submitted by GRM in support of the above application and can comment as follows:

Additional Contamination Report - Confirms the elevated hydrocarbon contamination in an area of the site (TP104, TP105 & TP108). Due to the depth of the contaminated material (>2m) the risk to human health is deemed acceptable providing site levels remain unchanged. I can concur with this

assessment however I would expect the validation report to confirm that sufficient depth to be protective remains post development. I would also expect hydrocarbon resistant water pipes are used in this area of the site.

The risk to controlled waters is significant and a remedial method statement is proposed, I look forward to receiving this which should also be forwarded to the Environment Agency for comment.

Gas Addendum Letter - I can concur with the proposed Characteristic Situation 2 (CS2) gas protection measures for plots 15 to 20 and 24 to 25 due to the elevated CO2. I look forward to receiving the validation documentation for this work.

In addition to the above the earlier reports identified asbestos contamination and recommended specialist contractors were used to remove it. I would expect submission of documentation confirming that this has been completed successfully.

Any material imported for use in garden or landscape areas will need to be certified as clean.

As the site characterisation has now been completed with submission of the phase 1 and 2 reports, I can accept the discharge of part A of the contamination condition. However due to the above outstanding matters I would recommend the continued use of the subsequent parts as copied below:

#### Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance

with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### Notes to Applicant.

An advisory booklet is available – “A guide to Developing Land in Nottinghamshire”. This is available from NSDC website using the following link:

<http://www.newark-sherwooddc.gov.uk/landpollution/>

Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

Natural England  
Block 6 & 7 Government Buildings  
Chalfont Drive  
Nottingham  
NG8 3SN  
Tel: 0115 929 1191  
Fax: 0115 929 4886  
Email: [eastmidlands@naturalengland.org.uk](mailto:eastmidlands@naturalengland.org.uk)

English Heritage  
Ancient Monuments Inspector  
44 Derngate  
Northampton,  
NN1 1UH  
Tel: 01604 735400  
Fax 01604 735401  
E-mail: [eastmidlands@english-heritage.org.uk](mailto:eastmidlands@english-heritage.org.uk)

Heritage Planning Specialists  
Nottinghamshire County Council  
Trent Bridge House  
Fox Road  
West Bridgford  
Nottingham  
NG2 6BJ  
Tel: +44 (0)115 977 2162  
Fax: +44 (0)115 977 2418  
E-mail: [heritage@nottscc.gov.uk](mailto:heritage@nottscc.gov.uk)

to prevent damage or harm to the historic environment.

**NSDC Environmental Heath** - Confirm that they have no comments to make.

**Arboricultural Consultant** - *Latest comments received 10.05.19 - Revised layout and associated revised Arboricultural Impact Assessment/Method Statement and Tree Protection Plan are acceptable.*

**Previous comments** (received 08.06.18) - Although the submitted tree report broadly addresses the requirements for tree survey/constraints and protection purposes I do have some concerns on the proposed layout.

Several plots are likely to be in direct conflict with retained trees subject to TPO which will only increase as these trees mature with resultant repeat applications for removal or repeat pruning to alleviate lack of light/seasonal nuisance issues.

Of particular concern are trees T20-24,T32,T4 and T1/2. Similar issues are also likely but to a lesser degree with trees T7,T8,T9 and T34.

Trees T4 and T34 also have areas of hard standing within RPAS which while this impact can be reduced by no-dig this option is rarely followed through due to the differences in ground height and edging required between standard and geoweb construction.

I also have some concerns that there is little in the way of mitigation planting proposed across the site, especially given the high number of proposed tree removals. Proposed planting areas leave little room for trees of any large species size or scope for future full development I,e enclosed next to hard surfacing and/or directly adjacent to new builds.

Comments received 13.07.18 - No further comments. Previous issues raised are still considered pertinent.

**Nottinghamshire County Council Highway Authority – No response received (and comments are not considered essential)**

**Previous comments received 13.06.18** - The proposal shown on drawing 41040-015A and supported by a Transport Statement is acceptable subject to a few minor amendments which are sought below:

A couple of more visitor car spaces should each be provided in relation to plots 1-6 and plots 39-44.

Car spaces allied to plot 52 are remote and the tendency will be for on-street parking to occur on the road in front of that property.

The private drive serving plots 10-18 should be 4.8m wide at least for the first 10m or so (currently it appears to be 4.25m).

The traffic calming feature may not be necessary. Assuming this is not a critical 'planning matter', this could be discussed further at the time when a Section 38 Road Adoption Agreement is being pursued.

A waiting restriction should be introduced on the west side of Bowbridge Road to protect junction visibility splays in the interests of safety and the protection of two-way traffic flow. This is due to the amount of parking that can take place on the section of road.

Subject to these matters being addressed, it would appear that a scheme can be offered a conditional permission. Suitable 'highway' conditions will be offered once revised plans are received.

Latest comments received 31<sup>st</sup> July 2018 - Further to comments dated 13 June 2018, revised drawing 41040-015B has been submitted which seeks to address the issues previously raised.

Whilst a couple of more visitor car spaces were sought in relation to each of the parking areas related to plots 1-6 and plots 39-44, one additional space has been provided at each.

Plot 52 now has one car space in front of the dwelling and a remote visitor/2nd space which is unlikely to be used.

In view of the above, there remains therefore a risk of on-street parking occurring.

Notwithstanding the above, it is considered that the application could be approved subject to the following conditions....**NCC then went on to list a number of recommended conditions which were imposed in full on the original application so are not repeated here (these are in the recommendation section below).**

**NSDC Strategic Housing - No comments received**

**NSDC Community, Sports and Arts Development – No comments over and above those made previously**

**NSDC Parks and Amenities – No comments over and above those made previously.**

**Nottinghamshire County Council Policy – *Comments received 17.04.19 - Considering the variation and documents for this application, the NCC policy team would have no comment to make on this application. However, if there is any specific issue or query you would like NCC to consider, please do let me know as soon as possible and I will contact the relevant colleagues.***

**NSDC Access - No further comments received over and above general comments previously provided. (received 05.06.18) -**

**NSDC Emergency Planner - I have no comments to add concerning this application.**

### **Representations**

**During the original scheme 11 representations were received from local residents/interested parties. The representations were summarised as follows:-**



- Some support for the construction of houses but with some concerns outlined below
- Loss of protected trees
- Overlooking and loss of privacy
- Ecological and Environmental Impact
- The position of the road in relation to neighbouring properties
- Lack of off street parking and impact on highway which would exacerbate existing congestion issues and impact on emergency vehicles
- Impact of access drives and road on highway and pedestrian safety
- Increased traffic
- Proximity of proposed dwellings to neighbouring properties
- Overshadowing and loss of light
- Potential contamination

***In relation to the scheme now being considered by Members 3 representations have been received from local residents/interested parties, some of which are from the same respondent and some of which reiterate previous comments on the 2018 application. The representations can be summarised as follows:-***

- ***Loss of green open space.***
- ***Loss of trees.***
- ***Impact on ecology.***
- ***Impact on drainage.***
- ***Increased traffic and impact on highway and pedestrian safety.***
- ***The development will exacerbate existing highway conditions and surfaces.***
- ***Impact on amenity from construction noise.***
- ***Impact on amenity from overlooking and loss of privacy and loss of light.***

***Members will be aware that a petition has been received by the Council in its wider sense expressing concern with regards to the loss of trees within the site which is perceived by local residents as open space. This was heard at Full Council on 21<sup>st</sup> May 2019.***

***I am also aware that concern has been raised by local residents with regards to potential land contamination of the site.***

***A response to the petition was provided by the Leader of the Council at the Full Council meeting on the 21<sup>st</sup> May 2019 broadly as follows:***

***“Taking first the issue of the timing of tree removal I am advised by Officers that works to the trees did indeed commence before they should have done, contrary to planning conditions to erect tree protection fencing and to undertake works outside of the bird nesting season.***

***I can assure you works such as this which clearly flout planning conditions are deeply frustrating and concerning to Members and Officers alike. In fact, if breaching planning controls were to be made a criminal offence, a scenario which successive governments have not chosen to follow, much of this behaviour would cease overnight. That said, we are where we are and there are certain guidelines and processes to follow if and when a breach of planning control occurs.***

***In this particular case the Council was notified of works taking place. Officers visited the site and immediately issued a Temporary Stop Notice (to stop all works for 28 days) and Breach of***

Planning Condition Notice. All works have since ceased. As I explore below in terms of next steps it is likely that replacement planting will be secured over and above those originally permitted to be removed. Notably this will be the leylandi with properties on Lime Grove. In terms of the ecology matters I can confirm that a qualified ecologist was on site and has confirmed that no bird nesting was present at the time of works.

Since the issuing of the Council notices I am informed that Officers have been negotiating with the developers. The current position is as follows:

- 1) Save for the importation of some topsoil to the site the developers have agreed that no further works will take place until after a revised planning permission is considered by the Planning Committee; and
- 2) That the trees which are subject to this petition (which are largely leylandi on the boundary of the site with properties on Lime Grove) are proposed to be retained, as captured in a retrospective planning application which is likely to be considered by the Planning Committee on the 4th June 2019. I am conscious that member colleagues who will be sitting on the Planning Committee may feel they cannot comment on any specific details on the appropriateness of this pending planning application given their upcoming role as decision-makers.

The proposed changes will secure additional planting. There will remain a net loss of 4 trees, a loss which will be replaced by: greater formal landscaping; the redevelopment of a long vacant, previously developed site; and the delivery of a 100% affordable housing scheme. Whilst the scheme would have delivered a successful outcome in any event following the grant of planning permission I do thank the residents and latterly Officers for their work in securing, via lobbying and negotiation, significant retention of the trees that are referred to in the petition.

The Council's role in being able to protect trees is as:

- 1). regulatory decision maker (through Tree Preservation Orders, trees in Conservation Areas (which are protected by virtue of their Conservation Area status), and planning applications more generally; and
- 2). as landowner (most notably the parks and open spaces).

There are other Councils also responsible for trees, notably the County Council (who also have responsibility for highway trees) and Town/Parish Councils.

In terms of the regulatory side the Council has processes in place to assess 'protected' trees (TPO and CA's). Each and every application to fell a protected tree is assessed by a qualified arborist on behalf of the Council. If a TPO tree is to be removed it must be replaced (accepting that any replacement will take time to establish). In terms of the planning process any tree loss must be justified and adequate replacements secured as part of landscaping schemes.

The Council as landowner manages and plants trees as part of its management and maintenance of a range of land assets. Indeed, as some of you may recall from the final Economic Development meeting of the previous Council we are one of the authorities to have responded to the Governments recent consultation on 'Protecting and Enhancing England's Trees and Woodlands'. The Council will adhere to any monitoring and reporting on overall tree loss and replacements as may be set out as a result of this consultation.

To offer some comfort I can give some facts on the issue of the Council's management of trees. In 2018 and 2019 we have planted 18 large trees and 770 whips in our parks and open spaces. Species include oak, rowan, beech, silver birch, hawthorn and field maple.

To conclude, I agree that we should always look to keep trees, replacing them if their loss is necessary or required. I equally agree that we should look to plant more, either as a Council or in encouraging others. We have been doing all of this, I can assure you. We will need to strive to always do more, assessing each and every case carefully.”

### Comments of Business Manager

#### Preliminary Matters

*This application seeks to vary condition 23 (the plan condition) of planning permission 18/00973/FULM which was for 100% affordable housing. This application is to rectify discrepancies associated with a small number of plots (39-44 and changes to 23 and 24) in line with the approved site layout and to enable the retention of a line of leylandii trees along the boundary of the site with Lime Grove which were previously shown to be removed.*

*An application under Section 73 is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. The principle of the approved development cannot be revisited as part of this application and the scope of considerations is narrow.*

*The NPPF is clear that any new permission should set out all previously imposed conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.*

The consideration of principle that was presented to Members previously is set out in italics below for completeness.

#### Principle of Development

*The principle of residential development on the site has previously been established through the grant of planning permission for 89 dwellings in 2007 and 2010 (albeit the 2010 permission was never implemented and consequently expired). That’s said, there is a new Development Plan and National Planning Policy Guidance now in place which request a fresh consideration of the proposals.*

*The National Planning Policy Framework 2018 (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises that it is the duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the development plan they will be approved without delay unless material considerations indicate otherwise. One of the core principles of the NPPF is to support and deliver economic growth to ensure that the housing, business and other development needs of an area are met. The NPPF looks to boost significantly the supply of housing. The principles and policies contained in the NPPF also recognise the value of encouraging the effective re-use of previously developed land (provided it is not of high environmental value).*

*The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed within the Development Plan by Policy DM12 of the Allocations and Development Management DPD which sets out a*

*positive approach to considering development proposals. Where appropriate this will involve the District Council working alongside applicants to seek solutions which mean that proposals can be approved where possible and to secure development which improves economic, social and environmental conditions. The policy further details that applications which accord with the District's Development Plan will be approved without delay, unless material considerations indicate otherwise.*

*The application site is within a sustainable location within Newark Urban Area, as defined under Spatial Policy 1 of the Core Strategy as the Sub Regional Centre. Policy DM1 of the Allocations and Development Management DPD refers to proposals being supported for housing within the Sub Regional Centre provided it is appropriate to the size and location of the settlement hierarchy and in accordance with the Core Strategy and other relevant Development Plan Documents. The site is cleared, has a history of residential permissions (which themselves assessed and accepted the residential as opposed to employment re-use), and is a significant vacant brownfield site that and makes no positive contribution to the amenity of the area. On this basis the principle of the residential redevelopment of the site is acceptable.*

#### *Current 5 Year Land Supply*

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

#### **Housing Affordability, Mix, Type and Density**

**The density, bed-spaces per dwellings and tenure split proposed in this current application remains as previously approved and as detailed in the proposal section of the this report. Whilst the Amended Core Strategy has now been adopted, this does not change the acceptability of the overall mix.**

**For completeness, the assessment of these matters during the original scheme as set out below in italics:**

*Core Policy 1 of the Core Strategy (which has been amended to reflect recent changes from Central Government which have set new thresholds) states that for all housing proposals of 11 or more dwellings and which have a combined gross floorspace of more than 1000 sq metres, a level of 30% affordable housing will be sought. The tenure mix of the affordable housing provision should reflect a 60% social rented and 40% intermediate mix.*

*Core Policy 3 goes on to state that housing densities should normally be no lower than an average of 30 dwellings per hectare net and should seek to address the housing need of the District, namely:*

- *family housing of 3 bedrooms or more;*

- smaller houses of 2 bedrooms or less;
- housing for elderly and disabled population.

The mix will be dependent on the local circumstances of the site, the viability of the development and any localised housing need information.

Section 11 of the NPPF is entitled “Making effective use of land” (para 117) states that planning policies and decision should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Para 118 goes on to state that planning policies and decisions should, amongst other criteria, give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs and support appropriate opportunities to remediate derelict land as well as promote and support the development of under-utilised land and buildings. Section 11 then goes on to refer to achieving appropriate densities and should support development that makes efficient use of land, taking into account a range of criteria including, the desirability of maintaining an area’s prevailing character and setting, or of promoting regeneration and change and the importance of securing well designed, attractive and healthy places.

The NPPF states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the need of groups with specific housing requirements are addressed.

Annex 2: Glossary of the NPPF defines affordable housing as being ‘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..’. This includes affordable housing for rent, starter homes, discounted market sales housing or other affordable routes to home ownership including shared ownership.

The scheme represents 100% affordable housing provision which exceeds the 30% policy requirement by 43 dwellings.

The revised tenure split proposed for the development is 32 intermediate houses and 30 affordable rent.

Evidence from the 2014 Housing Market and Needs Assessment identifies the affordable housing need for Newark as follows:

<b>Property size</b>	<b>Affordable Need (in Nos)</b>	<b>Proposed by this application</b>
<b>1 bed</b>	234 (27%)	12 (19%)
<b>2 bed</b>	458 (55%)	33 (53%)
<b>3 bed</b>	150 (18%)	13 (20%)
<b>4 bed</b>	0	4 (8%)
<b>TOTAL</b>	842	62

*It is shown in the table above that the type of housing provided by this scheme does mirror local need. This is reflected in the comments made by the Council's Strategic Housing Officer.*

*The density across the site is 38 dwellings per hectare. Core Policy 3 provides that densities are no lower than 30 dwellings per hectare. The proposal therefore complies with this policy. The site is within an urban setting and close to the town centre where such a density of development would not be out of context.*

*Given the very high levels of affordable housing need in Newark, it is considered that the provision of 100% affordable housing would be of considerable benefit in meeting this need, a benefit to be weighed significantly in an overall planning balance. It is also acknowledged that the policy requirement of 30% affordable provision on market housing sites across the District in the last 5 years or so has not been achieved (often on viability grounds) via individual planning applications.*

*It is acknowledged, however, that a 100% affordable development could be seen as an undesirable, over-concentration, resulting in an exclusive, homogenous tenure community, rather than a more appropriate mix of market and affordable units. However, in the overall balance, it is considered that the provision of the much needed affordable housing weighs heavily in favour of the development in this case and is in line with Core Policies 1 and 3, the Housing Needs Survey and the NPPF. This is especially the case within the Newark Urban Area, which has a many and varied tenure type and mix-*

#### **Impact on Character of the Area**

**The proposed changes to house types on Plots 39 – 42 and 43 – 44 in terms of the revised footprint of the building and elevational details are detailed in the proposals section of this report. The footprint of the buildings is reduced to correspond to that shown on the approved layout plan. The heights of plots 39-42 are reduced by 0.04m which would be imperceptible. Given that these plots are located within the site, the revised house types are considered to sit well within the context of the site and the surrounding properties. The plots would not be viewed from the public realm and as such it is not considered that there would be any resultant harm to the immediate street-scene nor the wider area.**

**The revisions to plots 23 and 24 relate to the reconfiguration of the internal layout. Elevational details remain as previously approved. This therefore will have no impact on the character or appearance of the area.**

**Considering all of the changes it is therefore considered that the proposal remains to be in accordance with aims of the NPPF, Core Policy 9 and Policy DM5 of the Allocations and Development Management DPD.**

**For completeness, officers previous comments are set out below in italics.**

*The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.*

*The surrounding area to the north east and west is predominantly high density 2 storey terraced properties. It is considered that the proposed development would sit well within this context in terms of appearance, scale and layout. It is acknowledged that there are a small number of single storey dwellings proposed within the site. However this is not considered to be fatal to the application given their location and relationship to adjoining properties.*

*The amount of hard surfacing within the site to accommodate the access road, private drives and off street parking spaces particularly to the front of the proposed dwellings is a design necessity to address. A revised site layout plan has been deposited which does show landscaping along the central access road and around the parking areas which does help soften the impact and which can be secured by condition to ensure that proposed planting is sufficiently robust and well established to ensure that the development does not have such a car dominated frontage to be completely dominated by hard surfacing.*

*Overall, and subject to conditions relating to materials, boundary treatments and landscaping details, it is considered that the scheme makes an acceptable contribution to the area, according with the aims of the NPPF, Core Policy 9 and Policy DM5 of the Allocations and Development Management DPD.*

#### Impact on Trees and Ecology

**There has been strong representation from local residents both verbally and by correspondence and petition to the loss of trees and greenery within the site. The site formerly had a commercial industrial use and the buildings were demolished some time ago. Subsequently the vacant site has now become overgrown. As noted within the previous appraisal, a number of trees are proposed to be felled either as they are unsuitable for retention and in the interests of good arboricultural management given their poor health and condition or to facilitate the development.**

**In April this year, local residents notified the Council that trees were being felled on the site which was within the bird breeding season and contrary to condition 17 of the planning permission previously granted. The Council immediately issued a temporary stop notice and a breach of condition notice and tree works ceased on site and no further tree works have been undertaken.**

**Notwithstanding this the condition restricting the felling of any trees on the site to be outside of the bird breeding season unless otherwise approved by the Local Planning Authority will continue to be attached should Members be minded to grant the S73 permission.**

**Some of the trees that were previously agreed to be felled along the boundary with Lime Grove are not native to the area, being leylandii trees and their removal was previously considered to be acceptable.**

**Notwithstanding this, and given local concerns, officers have continued to negotiate with the agent and have secured the retention of the group of leylandii trees along the western boundary of the site with Lime Grove. These will be crown reduced by a maximum of 25% (approximately 3.5m) and cut back along the boundary on the application site boundary as shown on the revised site layout plan, the revised Arboricultural Assessment and tree protection plan**

submitted with this S73 application. This is acceptable and betterment from the previous approval.

The agent has also confirmed that there are 35 trees on site in varying states of health, species and age, 27 of which are protected by TPOs. 14 trees within the site (plus 2 trees within the hedgerow) together with an expanse of conifer hedgerow to the southern boundary of the site are to be removed. However, 21 trees within the site and the leylandii hedgerow along the western boundary are proposed to be retained which will be appropriately protected during the construction phase as stated in the revised Arboricultural Statement deposited with this application. The tree officer has been consulted on the revised scheme who is satisfied with the proposed protection methods outlined within the revised Arboricultural Survey deposited with the application.

Although the loss of some trees to facilitate the development is regrettable, there will remain a number of trees retained within and around the site and in terms of replacement planting and landscaping, details of which are to be submitted to and approved in writing by the Local Planning Authority. The agent has confirmed in writing that it is proposed to plant 1,630 shrubs/plants, 8 new trees and 836 hedgerow plants. The condition attached to the previous permission requiring the submission of precise landscape details prior to occupation of any dwelling will remain on the permission should Members be minded to approve this S73 application.

Officers consider that this will ensure that proposed planting will be of appropriate species and sufficiently robust and well established to provide landscaped areas within the development and retain a sense of green space.

The previous appraisal is provided for completeness below.

*Policy DM5 of the DPD requires that natural features such as trees and hedges should be protected and enhanced, reflecting Core Policy 12 of the Core Strategy.*

*The application has been accompanied by an Arborecultural Impact Assessment. It is acknowledged that the proposed development would result in the loss of trees some of which are protected by a TPO (N313) mainly to its south western corner along the boundary with properties on Lime Grove and 2 no. groups of Ileyalndi trees within the site towards the norther boundary. Six of these trees are proposed to be removed as they are unsuitable for retention in the interests of good arborecultural management given that they are in poor health and condition. Nine trees are proposed to be removed to facilitate the development. These trees have been inspected and are classed within the Arborecultural Assessment as being as category C and predominantly in poor condition.*

*Turning to the comments of the tree consultant it is accepted that plots 1-4 would directly face tree T1 to the front of the site. However works are pruning are proposed to this tree as part of this application which would improve the amenity of the occupiers of these flats.*

*With regards to Plots 48, 49, and 51 I consider that likely impacts on amenity would not in themselves be so significant as to justify refusal on these grounds. Any future applications to carry out works to trees on the site would need to be assessed on their own merits. Moreover, in this case all plots will be taken on by a registered provider who will be aware of the situation and ongoing management requirements for occupiers and the site itself,*



*with a single umbrella management vehicle in place in relation to future maintenance works.*

*With regards to the areas of hardstanding which fall within tree protection routes I note the comments of the tree consultant with regards to the proposed no dig option. A condition is recommended with respect to protection during construction of retained trees.*

*It is considered that on balance the proposal would accord with Core Policy 12 of the Core Strategy and Policy DM5 of the DPD.*

#### Impact on Residential Amenity

**The impacts arising from the amended plans has been considered and found to be acceptable in terms of separation distances, privacy and amenity.**

**The revised house type proposed at Plots 43 and 44 of the new development would have ground and first floor windows to the elevation facing 59 and 61 Lime Grove. These would serve kitchen/lounges. Officers are mindful that there is a separation distance of circa 17m between these existing and proposed dwellings. Following officer discussions with the agent, the agent has confirmed that the first floor windows to the elevations of plots 43 and 44 will be obscure glazed as confirmed in drg. no. 41040 22A deposited 21<sup>st</sup> May 2019. Being mindful of separation distances, this together with the retention of the leylandii's along this boundary (which will remain at such a height to provide additional screening between both the existing and proposed properties) would result in a relationship which is on the cusp of acceptability.**

**As such it is considered that the variation of conditions as proposed would not result in undue impact on residential amenity to justify refusal on these grounds.**

**The previous appraisal is provided for completeness below.**

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

*The site is immediately adjoined by residential properties to the north and west.*

*The comments received with regards to impact on the amenity of the occupiers of neighbouring dwellings are acknowledged. The separation distances between proposed and existing dwellings meet best practice separation distances.*

*In terms of relationships between the proposed and existing dwellings along the western boundary of the site, there is a separation of circa 15m between the rear elevations of the two storey dwellings to the west on Lime Grove (Nos 45-51) which have rear windows facing the blank gable of the proposed two storey flats in the southwestern corner of the site (plots 41-42) This would in officer opinion be an acceptable relationship with no windows to the side gable of the flats and thus no overlooking of these existing properties and that this would not create undue overbearing or overshadowing impact to justify refusal on these grounds. There would be first floor windows to front and rear elevation of*

*these plots which may have glimpses into garden areas but these would be from an acute angle and this is not such an unusual situation in an urban area.*

*There is circa. 17m separation between the gable of the semi-detached 2 storey properties at plots 43 and 44 of the proposed development and the windows to the rear elevations of numbers 59 and 61 Lime Grove. A first floor bathroom window is proposed to the side gable of the new dwellings which would face these existing dwellings. However a condition requiring obscure glazing would safeguard the occupiers of the existing dwellings from any undue overlooking.*

*There is between c20m separation between plots 45, 46, and 48 of the proposed development and the windows to the rear elevations of nos 63-77 Lime Grove directly to the west. There is 18m separation between plot 47 and no. 71 Lime Grove; however this plot is single storey. It is considered that these separation distances are acceptable.*

*Bearing this in mind it is considered these plots would not result in undue overlooking, overbearing or overshadowing impact.*

*In terms of relationships with properties to the north on Jubilee Street these are sited at least 54 m from the boundary with the application site and as such the development would not unduly impact upon the amenity of the occupiers of these properties.*

*Given the garden depths of circa 10m serving plots 57-59 it is considered that occupiers of the adjoining property 80 Bowbridge Road together with properties to the north on Jubilee Street would continue to enjoy reasonable amounts of day light and sunlight with limited overshadowing of their rear garden.*

*It is noted that there is circa 17m between the side gable of plot 60 and the side boundary of the adjoining property to the north at no. 80 Bowbridge Road. This existing dwelling has first floor windows to its side elevation overlooking the site and a single storey side extension with windows facing a small courtyard adjoining the application site. I am mindful that there are mature trees to the south eastern corner of the site which partially obscure these windows. Furthermore the first floor window to the side gable of plot 60 would serve a bathroom and obscure glazing to this window could be secured by condition.*

*Turing to the development itself I am satisfied that the relationships between the proposed dwellings are acceptable and that they would be served by private amenity areas proportionate to their size.*

*Having carefully assessed the scheme I am satisfied that the proposal would have no unacceptable impacts upon the amenity of future occupiers of the proposed dwelling or dwellings adjacent to the application site in accordance with the Policy DM5 of the Allocations and Development Management DPD.*

#### Highway Matters

***The proposal does not seek to alter the approved road layout of the site nor the level of off street parking to be provided within the development and therefore raises no additional material highways matters to those previously considered.***

**The previous appraisal is provided for completeness below.**

*The NPPF requires all major planning applications to be supported by an appropriate Transport Assessment (TA) and concludes that new development proposals should only be refused on transport grounds where the residual cumulative impacts would be severe. Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.*

*The comments received with regards to highway safety and parking issues are acknowledged.*

*A Transport Statement has been submitted with the application. The Highway Authority originally sought amendments to the scheme in relation to the location of parking spaces, width of private drives and the introduction of waiting restrictions to protect the visibility splay.*

*A revised layout has subsequently been deposited. The Highway Authority has not raised any significant objection to the revised scheme but it is noted that they still consider that there may be a risk of on street parking resulting from the location of the parking space for plot 52 and a visitor parking space. They have however suggested conditions as noted in the consultation section of this report should Members be minded to grant permission which are considered to be reasonable. However, the risk of on street parking is not considered to be so significant in this particular instance given that it relates to the location of one space to serve a dwelling and one visitor spot to justify refusal on these grounds, particularly as the Highway Authority have recommended conditions.*

*I note the comments and request received from Nottinghamshire County Council with regards to developer contributions for possible infrastructure improvements in the form of bus stop improvements. However, as discussed within the Viability of Development and Developer Contributions that applicant has put forward a viability argument that the development could not viably deliver such contributions.*

*It is therefore considered that the proposed development would not result in any significant parking issues or lead to a significant impact on highway safety subject to the approval of details reserved by condition in accordance with the requirements of Spatial Policy 7 and DM5 of the DPD.*

#### Impact on Ecology

***Officers are satisfied that the revised layout raises no additional material ecology matters to those previously considered.***

**The previous appraisal is provided for completeness below.**

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

*The submitted Preliminary Ecological Appraisal has identified the potential for impacts on possible reptiles, birds and bats.*

*The Survey makes the following conclusions and recommendations:-*

*The habitat on site has limited biological interest and poor species diversity;*

*Given the distance from nearest strategic sites (Devon Park Pasture and Farndon Ponds LNR) between 970m and 2.8km it is considered that the proposal would be unlikely to have any direct impacts.;*

*With regard to bats, there is one tree (proposed to be felled) which has low potential to support roosting bats – soft fell method should be used.*

*The existing substation on site has low potential to support roosting bats but no potential for hibernating bats. Any works should therefore be undertaken during winter hibernating months;*

*Trees and shrubs have low potential to provide foraging for bats; there are some low quality foraging and commuting resources and no further surveys are required.*

*Any lighting to be provided on site should be bat friendly.*

*With regards to birds, the scattered trees and shrubs on site provide suitable nesting habitats, although it is unsuitable to support schedule 1 species such as birds. Any works to trees and shrubs should therefore be undertaken outside of bird nesting season.*

*Although no badgers were found some part so the site does have the potential. There should be a pre commencement check of the site and precautions such as mammal ladders, capping off pips at the end of the day, covering of open holes, safe storage of harmful substances and avoidance of night work are recommended.*

*The survey also recommends that post development the site should make provisions for invertebrates through the incorporation of suggested plant materials.*

*I am of the opinion that the above recommendations and enhancements can reasonably be secured through condition to safeguard the ecological interest within the site.*

*Nottinghamshire County Council Ecology have commented that the site is not considered to have significant ecological interest, given its location and previous use and also recommend conditions in relation to vegetation clearance, appropriate landscaping and the incorporation of bat and bird boxes within the development which are considered to be reasonable should Members be minded to grant permission.*

*I am therefore of the opinion that it has been demonstrated that the proposed development would not adversely impact on the potential habitat of a protected species, in accordance with the guidance within Core Policy 12 and Policy DM5 of the DPD.*

#### Drainage/Flooding

**The revised layout raises no additional material drainage matters to those that have previously been considered. The applicant has submitted drainage details as required by condition 15 of the original permission as part of the current Discharge of Condition application ref. 19/00663/DISCON which are currently under consideration.**

**The previous appraisal is provided for completeness below.**

*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. The application is accompanied by a flood risk assessment which concludes that the site is at low risk of fluvial flooding, overland flow, surface water run-off, ground water sources or the sewerage network.*

*The Environment Agency has advised that the Lead Local Flood Authority are consulted, The Lead Local Flood Authority have stated they do not wish to make comments given the sites low risk of flooding.*

*I am therefore satisfied that subject to a condition requiring the submission of precise details of foul and surface water drainage disposal the proposal would accord with Core Policy 9, Core Policy 10 and DM5 of the Development Plan. CP10 and DM5 of the Development Plan.*

#### Other Matters

Given the site's historic use, the Council's Environmental Health Service has, following the submission of a Phase 2 Site appraisal, recommended a revised land contamination condition so that any contamination that may be found on the site is dealt with appropriately and that the land can be made safe for its new residential occupiers.

***The applicant has submitted details of remediation strategy and additional information, following concerns raised by local residents about potential contamination on site which they consider had not been addressed in the contamination reports submitted with application ref. 18/00973/FUL.***

***The additional information and reports are currently under consideration by officers and Environmental Health Technical Officer under discharge of condition application 19/00663/DISCON.***

#### Viability of Development and Developer Contributions

**This S73 application does not revise the number of dwellings proposed and as such does not raise any additional material considerations in terms of viability or developer contributions to those previously considered.**

#### S106 Agreement

**Clause 8 of the signed and sealed S106 agreement attached to the original permission 18/00973/FULM states that any permission pursuant to S73 which varies or releases any condition attached to the associated planning permission the covenants and provisions of the Agreement will bind to the new planning permission. A Deed of Variation is therefore not required in this instance.**

**The previous appraisal is provided for completeness below.**

*Spatial Policy 6 ‘Infrastructure for Growth’ and Policy DM3 ‘Developer Contributions and Planning Obligations’ set out the approach for delivering the infrastructure necessary to support growth.*

*Paragraph 57 of the NPPF (2018) which explains that: ‘Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.’*

*In line with the requirements of the Viability Guidance Note (Ref ID 10-007-20180724) of the NPPG and paragraph 57 of the revised NPPF the weight to be given to a viability assessment is a matter for the decision maker.*

*The applicant has sought to challenge the level of developer contributions by way of Infrastructure provision on the basis that the level of contributions proposed would render the development economically unviable.*

*An independent viability assessment has been commissioned to determine whether the policy based contributions are viable and, if not, the level of contributions that can be delivered whilst maintaining economic viability.*

*The Developer Contributions and Planning Obligations Supplementary Planning Document provides additional detail on the Council’s policy for securing planning obligations from new developments and how this operates alongside the Community Infrastructure Levy (CIL). The SPD is a useful starting point for the applicant in setting out the approach to resolving negotiable elements not dealt with by the CIL and of the site specific impacts to make a future development proposal acceptable in planning terms.*

<b>Contribution</b>	<b>Expectation</b>	<b>Based on 62 dwellings</b>
Affordable Housing	30% on site for 10 houses or more usually with a tenure split of 60% social rent/40% shared ownership as per CP1.	19 affordable dwellings
Community Facilities	£1,384.07 per dwelling (figure includes indexation as at 2016) likely to be spent on Sports Hub further along Bowbridge Road	£85,812.34
Education	Triggered at 10 dwellings; this scheme would generate a projected need for 13 primary school places at £11,455 each	£148,915
Library	Provision triggered at 10 dwellings £236.86 (indexed at 2016) per dwelling	£14,685.32

Library	(Stock) Triggered at 10 dwellings £47.54 (indexed at 2016) per dwelling	£2,947.48
Amenity Open Space	Triggered at 30 dwellings, AOS of 14.4m <sup>2</sup> per dwelling would normally be expected on site. Where this is not possible (or only provided in part on site) a financial contribution for the shortfall would be expected based on £282.94 (indexed at 2016) per dwelling.	SUFFICIENT ON SITE PROVISION SUBJECT TO PARKS AND AMENITIES COMMENTS REGARDING THE PROVISION OF 2 OR 3 LAPS - THE AGENT HAS CONFIRMED THAT THE DE VELOPMENT IS UNABLE TO PROVIDE LAPS GIVEN PROXIMITY OF DWELLING AND TREES
Amenity Open Space (Maintenance)	Triggered at 30 dwellings £282.79 (indexed at 2106) per dwelling	Management Plan to be secured by S106 as agreed with the applicant
Children's Play Space	Triggered at 10 dwellings, 18m <sup>2</sup> of CPS for dwellings with 2 or more bedrooms would be expected in site. Where this is provided off-site the contribution would £927.26 (indexed at 2016) per dwelling	SUFFICIENT ON SITE PROVISION SUBJECT TO PARKS AND AMENITIES COMMENTS REGARDING THE PROVISION OF 2 OR 3 LAPS - THE AGENT HAS CONFIRMED THAT THE DEVELOPMENT IS UNABLE TO PROVIDE LAPS GIVEN PROXIMITY OF DWELLINGS AND TREES
Bus Stop Improvements	(requested by NCC)	£ 20,000
<b>TOTAL</b>		<b>£272,360.14</b>
OVER PROVISION OF AFFORDABLES	30% = 19 DWELLINGS Over provision of 43 dwellings	43 dwellings at £46k = £1,978,000

*In this case, a scheme of 100% affordable housing provision will be exempt from paying CIL on the basis of the social housing exemption provisions. That's said; affordable housing schemes and families who occupy them still generate the need for education spaces in local schools and pressure on community and open space facilities in the area. There is often therefore a need for balance between over provision affordables (over provision for this scheme but not in terms of overall affordable needs for Newark) and lack of provision for some other contributions. The Council has applied such a balance in the past, notably at Sleaford Road whereby the provision of 100% affordable housing was consider most important against a shortfall of other contributions on viability grounds.*

*In this case there is an unusual situation. The scheme, in monetary terms, very significantly overprovides for affordable housing (to the tune of £1.9m, far outweighing the total S106 contribution level of £272,360.14). However, even with this the Council's viability consultant reports that the scheme can also afford all other developer contributions. Whilst the applicant strongly disagrees with this the Council must attached weight to its specialist and independent advice. That said, whilst a viability case does not exist in my view to not provide all contributions there is a careful benefits case to assess in coming to a final view on acceptability. The scheme will provide for all affordables and the full requirement of £148,915 towards education provision. In such circumstances I consider a case can and should be made for not refusing the scheme for the failure to provide other contributions.*

### **Assessment of conditions**

The NPPG is clear that any new permission should set out all conditions related to it unless they have been discharged. For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with ~~striketrough~~ text used to represent parts of the condition no longer required and bolded text used to indicate new wording. The conditions have been reworded where details have been provided through the discharge of conditions or revised plans. Commentary is also provided where this is considered necessary.

### **Conclusion and Planning Balance**

The site is located within Newark Urban Area and the principle of residential development on this site is considered to be acceptable. The delivery of 100% affordable housing in an area of high need is a significant material planning consideration as is the contribution this site would make towards the Council's five year housing supply. The development would provide for some developer contributions in the form of education and would also bring back into use significant previously developed land. The scheme does contain design compromises and a shortfall in full S106 contributions however it is considered that in overall terms the scheme is acceptable and should be approved.

**It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration. In this instance this relates to the revised house types at plots 39-42, 43 and 44 and the revisions to plots 23 and 24 together with the revised layout which shows the retention of the leylandi trees along the western boundary with Lime Grove.**

**Officers have not identified any unacceptable harm from the proposed revised wording of condition 23, which does not the acceptability of the scheme in a planning balance. As such the S73 application is recommended for approval.**

### **RECOMMENDATION**

**That full planning permission is granted subject to:**

**(a) the conditions set out below but request that delegated authority to given to revise the wording of conditions 3, 9, 13 and 15 should the discharge of condition application ref. 19/00663/DISCON be determined before this permission is determined.**

### **Conditions**



The development hereby permitted shall be begun ~~within three years from the date of this permission~~ **by 15<sup>th</sup> March 2022.**

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

02

~~No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish of the dwelling and garage hereby approved) have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.~~

***The development hereby approved shall be carried out in accordance with the following external materials approved by the LPA in correspondence dated 20th May 2019 details unless otherwise agreed in writing by the Local Planning Authority.***

***The following details of materials shown on drawing no. 4140 017D deposited on the 2nd April 2019 pursuant to this condition:-***

- ***Bricks - Mercia Antique***
- ***Roof Tile - Sandtoft Dual Calderdale Dark Grey***
- ***Ridge tile - to match roof tile***
- ***Munster Upvc Casement Secured by Design Window - colour white***
- ***AJB Secured by Design Front Doorset - black, Kensington***
- ***Brick Cill/ Head to match main brick colour***
- ***GRP flat or gable porch canopy with tiles to match main roof and lead flashing***
- ***Upvc bargboards - colour white***
- ***Upvc fascia & soffit - colour white***
- ***Upvc gutters & downpipes - colour black***
- ***Upvc french door set - colour white AJB Secured by Design Rear Doorset - colour - white, Angel***

Reason: In the interests of visual amenity.

03

No development shall be commenced until details of the existing ground levels and proposed finished floor levels have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity.

04

Prior to first occupation/use of the development hereby approved full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;

car parking layouts and materials;

other vehicle and pedestrian access and circulation areas;

hard surfacing materials;

minor artefacts and structures for example, furniture, play equipment, refuse or other storage units, signs, lighting etc.

proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);

Reason: In the interests of visual amenity and biodiversity..

05

The approved soft landscaping 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.

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

06

~~No works or development shall take place until a scheme for protection of the retained trees/hedgerows has been agreed in writing with the District Planning Authority. This scheme shall include [include pertinent sections]~~

~~a.—— Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.~~

~~b.—— Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations~~

~~c.—— Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.~~

~~d. Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.~~

~~e. Details of any scaffolding erection and associated ground protection within the root protection areas~~

~~f. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.~~

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

***The tree protection measures detailed within the submitted Arboricultural Impact Assessment, Method Statement and Tree Protection Plan produced by RammSanderson dated February 2019 and associated Tree Protection Plan drg. no. RSE\_1511\_TPP deposited on the 2nd April 2019 and approved by the Local Planning Authority in correspondence dated 20<sup>th</sup> May 2019 shall be fully implemented on site prior to the commencement of development and retained for the lifetime of the construction phase.***

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

07

During the construction period the following activities must not be carried out under any circumstances.

a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.

b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,

c. No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.

d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.

e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

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

08

The approved boundary treatments for each individual plot on site (41040 016C – Revised Boundary Treatment Plan deposited 17.12.18) shall be implemented prior to the first occupation of each individual dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

09

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts B to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

#### Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must

be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11

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

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

12

No part of the development hereby permitted shall be occupied until the existing site access that has been made redundant as a consequence of this consent is permanently closed and the access crossing reinstated as footway in accordance with Highway Authority standards.

Reason: In the interests of highway safety.

13

No dwelling forming part of the development hereby permitted shall be occupied until its associated access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

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

14

No development shall commence until the off-site traffic management works comprising of waiting restrictions on the west side of Bowbridge Road are approved by the Highway Authority in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Thereafter, such restrictions are to be implemented prior to occupation of the first dwelling.

Reason: To protect adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network; in the interests of highway safety.

15

No part of the development hereby permitted shall be commenced until visibility splays of 2.4m x 47m {minimum} are provided at the junction with Bowbridge Road.

Reason: In the interests of Highway safety.

16

No development shall be commenced until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

17

The ecological mitigation recommendations detailed in Section 6 of the Preliminary Ecological Appraisal (prepared by RammSanderson) dated May 2018 shall be implemented in accordance with those recommendations unless any variations have previously been agreed in writing by the Local Planning Authority.

Reason: In the interests of safeguarding interests of ecological importance in accordance with the requirements of Policies DM5 and DM7 of the DPD.

18

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

Reason: To ensure that adequate provision is made for the protection of nesting birds on site

19

No building on site shall be occupied until details of integrated bat boxes, bird boxes (targeting swift, house sparrow and starling) and hedgehog boxes have been submitted to and approved in writing by the local planning authority. The bat and bird boxes shall then be installed, prior to occupation, in accordance with the approved details and retained thereafter for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of maintain and enhancing biodiversity.

20

Prior to first occupation details of any external lighting to be used in the development shall be submitted to and approved in writing by the local planning authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual and residential amenity.

21

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

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

22

The first floor bathroom window openings 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 they are installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

23

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

Class B: 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: Buildings etc incidental to the enjoyment of a dwellinghouse.

Unless consent has firstly be granted in the form of a separate planning permission.

24

The development hereby permitted shall not be carried out except in accordance with the following approved plans, reference [insert] unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

~~Site Layout Plan drg. no. 41040 001N~~

**Site Layout Plan drg. no. 41040 001P**

House Type B57 PAIR drg. no. 41040 004

House Type H68 PAIR Drg. No. 41040 005

House Type H98 PAIR Drg. No. 41040 006

House Type H82 PAIR Drg. No. 41040 007

House Type H68 H75 PAIR Drg. No. 41040 008

House Type H75 PAIR HANDED Drg. No. 41040 009

~~House Type H82 H75 PAIR Drg. No. 41040 010~~

**House Type H82 H75 PAIR Drg. No. 41040 010A**

House Type M46 FLATS Drg. No. 41040 011

~~House Type M46 FLATS SIDE ENTRANCE Drg. No. 41040 012~~

**House Type M46 FLATS SIDE ENTRANCE Drg. No. 41040 012B**

**House Type M46 Flats Side Entrance – drg. no. 41040 022A**

House Type H68 H68 H75 Terrace Drg No. 41040 13

House Type B57 Terrace Drg. No 41040 14

House Type H68 H82 Pair Drg. No. 41040 019

External Materials Drg. No 41040 017b

Tree Constraints Plan Drg. No. Rse-1511-Tcp V2

~~Tree Protection Plan Drg. No. Rse-1511-Tpp V2~~

**Tree Constraints Plan Drg. No. Rse-1511-TPP V4**

Reason: So as to define this permission.

### Informatives

01

The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

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

The proposed development has been assessed and it is the Council's understanding that CIL may not payable on the development hereby approved as the development is made up entirely of Social Housing provided by local housing authority, registered social landlord or registered provider of social housing and shared ownership housing. It is necessary to apply for a formal



exemption to confirm this view, which must be made to the Council prior to the commencement of development on CIL 4 form which is also available on the Councils website.

03

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.

04

The minor access reinstatement works referred to in the conditions involve work in the public highway and as such require the consent of the County Council as highway Authority. The traffic management works referred to in the conditions require a Traffic Regulation Order before the development commences to provide safe access.

The developer should note that the Order can be made on behalf of the developer by Nottinghamshire County Council at the expense of the developer. This is a separate legal process and the Applicant should contact [mike.barnett@viaem.co.uk](mailto:mike.barnett@viaem.co.uk). Please note this process can take 9-12 months.

05

Your attention is drawn to an advisory booklet which is available – "A guide to Developing Land in Nottinghamshire". This is available from NSDC website using the following link: <http://www.newark-sherwooddc.gov.uk/landpollution/>

Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

Natural England  
Block 6 & 7 Government Buildings  
Chalfont Drive  
Nottingham  
NG8 3SN  
Tel: 0115 929 1191  
Fax: 0115 929 4886  
Email: [eastmidlands@naturalengland.org.uk](mailto:eastmidlands@naturalengland.org.uk)

English Heritage  
Ancient Monuments Inspector  
44 Derngate  
Northampton,  
NN1 1UH  
Tel: 01604 735400  
Fax 01604 735401  
E-mail: [eastmidlands@english-heritage.org.uk](mailto:eastmidlands@english-heritage.org.uk)

Heritage Planning Specialists  
Nottinghamshire County Council

Trent Bridge House  
Fox Road  
West Bridgford  
Nottingham  
NG2 6BJ  
Tel: +44 (0)115 977 2162  
Fax: +44 (0)115 977 2418  
E-mail: [heritage@nottscc.gov.uk](mailto:heritage@nottscc.gov.uk)

BACKGROUND PAPERS

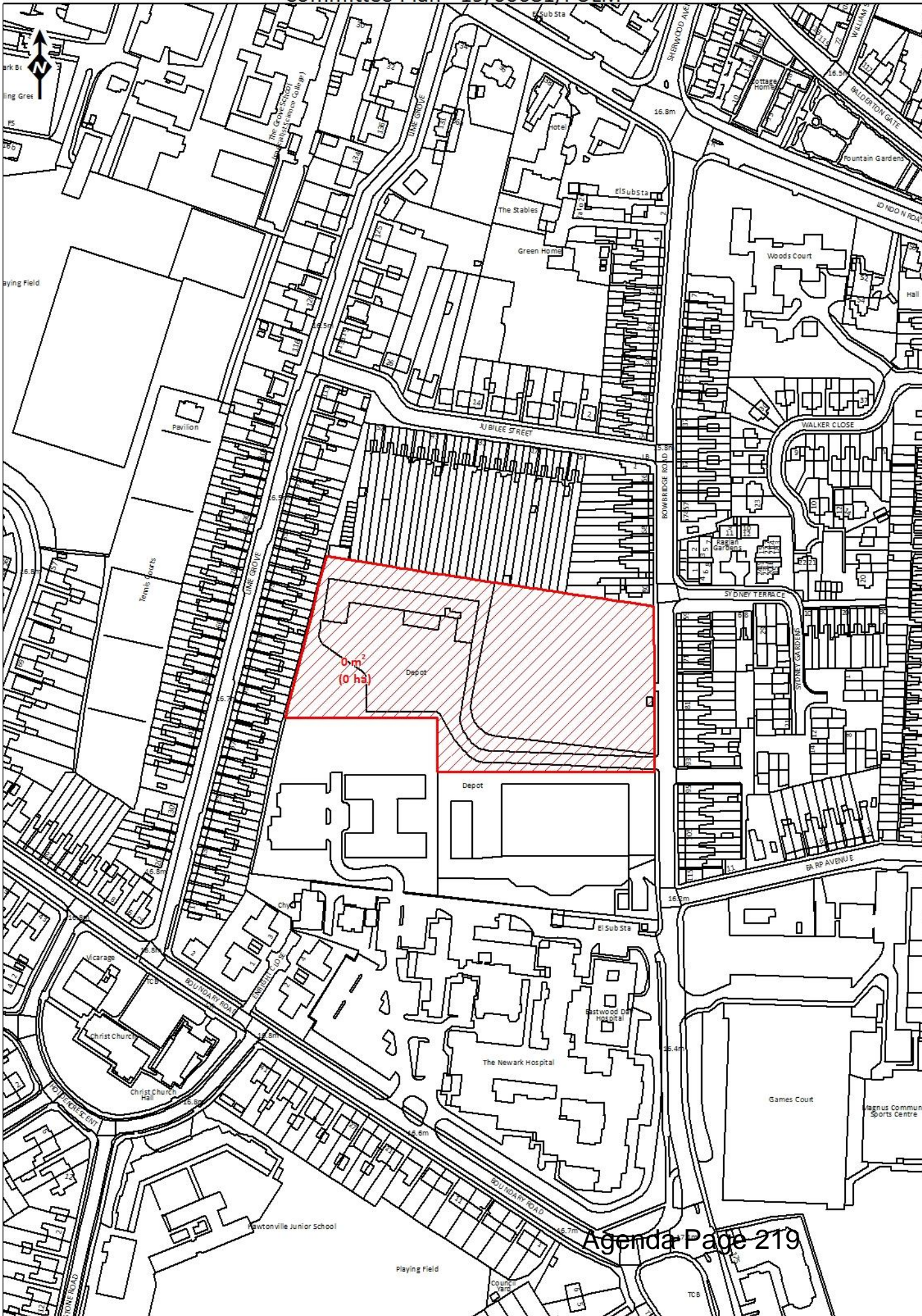
Application case file.

For further information, please contact Bev Pearson on ext. 5840

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

**Matt Lamb**  
**Business Manager Growth and Regeneration**

Committee Plan - 19/00681/FULM





# **Presentation of Petition to Newark & Sherwood District At Full Council Meeting: 21 May 2019**

**‘Save the Trees bordering the Site of the Bearings and Lime Grove’**



## **Introduction**

We are a group of residents from Lime Grove and other like minded predominantly local people, campaigning to ‘Save the Trees bordering the Site of the Bearings and Lime Grove.’

Our online petition reached over 500 signatures in 48 hours showing strong public support. We have 689 online and 56 hand-signed signatures (With double signatures removed, a total of 736). Residents of every house that will be directly affected have signed the paper petition.

We understand the need for developing affordable housing; we don’t have a problem with this, but we need to preserve the trees that we can, for our own mental health and well-being, as well as for the environment. We also need to be able to live happily with our neighbours.

## Background

The previous Planning Committee unanimously approved the application to build 62 residential dwellings on the Bearings site (18/00973/FULM).

During the consultation, the Town Council objected to the application due to: 'the removal of trees on the site boundary with no plans to replace them.'

The Tree Officer, another consultee, voiced concerns that can be summed up as follows:

Too many houses

Too close to trees

Too many trees removed, not enough space to replant

But legally okay

We are told that 140 letters were delivered to residents bordering the Site, advising them of the planning application.

Of the 19 Lime Grove houses directly impacted:

Only 3 objected. Only 3 understood.

Most people read the wrong document. There were over 60. They read the one called: Tree Schedule.

No face to face meeting had been offered so that they could understand.

Everyone has been upset.

Lots of letters have been flying around.

The Council has defended its position, saying it abided by legal requirements. The consultation window is 'now closed'.

The privacy issues had been adequately addressed through the type of windows to be fitted in the new houses overlooking the Lime Grove gardens. The distance between houses and loss of trees normal for that kind of place. Poor folk don't need the luxury of wildlife corridors that have been part of their lives for decades.

One cannot deny that somehow, the planning process has failed to extract the informed views of the people it will affect the most.

## **The reasons why people want to save the trees**

So why did the online petition attract not just 500 signatures in 48 hours, but 25 pages of comments?

The easiest way to answer this is to read it:

“Please keep the trees for our wellbeing.”

“We didn’t realise you were going to take all the trees directly behind the house. Please don’t.”

“The trees [offer] protection from pollution, and sound screening.”

“The trees are a haven for wildlife, which will be even more critical once the site is developed.”

“The development should respect and work with the existing plant and animal life, even if this means that a few less properties are built.”

## **What does this say about the Planning Process?**

It is possible that in trying to do the right thing, we end up doing wrong.

## **What is the Current Status of the Petition?**

The developers have agreed to not cut the trees down and a planning amendment has been submitted and is available for public consultation.

However, no protection was initially offered for the trees during and after site development. This means the trees could be killed by root damage during site construction. They could also be felled by new owners who might not like them. **The trees are not yet saved, but with your help they could be.**

## **Challenge to the Council**

Trees are good for people

Council under pressure to build more houses

This shouldn’t be at the cost of our environment

You need to challenge developers more

Engage the people of the town in what you have previously seen as ‘your decision making.’

And finally, to survive the threat of catastrophic climate breakdown, we are going to need all the trees we can get.

**An electronic version of this presentation is available from Nigel Hill.**

END



## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>18/00931/OUTM (MAJOR)</b>	
<b>Proposal:</b>	<b>Outline planning permission for up to 136 residential dwellings on the former Noble Foods egg factory site. The scheme would provide a mix of house types and sizes including detached properties, semi-detached properties and town houses and public open spaces.</b>	
<b>Location:</b>	<b>Noble Foods Ltd The Moor Bilsthorpe Nottinghamshire NG22 8TS</b>	
<b>Applicant:</b>	<b>Miss Cheetham</b>	
<b>Registered:</b>	<b>23.05.2018</b>	<b>Target Date: 22.08.2018</b>
	<b>Extension of Time Agreed Until 07.06.2019</b>	

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

### The Site

The site comprises an area of approximately 5.48 hectares which is fairly irregular in shape. It is currently empty and consists of areas of hardstanding and grass with some mounds of rubble in relation to the previously demolished factory buildings which once occupied the site. There are areas of dense tree cover predominantly around the boundaries of the site but also along the previous access driveway.

The site is on the south eastern edge of the village of Bilsthorpe. The site is located within the built up area of Bilsthorpe as defined by the village envelope. The village envelope was extended to include the site upon adoption of the Allocations & Development Management Plan (2013). As a consequence the site forms part of a site allocation on the Bilsthorpe Proposals map with another allocation site immediately to the south (Bi/Ho/1).

There is one existing access point from the south via Kirklington Road. The site is bordered by agricultural fields to the east and north. To the west are residential dwellings and the residential area of Bilsthorpe Moor. To the south eastern site boundary are centres run by Wycar Ley, which provide care for adults with learning disabilities. Further to the east, approximately 350m in distance is another large factory and commercial site.

The site is within Flood Zone 1 in its entirety. The site falls within the buffer zone for the potential Special Protection Area for Nightjar and Woodlark in the Sherwood Forest area.

## Relevant Planning History

**12/01557/OUTM – Proposed residential development.** This planning application for 50 dwellings was permitted in October 2013 as the site was allocated within the Allocations & Development Management DPD (2013) under the reference Housing Site 2 Policy Bi/Ho/2. The site relates to the eastern area of the land subject to the current application. This application has expired as no reserved matters submission has been received in the prescribed timeframe.

**10/01575/OUTM – Residential development.** This application also relates to land to the eastern area of the current site. The application was refused for two reasons as follows:

01

*The application site lies outside the Village Envelope for Bilsthorpe and as such within the Countryside where development falls to be assessed against Spatial Policy 3 of the Newark and Sherwood Core Strategy DPD - Rural Areas. This Policy requires new development to be located in the main built up areas of settlements and consequently the development of the site as proposed, and in the absence of any requirement to meet housing need at the present time, would be contrary to this policy and would form an unjustified intrusion into the countryside.*

02

*Core Policy 1 of the Newark and Sherwood Core Strategy DPD sets out the requirements for affordable housing provision and the Developer Contributions Supplementary Planning Document sets out the requirement for other developer contributions. At the time of determination the application fails to make provision for neither affordable housing nor any other developer contributions and would therefore be contrary to both these documents.*

**08/01746/FULM - Demolition of existing factory and associated buildings and erection of 77 houses, associated roads and landscaping.** This application was approved in October 2010 and forms broadly the middle of the site. Subsequently the factory was demolished.

**09/00837/OUTM - Erection of a residential care home.** This application was permitted in November 2010.

*In addition to the above, the following application on the site adjacent (allocated as Bi/Ho/1) is considered relevant:*

**13/00988/FULM - Erection of 4 units comprising 8 Dwellings for multi-occupancy for people with learning difficulties for independent living.** This application was approved in December 2013 but the LPA have no record that works have commenced on site and therefore the application will no longer be extant.

## The Proposal

The application seeks outline planning permission for up to 136 residential dwellings with all matters reserved except for access. The new vehicular access would be set along the southern boundary of the site further westwards towards the junction with Meadow Grove. The application has been accompanied by an indicative site layout which demonstrates areas of open space

including those demonstrated as Local Equipped Areas for Play. The Design and Access Statement confirms that the development proposes a mix of terraced, semi-detached and detached dwellings ranging from 2 to 5 bedrooms each afforded an area of private amenity space.

The application submission has been accompanied by the following documents:

- Planning and Sustainability Statement;
- Design and Access Statement;
- Flood Risk Assessment;
- Transport and Travel Assessment;
- Phase 1 Geo environmental Desk Survey;
- Phase 1 Habitat Survey;
- Bird Risk Assessment;
- Statement of Community Involvement;
- Additional Statement in response to NCC Highways Comments with associated accident reports received 31<sup>st</sup> July 2018;
- Viability Assessment received 25<sup>th</sup> September 2018;

The application form has been updated during the life of the application to clarify the owners of the site (a subsidiary company of Noble Foods Ltd.).

The application has been considered on the basis of the following plans which have been revised during the life of the application:

- Site Location Plan – Dwg No. 1 received 15<sup>th</sup> May 2018;
- Existing Site Plan – 1430-002A received 15<sup>th</sup> May 2018;
- Drainage Strategy – C-50A received 15<sup>th</sup> May 2018;
- Proposed Site Section A – P-P02 received 15<sup>th</sup> May 2018;
- Proposed Site Sections – Sheet 2 – P-P03 received 15<sup>th</sup> May 2018;
- Revised Proposed Site Plan – 1751-(P)P01 Rev. G received 7<sup>th</sup> May 2019;

#### Departure/Public Advertisement Procedure

Occupiers of 100 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 2019)**

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 2 – Spatial Distribution of Growth  
Spatial Policy 6 – Infrastructure for Growth  
Spatial Policy 7 – Sustainable Transport  
Core Policy 1 – Affordable Housing Provision  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 – Sustainable Design

Core Policy 10 – Climate Change  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character

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

Policy Bi/Ho/2 – Bilsthorpe – Housing Site 2  
Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM2 – Development on Allocated Sites  
Policy DM3 – Development Contributions and Planning Obligations  
Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework 2019  
Planning Practice Guidance  
Developer Contributions SPD

### **Consultations**

**Bilsthorpe Parish Council** - Meeting 9<sup>th</sup> July 2018

COMMENTS RE NOBLE FOODS DEVELOPMENT 18/00931/OUTM

### **Background**

In January 2017 a development of 113 dwellings on Oldbridge Way, Bilsthorpe was approved by NSDC Planning. This would potentially increase traffic within the village with approximately 226 vehicles. The Parish Council raised concerns both in writing and verbally to the planning committee meeting regarding the impact the increased traffic would have on the roads within the village, particularly the one way system on the Crescent that accesses the development and the access road junctions into and out of the village where Mickledale Lane joins the A614 and Farnsfield Road joins the A617. These concerns were not acknowledged and outline planning was approved.

An outline planning application has been agreed for up to 52 dwellings on land off Maid Marian Ave, Bilsthorpe and a further 85 dwellings and retail development is planned for land off Eaking Road, Bilsthorpe potentially bringing an increase of 500 vehicles and associated delivery and business traffic.

### **Points to be raised**

- The Mickledale Lane GP surgery has struggled in recruiting in the past and residents tell us that it is challenging to get an appointment at the surgery. Increasing the population of the village would significantly impact on this situation.
- The Village Hall is in need of complete refurbishment in terms of new electrics, heating system, toilets, kitchen, bar area, outside and inside redecoration. Currently not used to its full potential as unsightly and in need of repair.

- Kirklington Road, Bilsthorpe is a well-used road with commercial and heavy goods vehicles. The speed of traffic is a concern on this road. With a new development of housing this will increase the risks on this road. We would also ask that some consideration is given to footpaths due to residents walking by and from the proposed development. There are no street lights, and these must be added to provide visibility. The current entrance to the development on Kirklington Road is situated on a bend that would impact on the safety of residents using this junction. The current 30 mph speed restriction on Kirklington Road does not include the area where the development entrance sits. The Parish Council would like see the entrance to the development re sited to a safer position and that the 30 mph speed restriction extended past the development entrance down to Wycar Leys Care Home.
- For many years residents of Bilsthorpe have raised concerns with the risks involving the junctions that take traffic out of the village onto major trunk roads.
- The Mickledale Lane junction with the A614 has recently had “improvements” in the form of pedestrian islands, which in fact reduce visibility for road users, reduced speed limit to 50 mph and better lighting. Traffic from Mickledale Lane can go left, straight over or right with right turn lanes directly on the junction for traffic turning into Inkersall Lane/Limes Café or Bilsthorpe. At peak times queues form due to the volume of traffic, it being a direct route from the A1 to Nottingham, and the inadequacy of the junction.
- The Farnsfield Road junction with the A617 is a busy road that links the A1 with the M1 and is a major route for traffic from the A1 to Mansfield. It has poor visibility due to bends both left and right of the junction. Recently the speed limit has been reduced to 50mp which has helped however vehicles due tend to speed on that road.
- Residents say they feel land locked at peak times, feel extremely stressed when using these junctions and talk of experiencing and witnessing near misses on a regular basis.
- A petition of 1039 residents concerns regarding the major junctions is currently with NCC, NSDC and local MPs and County Councillors.
- The development of the Thoresby Colliery site, at Edwinstowe, with a potential for up to 800 houses is concerning for Bilsthorpe residents who feel the impact on the A614/ Mickledale Lane junction will worsen the risks and dangers experienced.
- Bilsthorpe Parish Council, while in principle welcomes development of the village, has major concerns regarding all the points raised in this document and ask that this is considered in any current or future planning applications and that these issues can be addressed as soon as possible. At the meeting on Monday 9<sup>th</sup> July 2018 the Parish Council voted to object to the application, along with the above comments

**NCC Highways Authority – Additional comments received 29<sup>th</sup> April 2019:**

Since our initial observations in June 2018, Highways have been working with the applicant’s consultant to agree the assessment parameters and then to achieve highway works to make the access acceptable.

The main obstacle in achieving a suitable access were the measured 85<sup>th</sup> percentile speeds as presented in the Transport Assessment of 53mph from the northwest and 54mph from the southeast.

The maximum available visibility splay across highway land/land within the control of the applicant is approximately 100 metres to the southeast and this, combined with the speeds from this direction resulted in asking for consideration of a roundabout junction. This met highway design requirements, but took a significant amount of development land, and with viability already being a potential issue, this junction type was likely to mean that development would not go ahead.

We have therefore agreed a scheme which aims to reduce vehicle speeds in both directions by virtue of a gateway treatment to the southeast and a junction buildout to the northwest – currently the majority of vehicles travelling southeast along Kirklington Road vehicles are observed to turn left from Farnsfield Road, without braking and by preventing this, speeds will be subsequently influenced and reduced on approach to the site.

The buildout also serves to widen the inadequate footway width at the bend, ensuring that the development is well connected to the village centre and re-sites the existing bus stop further from the junction.

The Parish Council support the proposed removal of the brick-built bus shelter and have also requested a footway connecting the site to the bus stop to the south of Kirklington Road, which serves the more frequent bus route.

The junction form is a priority junction with a ghost island, which will protect right turning vehicles and also include a pedestrian refuge to mitigate against the increased crossing width for pedestrians crossing from the southwest to access the footway.

Please note that the visibility splay to the southeast is obstructed by the indicative internal layout, which will not be acceptable. Furthermore, this layout is within adopted Highway and we will not support extinguishing Highway here.

Furthermore, details of the layout have not been properly assessed.

Accordingly, we have no objections to the proposal, subject to the following conditions:

1. The development shall be limited to include up to 136 residential dwellings unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that traffic generated by the proposed development is commensurate with the ability for the adjacent highway infrastructure to safely accommodate the additional traffic, in the general interest of highway safety.

2. No dwellings shall be occupied until the highway works shown indicatively on drawing number 1936-F06 Revision E are provided.

Reason: In the interests of Highway Safety

3. No more than 50 dwellings shall be constructed until a 2 metre footway enabling a connection to bus stop NS0602 is provided on the east side of Farnsfield Road, in accordance with details to be first submitted and approved in writing by the Local Planning Authority.

Reason: In the general interests of Highway Safety and sustainability of the development.

4. The reserved matters for the layout for the development hereby permitted shall include detailed information including all key dimensions of road and footway widths, junction and forward visibility splays and shall be accompanied by swept path analyses of an 11.6m refuse vehicle throughout. The layout shall be in accordance with the Design Guide effective at that time. (For the avoidance of doubt the submitted Master Plan (P-P01) and Design & Access Statement shall be considered to be for indicative purposes only).

Reason: To ensure the development is designed to adoptable standards in the interests of Highway safety.

Additional comments received 2<sup>nd</sup> August 2018:

As clarified in the meeting, these are not 2 sets of observations from Highways. The one dated 26th June is from NCC Planning Policy and sets out various policy requirements. It specifies that comments from the Highway Authority are not included and conversely the comments from Policy cannot be addressed via Highways (as confirmed further on in this response).

The trip generation has been reduced by 28% in the am peak and 35% in the pm peak. This is a significant reduction.

Whilst doubtful in the majority of areas, such a reduction is considered very unlikely to have taken place in Bilsthorpe, a remote village with poor public transport links.

The trip rates are increased by 98% in the am peak and 74% in the pm peak which is not considered to be a slight increase.

The previous trip rates were used as a comparison. However, the count submitted for Meadow Grove demonstrates the following trip rates:

Time period	Trip Rate (Meadow Grove)	2-way Traffic Count (Kirklington Road)
07:00 – 08:00	0.9	151
07:15 – 08:15	0.75	170
07:30 – 08:30	0.8	182
07:45 – 08:45	0.75	185
08:00 – 09:00	0.65	182

The actual peak derived from the 2-way traffic count on Kirklington Road supplied is between the hours of 07:45 and 08:45 with a trip rate from a directly comparable site of 0.75. Therefore the previously approved trip rates from 2009 are now considered to be on the low side.

We need an assessment of ALL destinations, not just those with 10 or more trips as this methodology does not give a true representation. Please provide an assessment of this.

Trip rates still need to be agreed to establish the resultant impact.

To confirm, we do not yet accept that the development will not have a material impact on surrounding junctions. This is still subject to acceptable trip rates and traffic assignment.

The visibility splay to the northwest and southeast of the site is indicated on Drawing Number 1936-F01 rev B at 120 metres to the west and 90 metres to the east respectively. (Note that the splay to the southeast is measured to the centreline with no mitigation).

However, the speed surveys supplied indicate approach speeds of 53mph and 54mph accordingly and therefore these splays are not adequate, in particular the one to the southeast, where DMRB is the appropriate standard to use, requiring a visibility splay of over 160 metres.

Approximately 120 metres is available in both directions (see sketch below). This has been measured within highway land (see excerpt below – highway shown in the more vivid green. Through this exercise it has now been noted that some of the layout appears to be on highway land, which has been advised to the relevant parties).

This available visibility is one-step below desirable minimum but the speed is significantly in excess of what we would anticipate towards a residential development access. We therefore require provision of more substantial mitigating measures in both directions. Please note that a Vehicle Activated Sign is not considered appropriate due to their unreliability.

It was stated that we would consider offsetting the works against the required Planning Obligation Strategy monies. However, in order to make the development safe and sustainable (thereby acceptable) footway improvements are required to be provided as part of the development. A proposed scheme needs to be drawn up to enable us to make an assessment of the acceptability of the works and the discount allowable.

It was suggested during the meeting that there were no bus services, other than school bus services travelling along Kirklington Road, in which case a bus stop would probably not be required. We advise that Public Transport should be consulted, and if they agree, there would be no requirement for a bus stop adjacent to the development.

It should be determined if the development is within 400 metres of the nearest active bus stop for reasons of sustainability.

This is not the case. This is a requirement of Public Transport, as requested by NCC Planning Policy and still stands unless advised otherwise by Policy.

Original comments received 13<sup>th</sup> June 2018:

The above application reserves all matters other than access. We do not support the application for development as submitted, for the following reasons:

A Transport Assessment (TA) has been submitted alongside the application. We have issues with the findings of this, as follows:

- The trip rates for the residential development appear to be very low and the trip rates for the existing employment use appear inflated, which gives a distorted assessment of the impact of the development.
- In this location with a poor bus service residents will rely on car use and therefore we would anticipate a more robust trip rate, using the TRICS Good Practice guidance.



- It is not clear why the derived trip rates are relatively low for the residential and high for the employment use. It may be in part to do with sites in London and Ireland have been removed from the selections. This belies the TRICS Good Practice Guide which states:

*“The TRICS Good Practice Guide provides guidance on the selection/deselection of sites by area and region. It is preferred that selection/deselection of sites is undertaken by considering various local factors, including location type, population levels, car ownership, etc, with the deselection of regions not taking place without these factors being considered. Research undertaken by TRICS investigated potential variations in trip generation by region, with the results suggesting that there were not any conclusive differences when picking out various regions and areas. Cross-region data inclusion should therefore be the norm rather than the exception, with the correct filtering of various data field criteria being of most importance.”*

The TA refers to development previously consented, for 74 dwellings (08/01746/FULM). The TA supporting this application (by SBA) established trip rates/traffic generated for the existing use and the residential use. The table below compares the differing rates between this application and the current (by Croft):

USE		Trip rate			Numbers of trips		
		Arrivals	Departures	2-way total	Arrivals	Departures	2-way total vehicles
Existing employment <b>SBA RATES</b>	AM	0.201	0.049	<b>0.25</b>	50	12	<b>62</b>
	PM	0.039	0.173	<b>0.212</b>	10	43	<b>53</b>
Existing Employment <b>CROFT RATES</b>	AM	0.329	0.165	<b>0.494</b>	82	41	<b>123 (+61)</b>
	PM	0.097	0.273	<b>0.37</b>	23	68	<b>92 (+39)</b>
Previously Approved Residential 74 Dwellings <b>SBA RATES</b>	AM	0.169	0.472	<b>0.641</b>	13	35	<b>48</b>
	PM	0.448	0.247	<b>0.695</b>	33	18	<b>53</b>
Residential (74 Dwellings) <b>CROFT RATES</b>	AM	0.115	0.342	<b>0.457</b>	9	25	<b>34 (-14)</b>
	PM	0.302	0.155	<b>0.457</b>	22	12	<b>34 (-19)</b>
Previously Approved Residential <b>SBA RATES for 136 Dwellings</b>	AM	0.169	0.472	<b>0.641</b>	23	64	<b>87</b>
	PM	0.448	0.247	<b>0.695</b>	61	34	<b>95</b>
Proposed Residential 136 Dwellings <b>CROFT RATES</b>	AM	0.115	0.342	<b>0.457</b>	16	47	<b>63 (-24)</b>
	PM	0.302	0.155	<b>0.457</b>	41	21	<b>62 (-33)</b>

When considering what appear to be more realistic trip rates provided for the previously consented development, the following figures are given:

	AM	PM	Total
Existing use	<b>62</b>	<b>53</b>	115
Proposed 136 Residential	<b>87</b>	<b>95</b>	182
Impact of proposed development (vehicles generated in peak hours)	<b>+25</b>	<b>+42</b>	<b>+67</b>

With trip rates revised to something which we could consider acceptable, the development is likely to have an impact on highway which would require assessing.

- Please note that the use of crashmap accident data is not acceptable as it is out of date and frequently inaccurate. Once the area requiring assessment is identified (in conjunction with Highways), accident data for this should be acquired from Viaem ([contactus@viaem.co.uk](mailto:contactus@viaem.co.uk)).

*We have a number of concerns regarding the proposed access as follows:*

- The proposed point of access almost forms a crossroads with Meadow Grove. This layout creates additional conflicts between turning streams and so the proposed access should be re-sited to form more of a stagger.
- The visibility at the development access has been shown as one appropriate for 30mph. However, in this location speeds have been demonstrated in the TA to be significantly higher. The existing 30mph speed limit should be extended further to the southeast to encourage lower speeds past the development. However, this alone is unlikely to achieve 30mph speeds and the visibility splay should be provided in accordance with the current 85th%ile speeds with suitable engineering measures incorporated to try to reduce speeds.
- The visibility splay passes through the proposed bus stop layby. When buses alight, they will obstruct visibility. The bus stop should be re-sited outside of the visibility splay.
- There is a footway on the north side of Kirklington Road only. This is narrow and not to current standards which is of concern, particularly in light of it being the only route into the wider village and the school from the development. This should be upgraded to 2 metres along the whole development frontage and as far as Farnsfield Road, maintaining an appropriate carriageway width, to support the residential development of this site. The cost of this could be offset against the required contribution under the Planning Obligation Strategy (which can be calculated once appropriate trip rates are agreed).
- A secondary access is not required for developments with less than 150 dwellings so the emergency access should be removed, due to difficulties in preventing normal vehicular access. 2 x 2 metre minimum visibility splays should be provided at the intersection of the footpath (/cycleway? – what does this link to?) and footway.

*The applicant may wish to note the following when considering the layout at a future stage:*

- There are a number of cul-de-sacs proposed with 4.8 metre carriageways with no footways. This is not acceptable as it does not meet any standards. Please refer to the 6Cs Design Guide for appropriate standards. Please note that we do not support the use of shared surfaces in standard layouts (such as the one indicated).
- The road layout is not designed to keep speeds to 20mph. Please see Section DG5 of the 6Cs Design Guide.
- The drawing should identify which roads, if any are intended to be private.
- For private developments of six dwellings or more, we will normally serve a notice with an assessment of the cost of the proposed roadworks under the Advance Payment Code (APC), to protect frontagers' interests. The cost of this will reflect the cost of the proposed street works and you should construct the works to an appropriate standard.

- Private roads greater than 25 metres in length require a turning head and a bin store adjacent to Highway as refuse vehicles will not enter private drives.
- We require the drawings to be dimensioned and include visibility splays at junctions and around bends.

**NCC Strategic Planning** – Thank you for your letter dated 29th May 2018 requesting strategic planning observations on the above planning application. I have consulted with my colleagues across relevant divisions of the County Council and have the following comments to make.

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 Nottinghamshire, these areas are defined in the emerging Nottinghamshire Minerals Local Plan and supported by Policy DM13, which also covers prior extraction.

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.

### *Strategic Highways*

The Transport Assessment supporting this planning application concludes that there is not judged to be any significant off site highway impact. However as has been communicated previously at the pre application stage some of the traffic generated by proposed development site is likely to pass through the A614 / Mickledale Lane junction which has a poor operational and safety record. This application for residential development in Bilsthorpe will, in combination with other proposed and committed development in the village and elsewhere in the district, likely lead to a severe detrimental impact at the A614 / Mickledale Lane junction. As a consequence the improvement to this junction is included on the NSDC CIL 123 schemes list of junctions to be improved and funded from CIL receipts.

This scheme is not however currently a priority for implementation and does not feature in any current construction programme of the highway authority. The district council should be reminded that there will be a detrimental highway impact arising from this planning application if approved and that the district council should consider whether to spend CIL receipts on improving the A614 / Mickledale Lane junction as a matter of priority.

### *Rights of Way*

Appendix 1 sets out the working copy of the Definitive Map, indicating the recorded public rights of way in the vicinity of the proposed development site, for your reference. No public rights of way are recorded adjacent to or over the proposed development site. This does not preclude unrecorded public rights being proven to exist at a later date.

These comments have been provided by Via East Midlands Limited, on behalf of Nottinghamshire County Council, through Via's continuing role of providing operational services on behalf of the County Council.

### *Travel and Transport*

#### *General Observations*

The planning application covers an area of land situated to the North of Kirklington Road in the village of Bilsthorpe, this application seeks permission for the development of up to 136 residential dwellings. The proposed access point appears to be from a new junction onto Kirklington Road. The closest current bus stops are approximately 400 metres from the centre of the site on Kirklington Road and Farnsfield Road.

It is noted that the plans include provision for a bus lay-by. Whilst Transport and Travel Services (TTS) welcome the option of a bus stop layby on Kirklington Road, the current level of service operating along that route would not warrant such an investment. TTS would request that a bus stop contribution would be better spent on improving the existing bus stop infrastructure on Farnsfield Road, close to the site, which is served by regular services.

#### *Bus Service Support*

Transport & Travel Services has conducted an initial assessment of this site in the context of the local public transport network. Two commercial services pass within close proximity to the site, operated by Stagecoach: Service 28b operates between Mansfield and Eakring whilst the Sherwood Arrow service links Bilsthorpe with Nottingham and Ollerton. This service also operates to Worksop and Retford on alternate hours.

At this time it is not envisaged that contributions towards local bus service provision will be sought.

#### *Current Infrastructure*

The current infrastructure observations from Transport & Travel Services photographic records are as follows:

- NS0018 Farnsfield Road- Both Ways Bus Stop Pole, Brick Bus Shelter and Raised Boarding Kerbs.
- NS0888 Farnsfield Road- No Infrastructure.
- NS0602 Farnsfield Road- Bus Stop Pole.
- NS0022 Farnsfield Road- Bus Stop Pole.

Transport & Travel Services would request a contribution via a Section 106 agreement for Bus Stop Improvements to the value of £17,000. This will be used towards improvements to the above bus stops to promote sustainable travel.

### *Justification*

The current levels of facilities at the specified bus stops are not at the standard set out in the Council's Transport Statement for Funding. Improvements are necessary to achieve an acceptable standard to promote sustainable travel, and make the development acceptable in planning terms. The above contribution would improve the standard of bus stop infrastructure in the vicinity of the development and could be used for, but not limited to; Real Time Bus Stop Poles & Displays including Associated Electrical Connections, Extended Hardstands/Footways, Polycarbonate or Wooden Bus Shelters, Solar Lighting, Raised Boarding Kerbs, Lowered Access Kerbs and Enforceable Bus Stop Clearways.

The improvements would be at the nearest bus stops which are situated close to the site, so are directly related to the development, and are fairly and reasonably related in scale and kind to the development (136 dwellings).

### Developer contributions

Should the application proceed, the County Council will seek developer contributions in relation to its responsibilities in line with the Council's adopted Planning Obligations Strategy and the Developer Contributions Team will work with the applicant and the Local Planning Authority to ensure all requirements are met. Please contact Andrew Norton, Developer Contributions Practitioner in the first instance ([andrew.norton@nottscc.gov.uk](mailto:andrew.norton@nottscc.gov.uk) or 0115 9939309) with any queries regarding developer contributions.

It is anticipated that details of any developer contributions sought by the County Council will be provided as soon as possible. Any developer contributions sought will be necessary in order for the proposed development to be considered acceptable and as such the County Council will wish to raise objections to this application unless these contributions will be secured.

Should any developer contributions be sought in relation to the County Council's responsibilities it is considered essential that the County Council is a signatory to any legal agreement arising as a result of the determination of this application.

### 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 Developer Contributions Practitioner -**

The Education Act 1996 dictates that Nottinghamshire County Council has a duty to secure school places for all children of statutory school age who are resident in the county and whose parents

want them to be educated in a Nottinghamshire state-funded school. Subsequent Education Acts have built upon this but the obligation placed on local authorities has not changed.

Funding for the provision of additional school places is derived from two sources:

1. An allocation from DfE (Education Funding Agency) to meet demand from the families occupying existing housing stock. Increasing demand on places in this case is a direct result of either rising birth rates or a net inward migration.
2. Developer education contributions which are required to mitigate the impact of new housing developments on infrastructure.

### *Forecasting the demand for school places – the methodology*

The methodology employed by the County Council for forecasting pupil numbers is the same as that used by most other local authorities.

The County Council groups primary schools across the county into 'primary planning areas'.

Population profile data is aggregated to postcode and age group, which enables the numbers of children in each cohort to be mapped against school catchment areas. In turn, this data is aggregated to the primary planning areas. This provides the number of young people living in each planning area organised by National Curriculum Year.

The statutory school census data for an individual school for each of the past 3 years is compared to the corresponding population profile data for the planning area the school is in. This results in a 3 year period percentage intake from the planning area. These 3 percentages are averaged; however, the average is weighted towards the more recent census year.

This percentage is then applied to the appropriate population profile data for the next 5 years to create a first admission and infant to junior prediction for the following 5 years.

There is always a degree of movement into and out of schools throughout the year and this is calculated to produce a 'cohort flux' – for example, losses or gains between one school year and the next. The average cohort flux for each year group over the past 3 years is calculated for the school which is then applied to each cohort projection to predict numbers for the following year. The same methodology is employed to forecast the demand for secondary school places.

### *Demographic changes*

In line with the underlying national trend, Nottinghamshire has seen an increase in birth rates across the county since 2007. This is reflected in the overall school population but is particularly well illustrated in the numbers of primary age children (Figure 1).

The total primary number on roll (NOR) had seen a steady decline in numbers between 2001 and 2010 but subsequent years have seen a sharp increase in total numbers to the school year 2016/17.

The numbers of 4 year olds entering the school system show a sharper increase (Figure 2). Across the whole of the county, the number of 4 year olds began to increase around 2006.



Given the falling rolls of previous years, this sharp increase in numbers of 4 year olds did not impact on the county's overall ability to provide pupil places where they were needed. However, as smaller cohorts of older children are replaced by larger cohorts of young children, pressure on places inevitably increases. Figure 3 shows the cohort profile across the whole county in January 2017.

#### *Meeting expected demand resulting from proposed housing developments*

The County Council's consideration of whether or not developer contributions towards education provision are required will be informed by the projected demand for places compared with the known capacity figures. *Seemingly 'spare' capacity at a school does not necessarily equate to there being sufficient capacity at that school as it is a DfE expectation that schools should not operate at more than 90-95% of their capacity and NCC officers consider recent trends in in-year applications to ensure that a school is able, wherever possible, to accommodate the normal movement of families around the area. This does NOT include new families moving into an area as a result of them occupying newly built houses.*

The projected demand for places, taking into account the proposed development, are calculated during the planning application process using the formulae described in the County's planning obligations strategy. This, in turn, is translated into a funding requirement which is again detailed in the strategy as a per pupil place cost. Any costs to be paid to the County Council will be index linked through the Section 106 agreement.

Where a new development is proposed in an area with sufficient projected capacity, no financial contribution will be required; however, where the proposed development would result in insufficient projected capacity, a contribution will be required. There may be a requirement, in some cases, for the provision of a completely new school. This is likely to be the case if the proposed development is in an area where all schools have already been expanded to reach their site capacity, or where the development is large enough to sustain its own school. Where a new school is required, the base level of contribution required will be an appropriate area of land for the required size of school plus the cost of building the school.

If there is insufficient capacity to accommodate the increase in pupils likely to be generated by a development and the development itself cannot enable the necessary provision the County Council will raise objections to the development.

#### Analysis of the impact of application 18/00931/OUTM - on the education infrastructure which will serve the development

The proposed development is situated within the primary catchment area of Bilsthorpe Flying High Academy and the secondary catchment area of The Dukeries Academy. Although there is no guarantee that all families in the proposed new housing would apply for places in these schools, it is very likely that this will be the case, especially if families are unable to travel far to a school. The mitigation required is based upon this assumption but this is moderated by an analysis of the availability of places at all schools within the planning area.

The charts below illustrate:

- the projected total demand for places in the **catchment** area
- the first admissions places allocated

- the projected demand for places in each cohort for the next 5 years

The total projected demand for places typically masks the pressure on first admissions places in the planning area resulting from the increased birth rates in recent years.

The above data clearly illustrates the pressure on school places in the Bilsthorpe Flying High catchment area. There is no capacity to accept more children.

### *Secondary*

The proposed housing development is within the catchment of The Dukeries Academy for which any contributions would be covered under CIL regulations. However current projections show there are sufficient places available in the Dukeries Academy to accommodate the additional children covered in this education statement.

### Conclusion

Nottinghamshire County Council therefore have no alternative but to request primary education contributions from any proposed housing development on Noble Foods The Moor Bilsthorpe.

A proposed development of 136 dwellings would yield an additional 29 primary and 22 secondary places.

We would therefore wish to seek an education contribution of £332,195 (29 x £11,455) to provide primary provision to accommodate the additional pupils projected to arise from the proposed development.

Please note the cost per place may change if a number of developments come forward in an area which will require master planning and will result in an extension to an existing school or a complete new school build with land. For working purposes both secondary and primary contributions per pupil place would increase in those circumstances to c£20,000

The information above is given on the understanding that it is based on the best information available to Nottinghamshire County Council at the time. District Council colleagues are advised to contact the County Council again in the future if they require a 'project' to be named. None of the information above should be used to denote a project.

*Comments received 10<sup>th</sup> July 2018 in respect to Library contributions:*

#### 1. Background

The County Council has a statutory responsibility, under the terms of the 1964 Public Libraries and Museums Act, to provide "a comprehensive and efficient library service for all persons desiring to make use thereof".

In Nottinghamshire, public library services are delivered through a network of 60 library buildings and 3 mobiles. These libraries are at the heart of our communities. They provide access to books, and DVDs; a wide range of information services; the internet; and opportunities for learning, culture and leisure.

The County Council has a clear vision that its libraries should be:

- modern and attractive;
- located in highly accessible locations
- located in close proximity to, or jointly with, other community facilities, retail centres and services such as health or education;
- integrated with the design of an overall development;
- of suitable size and standard for intended users.

Our libraries need to be flexible on a day-to-day basis to meet diverse needs and adaptable over time to new ways of learning. Access needs to be inclusive and holistic.

## 2. Potential The Moor, Bilsthorpe development

There is currently a proposal for a new development on land off The Moor, Bilsthorpe, this would comprise 136 new dwellings. At an average of 2.4 persons per dwelling this would add 326 to the existing libraries' catchment area population. The nearest existing libraries to the proposed development is Bilsthorpe Library.

The Museums, Libraries and Archives Council (MLA) publication "Public Libraries, Archives and New Development: a standard approach" recommends a standard stock figure of 1,532 items per 1,000 population.

We would not seek any costs towards increasing the size of the library to accommodate this population but for this development a contribution will be sought just for library stock. An increase in population of 326 would put more demand on the stock at this library and a developer contribution would be sought to help mitigate the impact of this development. The current library stock level is 14 items above the optimum stock level (see overleaf), this figure will be deducted from the 106 contribution (see calculations below).

We would seek a developer contribution for the additional stock that would be required to meet the needs of the 326 population that would be occupying the new dwellings. This is costed at  $326 \text{ (population)} \times 1.532 \text{ (items)} - 14 \text{ (items above optimum stock level)} = 485$   $[499 - 14] \times \text{£}12.50 \text{ (cost per item)} = \text{£}6,062$

### Library Optimum Stock Levels

LIBRARY	District	Catchment Popn Est (2017)	Total Lending Stock	Ref Stock	Reserve stock	Total Stock	Optimum Stock figure	Difference Optimum vs Actual stock
BILSTHORPE	Newark	3745	5677	71	3	5751	5737	+14

**NSDC Parks and Amenities** – No comments received.

**NSDC Strategic Housing** – I calculate 40 affordable on this site and would be seeking the following:-

	Rent	S/O	
1 bed	4*	-	4

2 bed	16	8	24
3 bed	4	8	12
4 bed plus			
	24	16	40

\*2 beds acceptable should 1 beds not be suitable on the proposal.

The need (identified in the DCA Housing Needs Study 2014) in the social sector for this area (Sherwood sub area that includes Bilsthorpe) is for 1 and 2 beds (83 and 250 respectively) and no need for 3 beds. However, that said, the Council receives a good number of bids for three beds and on this basis I am happy to include some in the mix. In all the Council's sub areas in the study there is demand for bungalows and whilst the Council developed 25 in 2016 there is still a demand. I would be happy to see 2 or four included in this scheme.

The majority of the need in the market sector is for 2 beds (144) and 3 bed (111). There is also demand for larger properties (63 x 4 beds and 52 x 5 beds). There is a need overall for bungalows in the market sector and I would of course like to see some of these on this development for market sale as there is an undersupply of this type of dwelling.

**NSDC Environmental Health (noise)** – No comments received.

**NSDC Environmental Health (contaminated land)** - With reference to the above development, I have received a Phase 1 Geoenvironmental Desk Study report submitted by the consultant (Card Geotechnics Ltd) acting on behalf of the developer.

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

The report then goes on to propose an appropriate preliminary conceptual site model. Due to the sites former use as an egg processing factory, several potential pollutant linkages have been identified. As a result the report recommends that a Phase 2 intrusive investigation (to include gas monitoring) is carried out.

I generally concur with the assessment and would therefore recommend the use of our full phased contamination condition.

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

**NSDC Conservation** - The application site is located at the edge of Bilsthorpe. There do not appear to be any heritage assets within the development site or in proximity. In the wider landscape, Bilsthorpe Conservation Area is located approximately 400m to the north.

We do not wish to make any formal observations in this case, but refer you to the special duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to preserve the setting of listed buildings, as well as advice and guidance contained within CP14 and DM9 of the Council's LDF DPDs, and section 16 of the NPPF (revised 2018).

**NSDC Archeology Advisor** – *Additional comments received 8<sup>th</sup> August 2018:*

Many thanks for providing a copy of the archaeological Desk Based Assessment for my consideration.

This site is disturbed in part and has no known archaeology within its boundaries, which may be because of lack of survey on this site rather than an absence of archaeology.

The report demonstrates that there are archaeological remains in the area and it is possible that this archaeology extends into this site.

I would ordinarily request as geophysics survey as a non-intrusive way to identify any potential remains, but because this site has been previously developed this type of survey is not suitable.

Further information is required to inform any potential mitigation strategy but this could be provided post determination and secured by condition.

The recommended work will be for some trial trenches to be evaluated in advance of any work beginning on site, and a mitigation strategy should be produced to ensure the appropriate level of recording of any archaeology on site. This is more time /cost effective than a blanket monitoring condition across 168 houses.

Recommendation: Prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction. Initially I envisage that this would trial excavation which would result in an appropriate mitigation strategy which will then be used for any further appropriate archaeological work.

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

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

*Original comments received 12<sup>th</sup> June 2018:*

This application is for a large new development, there is not enough information supplied by the applicant regarding the potential impact on the Historic Environment. There is insufficient information regarding the proposal's impact on the setting, on the archaeological potential of the site, or of the proposed impact of the development. This information should be supplied in the form of a Heritage Statement, as detailed below.

This absence of information on the significance and proposed impact upon designated and non-designated heritage assets is not in accordance to the National Planning Policy Framework.

'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.' National Planning Policy Framework Section 12, para 128.

The developer should expect, if this application continues, to undertake as a minimum nonintrusive archaeological surveys, and depending on results trial excavation prior to determination.

**Natural England** - Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

**Nottinghamshire Wildlife Trust** - Thank you for consulting Nottinghamshire Wildlife Trust on the planning application detailed above. We have studied the Risk-based Assessment to Birds Protected under Annex 1 of the Birds Directive (Collins 2018) and have the following comments to make.

#### *Section 4.4.2 Little Ringed Plover*

The site was assessed for the potential to support Little Ringed Plover. The assessment concluded that the potential to support this Schedule 1 species was deemed very low, principally, it seems, due to water on site being seasonal. We agree that small shallow areas of water are an important habitat component for little ringed plover but we are of the opinion that the site could still provide nesting habitat. The breeding bird assessment was undertaken too early in the season to record little ringed plover and so we advise a cautionary approach. If it is necessary to carry out land forming work, rubble removal and site clearance works such as hedgerow or shrub removal during the bird breeding season, then a bird survey should be carried out by a qualified ecologist prior to works going ahead to ensure that no active nests will be affected. If active nests are found

then work will have to be delayed until all chicks have fledged. Schedule 1 bird species are afforded additional protection and cannot be intentionally or recklessly disturbed when nesting.

**NCC Ecology** – No comments received.

**Cadent Gas** - Should you be minded to approve this application please can the following notes be included an informative note for the Applicant

Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) Tel: 0800 688 588

**Environment Agency** – I refer to the above application which was received on the 30 May 2018.

We have been provided with the following information to assess in relation to the potential risks to controlled waters:

- Card Geotechnics Ltd. Phase 1 Geoenvironmental Desk Study for The Moor, Bilsthorpe. Client: Noble Foods Ltd. Report No. CGL/04069 R0. Dated: March 2018.

From the information provided, the site is situated in a sensitive area in relation to controlled waters and is situated in a Groundwater Source Protection Zone 3 (SPZ 3).

From available mapping no drift geology is shown to be present on the site. The solid geology comprises Tarporley Siltstone (a secondary B aquifer). A borehole has been identified within the site boundary which identified Mercia Mudstone/Tarporley (Secondary B aquifer) to approximately 22m, overlying Keuper Green Bed clays (4m thick) overlying Chester Pebble Beds (3.5m thick) and Sherwood Sandstone Group extending to 47mbgl.

A watercourse runs along the eastern boundary of the site which discharges to a pond to the East of the site.

The report indicates that the historic site use was a works, egg processing factory and that demolition has been undertaken on the site with stockpiles present. Potential sources of

contamination identified including fuel tanks, substations, generator, chemical stores, incinerator, effluent treatment works, poultry sheds and an underground water treatment system.

Site investigation and risk assessment has been recommended to be undertaken at the site in relation to controlled waters. We concur with the conclusion that the use of infiltration or soakaway for surface water drainage is unsuitable on the site.

#### Environment Agency position

Potential sources of contamination have been identified on the site and a Phase 2 Site Investigation and Generic Quantitative Risk Assessment has been recommended to be undertaken on the site. We recommend that controlled waters should be assessed as part of these works including groundwater/surface water sampling and analysis for the contaminants of concern being undertaken.

There will be a requirement to remove historic underground storage tanks and historic related infrastructure as part of the proposed redevelopment works. The existing drainage system may also need to be investigated and decommissioned as part of these works.

The report states that no groundwater was identified or encountered within the on-site borehole, however the log shows significant quantities of groundwater were abstracted from 1961-1965 and our records show an abstraction licence was in place on the site from 1966 to 1972. Investigations should be undertaken to confirm the location and status of the on-site abstraction borehole and it should be decommissioned in line with Environment Agency guidance and best practice by a specialist contractor. A decommissioning report should be provided and submitted as part of the site remediation strategy report and as part of the verification plan.

A site specific piling risk assessment will also be required to be undertaken ensure that no creation of preferential pathways occurs during the piling works.

We consider that planning permission could be granted to the proposed development as submitted if the following planning condition is included as set out below. Without this condition, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

We note that the information submitted to-date satisfies the requirements of Condition 2 Part 1) requiring submission of a preliminary risk assessment.

#### Condition1

*Piling or any other foundation designs* using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details. Therefore a piling risk assessment will be required to be submitted in relation to the proposed development.

Reason

*Piling or any other foundation* using penetrative methods can result in risks to potable supplies



from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

The National Planning Policy Framework paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution.

Where deep foundations are proposed we recommend the developer follows the guidance set out within our document 'Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination' which is available on our website at the following address: <http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/scho0501bitt-e-e.pdf>

### Condition 2

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

all previous uses

potential contaminants associated with those uses

a conceptual model of the site indicating sources, pathways and receptors  
potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

### Reason

To ensure the protection of controlled waters.

National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should

contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

### Condition 3

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

### Reason

To ensure the protection of controlled waters.

National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

### Condition 4

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

### Reason

To ensure protection of controlled waters.

National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

## Informatives

The CL: AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

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

The Environment Agency recommends that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for further guidance.
- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

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

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information.

## Advice to LPA/applicant

New development is within 400m of an Noble Foods, Belle Eau Park Mill EPR/WP3534RW Installation site which *could result in the community at the proposed development being exposed to, odour and noise impacts*. The severity of these impacts will depend on *the prevailing weather conditions*. If the operator can demonstrate that they have taken all reasonable precautions to mitigate these impacts, the facility and community will co-exist, with some residual impacts. In some cases, these residual impacts may cause local residents concern, and there are limits to the mitigation the operator can apply. Only in very exceptional circumstances would we revoke the operators permit.

The Lead Local Flood Authority should be consulted regarding surface water disposal and whilst SUD's are welcomed parts of this site may not be suitable for infiltration on the basis that there

may be contamination present.

Please provide a copy of the subsequent decision notice.

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

**NCC Flood** - Current preliminary comments: No objections subject to the following:

- 1.1 Drainage from the site should be via a sustainable drainage system that aligns with The CIRIA SUDS Manual and Non – statutory technical standards. Compliance with these standards may have an impact on the viability of the site layout so must be considered as a priority.
- 1.2 If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests.
- 1.3 For brownfield areas that previously drained to sewers, the previous discharge rate should be reduced by 30% to allow for future climate change effects. Note that it is not acceptable to simply equate impermeable areas with discharge as it is the maximum discharge that could have been achieved by the site through the existing pipe system without flooding that is the benchmark to be used prior to a 30% reduction. An existing drainage survey with impermeable areas marked and calculations to determine the existing flow will be required as part of any justification argument for a discharge into the sewers from the site.
- 1.4 The site drainage system should cater for all rainfall events upto a 100year + 30% climate change allowance level of severity. The underground drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% cc event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.
- 1.5 Consideration must be given to exceedance flows and flow paths to ensure properties are not put at risk of flooding. These flow paths must be detailed on a plan
- 1.6 Any proposals to use SUDS must include details showing how these will be maintained to ensure their effectiveness for the lifetime of the development.

**Representations have been received from 11 local residents/interested parties which can be summarised as follows:**

*Principle of Development*

- A fewer number of bungalows are more suited to this end of the village;
- Concern of losing the peaceful nature of this end of the village and attracting anti-social behavior;
- Object to affordable houses built on or close to boundaries with existing dwelling – should be more expensive types so not a possible loss in value of house;
- The number of properties has not been shown to be needed in Bilsthorpe;
- The type of properties has not been shown to be in the interest of the local community;

- There has been no assessment on the impact on the village composition by adding 136 properties;
- The housing suggested does not appear to accommodate for disability.

#### *Impact on Infrastructure*

- The village does not have the infrastructure to cope with this number of houses;
- There are no supermarkets or shopping facilities and only one doctors surgery;
- There are no facilities for children;
- The proposal will put pressure on the village school;
- Public transport is limited;
- The library only opens on a part time basis;
- Bilsthorpe relies on local residents to pick up litter constantly thrown out of passing vehicles;
- The nearest amenities are some distance away;
- Public transport is relatively poor and therefore residents will use vehicles;
- Bilsthorpe requires investment in business and infrastructure more than additional housing as there is a lack of job opportunities;
- There have been other significant residential development put forward within the village;
- The existing drains are insufficient.

#### *Impact on Highways*

- The road is very busy at times with vehicles travelling at speed;
- Heavy goods vehicles and movements would be a dangerous hazard to neighbours;
- Many vehicles enter the village at up to 50 mph despite the speed limit change;
- The development would generate an additional 300-400 vehicles entering Kirklington Road;
- The 30mph speed limit should be moved further east;
- It is a pity that the access road has not created a mini roundabout with Meadow Grove;
- There have been recent accidents with cars turning from Meadow Grove;
- It is often difficult to cross the road which is dangerous for children and infirm;
- The entrance so close to Meadow Grove will be a danger to road users – the access should be where the existing main entry / exit to Noble Foods is situated;
- The numbers for trip rate seems very low;
- The number of vehicles could be approx. 500;
- Old Bilsthorpe is already overcrowded with cars;
- The road will become even more congested and dangerous – especially on the section from the bus shelter at The Moor to the exits for the A617 toward Southwell and Newark;
- From Meadow Grove walking towards the village there is no pavement without crossing the road;
- There are no speed awareness signs;
- The location of the proposed site does not appear to meet the requirements for highways highlighting danger and challenges of the site and access;
- The vast majority of people exceed the 30mph speed limit;
- When there are accidents on the A617 / A614 the police divert all traffic on the road.

#### *Impact on Character*

- There would be a visual impact through the dismantling of the existing tree line.

#### *Impact on Ecology*

- There is suggestion that the proposal would impact on schedule one bird species;
- The development should be rejected until a comprehensive assessment has been carried out.

#### *Impact on Amenity*

- There are two pumping stations next to neighbouring properties – there are no details what impact these would have including in terms of noise.

#### *Other Matters*

- Land on the site is potentially contaminated with possible asbestos;
- Some residents were not consulted by the community engagement quoted.

#### Comments of the Business Manager

##### Principle of Development

The Core Strategy outlines the Spatial Strategy for the District setting a hierarchy for the preferential areas for further development. This essentially focuses the intention for further development within the Newark Urban Area (as a Sub-Regional Centre) in the first instance before cascading to Service Centres such as Ollerton and Boughton and then Principal Villages of which Bilsthorpe is acknowledged as being. It is appreciated that the comments received from neighbouring parties raise concern that Bilsthorpe does not have the facilities to support additional development, but for the avoidance of doubt, Officers consider Bilsthorpe to be a sustainable settlement. Clearly any additional pressure on existing facilities should be addressed by the necessary developer contributions which are discussed later in the report.

The implications of this are that the Allocations and Development and Management DPD includes policies specific to permit further growth within Bilsthorpe including through the allocation of sites on a Proposals Map.

Part of the site forms the housing allocation 'Bilsthorpe – Housing Site 2.' This policy envisages residential development of the site for around 55 dwellings subject to appropriate design to address the site's gateway location and managing the transition into the main built up area. The policy also outlines a need to consider the phasing of development in relation to the cessation of the employment use on the adjacent site. It is noted that this employment building/use has been demolished since the preparation of the policy. Whilst an application for outline development was approved on the site allocation in October 2013, this has since time expired in the absence of a subsequent reserved matters submission.

The remainder of the site is shown on the Proposals Map as a site with planning permission. Indeed as is outlined by the planning history above, this part of the site previously had permission for the erection of 77 dwellings following the demolition of the factory on the site. However the permission is no longer extant. Nevertheless, the fact that the site has previously obtained planning permission for residential development; is outlined on the Proposals Map as a Housing

Site; and moreover falls within the village envelope where development is acceptable in principle, means that the overall principle of development for residential delivery is acceptable.

It is noted that at the time of publication of the Allocations and Development Management DPD, the LPA envisaged that the site area subject to the current proposal would deliver around 132 dwellings. The marginal increase to up to 136 as outlined by the current scheme is not considered significant nor indeed fatal. The allocation process was not intended as a ceiling to development quantum so long as proposals meet the remainder of the Development Plan policies. As such an increase in residential delivery could be considered acceptable.

### Housing Type and Density

Core Strategy Core Policy 3 indicates that housing developments should be no lower than an average of 30 dwellings per hectare and that sites should provide an appropriate mix of housing types to reflect local housing need. The housing mix, type and density will be influenced by the council's relevant development plan policies and the housing market at the time of delivery.

On the basis of a net developable area of 4.6 hectares, the delivery of 136 dwellings would equate to a residential density of almost 30 dwellings per hectare in compliance with Core Policy 3. The Planning Statement includes a table outlining a proposed housing mix as follows:

**Table 1: Proposed Housing Mix**

<b>House Type</b>	<b>Number of Bedrooms</b>	<b>Number of Storeys</b>	<b>Quantity</b>
A	2 bed, 4 person	2 Storey	42
B	3 bed, 5 person	2 Storey	58
C	4 bed, 6 person	2 Storey with Garage	6
D1	4 bed, 7 person	3 Storey with Garage	5
D2	4 bed, 7 person	3 Storey with Garage	19
E1	5 bed, 8 person	3 Storey with Garage	6
		<b>Total</b>	<b>136</b>

I note the currently indicative housing mix demonstrates a focus of 2 bed (31%) and 3 bed (43%) dwellings and dwelling heights up to 3 storeys. As is outlined by the comments of the Strategic Housing Officer (listed in full above) there is a need in the social sector for 1 and 2 beds and no need for 3 beds. There is also a demand for bungalows. Indeed the consultation comments received also reference a need for bungalows in this part of the village. It is however confirmed that the need in the market sector is for 2 and 3 beds and also a demand for larger properties. The above mix would therefore go some way to address market needs.

Notwithstanding the above, the design solution which is developed for submission as part of a future reserved matters application may well comprise a significantly different mix, type and density of dwellings on site to that outlined at this stage. The comments of the Strategic Housing Officer have been passed to the agent during the life of the application for future consideration. As such no firm conclusions can be reached at this outline stage regarding these matters; however the applicant would need to address the requirements of the development plan and to address local need at that time. These matters would be controlled through the reserved matters process where due consideration would be provided to the relevant planning policies and guidance to deliver a high quality housing scheme. Overall I am satisfied that the applicant has demonstrated that it would be possible to development the site for 136 units whilst offering an appropriate mix and density.

## Impact on Character

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 (LCA) 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 recognized a series of Policy Zones across the 5 Landscape Character types represented across the District.

The application site falls within the Mid Nottinghamshire Farmlands Policy Zone 27: Kirklington Village Farmlands. The zone is recognized as being a rolling and undulating landform with dry valleys. Land use is predominantly arable with boundaries generally being hawthorn hedges. It is recognised that further urban development, particularly in Bilsthorpe is one of the drivers for change in the area. Overall the landscape condition is considered to be very poor with a moderate landscape sensitivity. In respect of built features, one of the landscape actions is to create new areas of planting in order to minimize the impact of industry on the character of the Policy Zone.

I appreciate that the current application does not relate to an industrial use (and indeed would occupy a site historically used for industry) but the policy allocations which relate to part of the site refer to a need for, *'an appropriate design which addresses the site's gateway location and manages the transition into the main built up area'*. I interpret this to potentially include either the retention of, or creation of additional planting areas.

In this respect, the incorporation on the indicative site plan of what appears to be a relatively strong landscape buffer along the eastern boundary of the site is considered beneficial in terms of assimilating the built form of the development into the existing settlement on approach from the open countryside. Equally the areas of open space demonstrated throughout the site would aide in fragmenting the character impacts of built form from within the site.

There is no doubt that a scheme for residential development as proposed would alter the existing character of the site. The development would necessitate not only the built form of the dwellings, but also internal infrastructure such as the road network and boundary treatments between the dwellings and on the boundaries of the site itself. It is noted however that the scheme would also include features of a more rural characteristic such as the areas of open space. Moreover, the application must be considered in the context that it is a brownfield site which has historically accommodated the built form of the now demolished factories. In landscape terms, the comprehensive redevelopment of the site for a residential would not be materially worse than the historic uses of the site. The proposal is therefore considered compliant with Core Policy 13 of the Core Strategy and the associated LCA.

## Design, Layout and Amenity

A minimum level of information is required in order to fully consider the implications of the proposals when outline applications are considered. In this particular case, the applicant has submitted a Design and Access Statement to present the potential design solutions for the site. In



addition to this an Indicative Masterplan has been presented to provide indicative details of how the site may be delivered. Although the scheme is in outline with only matters of access sought at this stage, it is relevant to consider the parameters of the development together with the Indicative Masterplan to gain a level of certainty that the quantum of development proposed can reasonably be accommodated on the site.

The overall acceptability of the layout will however depend upon the design solution proposed at a future reserved matters stage. The applicant will be expected to address detailed design issues in accordance with relevant development plan policies and the NPPF to ensure that a high quality scheme is achieved, which respects the characteristics of the surrounding area.

In respect of residential amenity, it is not possible to undertake a thorough assessment at outline stage. I note the comments of the Environment Agency in respect of the existing operation of the industrial site within 400m of the site which could have impacts in terms of odour and noise. In this context the 'Agent of Change' principle which has been introduced at paragraph 182 of the 2019 NPPF is considered of relevance. This paragraph states:

*"Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."*

Whilst no formal assessments have been submitted to explore these impacts at this stage, I am satisfied that in the context of the intervening distance and indeed the already indicated landscaping buffer there would be appropriate mitigation measures such that the dwellings when occupied would not be subject to undue amenity impacts in this regard.

Overall the indicative layout appears to demonstrate that the site could accommodate the quantum of residential development proposed giving appropriate distances between existing neighbouring properties but also giving proposed occupiers adequate private amenity provision in accordance with Policy DM5.

### Impact on Highways

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

The application seeks to agree matters of access. The original application submission detailed that the access had been designed in the position of previously approved applications which have now time expired. The junction was proposed to be located to the south of the junction with Meadow Grove with a 5.5m road width and 2m wide footways. A suggestion of reducing the speed limit to extend to the eastern end of the site is made to assist in reducing the speed of vehicles along Kirklington Road in the vicinity of the site.

As part of the original scheme, a new lay-by and bus stop was to be provided but it is nevertheless confirmed that there is a convenience store and bus stop within an 800m walk of the site. It is

notable that the comments of Nottinghamshire County Council request that any approval be accompanied by a S106 agreement which secures a contribution of £17,000 towards existing Bus Stop improvements to promote sustainable travel.

The NCC comments also make reference to the impact of the proposal on the A614 / Mickledale Lane junction accepting that if approved, this development, in combination with other proposed and committed development in the village and elsewhere in the District, would likely lead to a severe detrimental impact on this junction. The LPA understand that this junction has been a cause for concern for some time as evidenced by the comments of the Parish Council for this application but also for other residential schemes previously considered (and approved) in the village. However, as is also clarified by the comments of NCC Planning Policy, this junction is listed on the CIL 123 list for improvements. It is fully appreciated that the junction is not currently a priority on the list and indeed the Parish Council have canvassed for this to be re-considered in the past. It would not fall for the determination of this application to address existing highways safety issues. Notwithstanding that this application, if approved, would compound the overall impact on this junction, it is not appropriate to debate and consider the order of the CIL 123 list through the current application. Given that the works are included on this list, it would be inappropriate to resist the application purely on these grounds (indeed also acknowledging that the principle of residential development within the site has been accepted in some respects by the sites allocation).

Moving then to the specifics of the current application, NCC Highways team has commented on the proposal as the Highways Authority with their original comments listed in full above. These comments identified a number of issues with the application both in respect to the submitted Transport Assessment but also the positioning of the proposed access. This has been subject to lengthy negotiations and discussions throughout the life of the application with the latest position set out within the comments received 29<sup>th</sup> April 2019 (subsequent confirmation has been sought that the latest plan received 7<sup>th</sup> May 2019 does not alter the crux of the comments and is thus appropriate to be referenced in the recommend conditions).

During the discussions the potential for a roundabout access was suggested. However, given the significant amount of land take and matters of viability (discussed further below) this approach was subsequently discounted. What is now presented for consideration is a scheme which aims to reduce vehicle speeds in both directions by virtue of a gateway treatment to the southeast and a junction buildout to the northwest. This also serves to widen the footway width at the bend to allow connectivity with the village and the re-siting of the existing bus stop further from the junction. The junction form at the site is a priority junction with a ghost island, which will protect right turning vehicles and also include a pedestrian refuge to mitigate against the increased crossing width for pedestrians crossing from the southwest to access the footway.

NCC Highways latest comments do make some reference to internal layout elements which are shown indicatively but acknowledge that these are not for full assessment at this stage. Overall, on the basis of the lengthy discussions which have taken place during the course of the application, NCC Highways have confirmed that they have no objections to the proposal as now submitted, subject to conditions including those to secure the footway and bus stop improvements presented.

## Flood Risk and Drainage

The applicant has submitted a Flood Risk Assessment (FRA) as part of the submission in accordance with the requirements of NPPF and NPPG. The FRA indicates that the site is located entirely within Flood Zone 1 and as such is assessed as having less than 1 in 1,000 annual probability of river or sea flooding. The Sequential Test does not apply to residential development within flood zone 1 and as such the location of the proposed development is considered appropriate in terms of flood risk.

The report also considers development drainage stating that the existing drainage of the site currently drains to a watercourse to the east of the site. The intention is to retain this method of drainage but confirms that the proposed development will offer a 30% reduction to pre-development flows to ensure betterment to the existing drainage regime.

The application has been subject to consultation with NCC Flood Team as the Lead Local Flood Risk Authority. No objections have been raised subject to the consideration of drainage details which could be secured by condition.

## Impact on Ecology

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment.

The site is located within the 5km buffer zone identified in Natural England's Indicative core area & RSPB's IBA boundary for those parts of Sherwood Forest which meet the primary criterion for designation as an SPA, by virtue of the population of nightjar and woodlark exceeding 1% of the national total and that the Council must pay due attention to potential adverse effects on birds protected under Annex 1 of the Birds' Directive and undertake a "risk-based" assessment of any development, as advised by NE in their guidance note dated March 2014.

The authority is required to carry out a Habitat Regulations Assessment (HRA) under Regulation 61 & 62 of the Conservation of Habitats and Species Regulations 2010 (Regulations).

The Regulations require *"a competent authority, before deciding to undertake, or give consent, permission of other authorisation for, a plan or project which:*

- a) Is likely to have a significant effect in a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
- b) Is not directly connected with or necessary to the management of that site*

*Must make an appropriate assessment of the implications for that site in view of that's site's conservation objectives."*

An appropriate assessment requires the LPA to:

- Determine whether a plan or project may have a significant effect on a European site
- If required, undertake an appropriate assessment of the plan or project

- Decide whether there may be an adverse effect on the integrity of the European site in light of the appropriate assessment

The application has been accompanied by a Phase 1 Habitat Survey as well as a Risk Based Assessment to birds protected under Annex 1 of the Birds Directive. The latter document explicitly discusses the implications of the proposal on nightjar and woodlark. It is concluded that the habitat around the site is considered unsuitable for these species, being largely open arable fields with areas of housing associated with the village. Recommendations are made however in respect of avoiding vegetation clearance within the bird breeding season and ensuring that any additional lighting would be as far away from the boundary as possible as well as being carefully designed to direct light. These measures could be secured by condition should permission be forthcoming.

It remains for the Council, as Competent Authority, to satisfy ourselves that the planning application contains sufficient objective information to ensure that all potential impacts on the breeding Nightjar and Woodlark populations have been adequately avoided or minimised as far as is possible using appropriate measures and safeguards. I consider that the significant level of Public Open Space anticipated within the development will encourage residents to use recreational space adjacent to their homes.

In my opinion the proposals will not result in a direct impact on the pSPA and any impact would be indirect from recreational pressure, albeit not directly to the site itself noting its brownfield nature. I consider that on balance the mitigation measures set out above will mean that any potential indirect impact on the Sherwood pSPA is likely to be minimal. Given this conclusion, it is considered the requirement to complete an appropriate assessment has not been triggered and the development is in compliance with the provisions of the Regulations.

The overall ecological survey confirms that there are a range of dense habitat features on the site which offer opportunities for nesting birds as well as supporting a large rabbit colony. The report goes on to suggest mitigation strategies for various species which could be secured by condition should permission be forthcoming.

Both Natural England and Nottinghamshire Wildlife Trust have provided comment on the application. The latter comments make reference to Section 4.4.2 of the Risk Based Assessment for Birds related to Little Ringer Plover. It is confirmed that Schedule 1 bird species are afforded additional protection and cannot be intentionally or recklessly disturbed when nesting. I have taken the opportunity to clarify with NWT that there are satisfied that any risk could be adequately addressed through appropriate conditions (for example avoiding works within bird breeding season). A response has been received stating that this would be appropriate but also raising the point that, given the outline nature of the submission (and indeed that the ecological surveys are already dated over a year ago) it may be the case that the habitat could change significantly before the development is built. On this basis I consider that it would be reasonable to attach an additional condition requiring the submission of an updated ecological survey with any reserved matters submission.

On balance, I am satisfied that the proposals will not unduly impact on the biodiversity of the area and opportunities to conserve and enhance biodiversity can be secured through conditions. The proposals therefore comply with the aims of Core Policy 12, Policy DM7 and the guidance in the NPPF.

### Impact on Heritage

Core Strategy Core Policy 14 relates to the historic environment and states that the District has a rich and distinctive historic environment and that the Council seeks, *“the continued preservation and enhancement of the character, appearance and setting of the Districts heritage assets and historic environment....including archaeological sites...(and) Conservation Areas...”* Paragraph 5.71 states that the Council will ensure that any proposals concerning these heritage assets will secure their continued protection and enhancement, contributing to the wider vitality, viability, regeneration of an area, reinforcing a strong sense of place.

Matters of archeology were not assessed through the original application submission but on the basis of comments received during the consultation process, a Heritage Statement was submitted during the life of the application received on 30<sup>th</sup> July 2018.

The assessment found a total of 37 Nottinghamshire Historic Environment Record records within a 1km search radius from the site. The assessment concludes an indication of low to moderate potential for archaeological remains dating from the prehistoric and Roman periods, and negligible to low potential for Saxon, medieval and post-medieval settlement remains. Moreover, the previous land use of the site (notably the construction and subsequent demolition of the factory) may have significantly impacted upon any potential archaeological remains.

Both NSDC Conservation and the Councils Archaeological Advisor at Lincolnshire County Council have assessed the application. The comments of the latter acknowledge the disturbance of the site which in this case is deemed appropriate justification to not insist upon a geophysics survey pre-determination. The comments go on to recommend that the additional work should be in the form of trial trenches and a mitigation strategy albeit it is accepted that this could be secured by condition in the event of a forthcoming approval. NSDC Conservation do not make any formal observations that would contradict this conclusion. I am therefore satisfied that the applicant has met the requirements of the NPPF through the Heritage Impact Assessment submission and that subject to conditions, the development would be appropriate in the context of Core Policy 14 and Policy DM9.

### Impact on Contaminated Land

Paragraph 170 of the NPPF confirms that planning decisions should contribute to and enhance the natural and local environment including in the context of remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

The application has been accompanied by a Phase 1 Geo-environmental Desk Survey which has been assessed by colleagues in Environmental Health and the Environment Agency. The report identifies that several pollutant linkages have been identified on the site owing to the previous use as an egg processing factory. Potential sources of contamination identified include fuel tanks, substations, generator, chemical stores, incinerator, effluent treatment works, poultry sheds and an underground water treatment system. It goes on to recommend a Phase 2 intrusive investigation is carried out and on this basis the EH Officer has requested a full phased contamination land condition be attached to any approval.

The comments of the Environment Agency focus on the presence of the site within a sensitive area in relation to controlled waters being in a Groundwater Source Protection Zone 3. As a consequence the comments of the EA request that the Phase 2 investigation recommended

should include an assessment of controlled waters including groundwater and surface water sampling and analysis for the contaminants of concern. Overall no objection to the residential development of the site is raised albeit a number of conditions are recommended to be imposed should permission be forthcoming.

I am satisfied that the developer has appropriately considered the previous land uses of the site and subject to the mitigation measures secured through conditions the site could be considered appropriate for residential use. I note one of the neighbouring consultation responses received referred to the potential for the site to feature asbestos but I have seen no evidence to support this and consider that the overall contamination condition would cover any potential risk in respect to this.

### Developer Contributions and Viability Position

Spatial Policy 6 'Infrastructure for Growth' and Policy DM3 'Developer Contributions and Planning Obligations' set out the approach for delivering the infrastructure necessary to support growth. The Developer Contributions and Planning Obligations Supplementary Planning Document provides additional detail on the Council's policy for securing planning obligations from new developments and how this operates alongside the Community Infrastructure Levy (CIL). The SPD is a useful starting point for the applicant in setting out the approach to resolving negotiable elements not dealt with by the CIL and of the site specific impacts to make a future development proposal acceptable in planning terms.

The following section sets out the policy requirements in respect to contributions for a development of this size:

#### **Affordable Housing**

Core Policy 1 outlines an expectation for 30% affordable housing on site. Based upon the maximum number of units as detailed on the Indicative Masterplan, this would deliver 41 affordable units.

#### **Community Facilities**

As defined by the Developer Contributions and Planning Obligations SPD, community facilities include (but are not limited to), Community Halls; Village Halls and Indoor areas for sport. In the interest of comprehensive development, the District Council will seek the collective provision of new infrastructure (where necessary). Based on 2016 indexing, for a development of 136 dwellings this would equate to a financial contribution of **£188,233.52**.

#### **Education**

The Council's SPD on 'Developer Contributions and Planning Obligations' provides that contributions towards primary school education can be sought from planning applications for 10 or more dwellings.

The comments of Local Education Authority suggest that the development would yield an additional 29 primary and 22 seconding places. A contribution of **£332,195 29** (29 x £11,455) has therefore been sought. It is noted that this amount actually exceeds the latest figures from the

Developer Contributions SPD but it is equally noted that no 2016 indexing figures have been formally provided and thus presumably this amount has taken the latest indexing into account.

## Health

For developments over 65 dwellings (or where a development places an extra demand upon local health care) a contribution of £982.62 per dwelling (figure includes indexation to 2016) towards health can also be sought through the planning application as set out in our SPD. This amounts to **£133,636.32** for the entire 136 units.

Despite a lack of specific comment from the health bodies as to exactly where the monies would be spent towards, it is notable that a lack of healthcare facilities in the village has been raised as a concern through the consultation process. Officers therefore maintain that the health contribution should be secured in full.

## Libraries

The Council's SPD allows for contributions towards library stock at a cost of £47.54 (based on 2016 indexation) per dwelling. Nottinghamshire County Council have requested a contribution of **£6,062** in respect to Library stock.

## Open Space

A development of up to 136 dwellings is required to make a contribution towards open space in the form of provision for Children and Young People; Amenity Green Space; Natural and Semi-Natural Green Space and Outdoor Sports Facilities. The indicative site layout incorporates on site provision in the form of areas of open space at 1,875m<sup>2</sup> and an area for Local Equipped Area for Play at 575m<sup>2</sup>.

It is noted that the actual figures may differ slightly given the changes made to the indicative layout throughout the life of the application but there is the opportunity to secure these figures as minimum quantum through any associated legal agreement.

The requirements of open space provision are outlined by the SPD. The requirement of the SPD for Children and Young People and Amenity Green Space on site amounts to 4,406m<sup>2</sup> in total for on-site provision (thus even with the demonstrated provision the scheme would fall short by 1,956m<sup>2</sup>).

It is appreciated that it is unlikely that outdoor sports facilities would be provided on site and therefore an off-site contribution would be more appropriate in this respect. This would amount to **£100,329.92** based on 2016 indexing of the SPD figures.

## Highways

NCC as the Highways Authority have made a specific request that the current development would warrant a contribution of £17,000 towards existing bus stop provision within the vicinity of the site.

In addition to this, NCC Highways have referenced that a Planning Obligation Strategy payment would be due on the basis of the trips generated from the development. It is requested that this

would attract a payment of £44,800. No evidence has been provided to neither justify this nor confirm where the monies would be spent towards and this is therefore not considered to reasonable.

The suggested informatives relating to separate legal agreements to be entered into by the applicant with the Highway Authority can be attached to any consent.

## **CIL**

The Council's adopted Community Infrastructure Levy confirms that for residential development, Bilsthorpe is rated zero.

### *Viability Case*

Clearly the starting point for any application is that the proposed development would deliver the full suite of contributions considered necessarily attributed to the development. In the case of outline applications, some contributions cannot be fixed until overall numbers are known. The S106 would therefore need to set out, where relevant, a series of formulas to be applied to each separate obligation dependent on details submitted in the reserved matters stage.

Although not referenced in the original application submission, the applicant has advanced a viability case during the life of the development. Paragraph 57 of the NPPF confirms that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. However, both the NPPF and the NPPG makes clear that where the viability of a development is in question, the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case.

The original viability report received was dated 18<sup>th</sup> September 2018. The report detailed a number of appraisal scenarios including a full suite of contributions and 30% affordable housing; a full suite of contributions and 10% affordable housing; a full suite of contributions and 0% affordable housing; and no contributions and 0% affordable housing. These are based on a benchmark profit level of 20% on GDV. The report concludes that even without any contributions or S106 costs the viability of the site still calculates a negative land value. This statement is notably also made without the inclusion of abnormal costs which would reduce the figures further.

As with previous instances where we have been presented with a viability case, Officers have negotiated an independent review of the appraisal at the cost of the applicant. The response received from Gerald Eve dated 16<sup>th</sup> October 2018 raised issues with the submitted viability assessment including that there is no benchmark land value and therefore the appraisal does not comply with RICS guidance. The independent review justifies a site value of £170,400. It is also considered that the overall build cost attributed by the applicant are too high and therefore a rebased slightly lower figure is used in the independent review. The original response of Gerald Eve stated that the scheme would be capable of providing a Section 106 payment of £451,473 when their adjustments are accounted for. However this is caveated on the basis that the further clarification would be required with regards to the adopted site value thus seeking further information from the applicant.

After some negotiation, the application has produced an updated viability report dated 18<sup>th</sup> December 2018. The revised document incorporates £1.3million of abnormal costs as follows:



Abnormal	Cost
Highways	£340,000
Site Testing	£11,000
Ecology	£7,500
Contamination (provisional estimate)	£20,000
Drainage	£500,000
Site Clearance	£450,000
Archaeology	£8,000
<b>Total</b>	<b>£1,336,500</b>

The report goes on to dispute the land values used by Gerald Eve stating that a higher value should be adopted considering the sites previous industrial use. In their latest response, Gerald Eve point out that no evidence has been provided to justify an uplifted value in this context. Neither were the abnormal costs listed above been supported by a cost report, as recommended by RICS guidance. However, Gerald Eve have run the appraisal with all abnormal costs except for highways and accepted that in this context the scheme would generate a negative land value of circa £330,000. The overall concluding paragraph states:

*GE has undertaken a detailed analysis of the Advisor's revised FVA submission. In summary we note the following issues within the FVA:*

- *The Advisor has not provided a compliant BLV for the scheme; and*
- *The Advisor has not provided evidenced abnormal costs, contrary to RICS guidance.*

*We are of the opinion that the revised FVA is not compliant with PPG and RICS guidance and further evidence should be provided in relation to the above issues. However given that the development generates a negative benchmark land value after undertaking sensitivity testing reducing the abnormal costs/and the BLV substantially we consider that the site is unable to provide any Section 106 obligations and affordable housing whilst remaining financially viable.*

*Given the uncertainty, the Council could consider a Viability Review Mechanism (VRM) to ensure that the actual costs and values are assessed mid-way through the development.*

The applicant has submitted additional evidence since this response (received 9<sup>th</sup> May 2019) in the form of some commentry in relation to the aforementioned abnormal costs including estimates from the relevant expertise. Given that it does not alter the figures presented above and therefore would not ultimately change the financial conclusions of the latest independent review, Officers have not put the applicant to the additional expenditure of a further independent review.

Clearly there remains some uncertainty to the actual figures associated with the viability review but the position of the independent consultant is clear, the site is unviable to deliver the full

required suite of developer contributions and 30% on site affordable housing.

Notwithstanding the above, Officers are conscious that paragraph 64 of the NPPF states that:

*Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:*

- a) provides solely for Build to Rent homes;*
- b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
- c) is proposed to be developed by people who wish to build or commission their own homes;*
- or*
- d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.*

The 10% figure has also been reinforced by the latest national CIL consultation. This has been presented to the applicant as an absolute minimum requirement for the proposal.

The agent acting on behalf of the applicant has confirmed by email dated 9<sup>th</sup> May 2019 that, despite the preceding viability discussions, they would accept a legal agreement securing 10% affordable housing rather than the refusal of the application on this basis. The context of the agreement is very much a reluctant one partially on the basis that a house builder has not yet been identified for the site and thus there is no guarantee that a developer would come forward to buy the site knowing they would have to deliver 10% affordable housing on site. It is worthy to note at this stage that Officers do not recommend that the legal agreement has a review mechanism built into it as this could diminish the 10% secured in the future on the basis of the viability evidence already presented.

Even with the negotiated 10% affordable housing and areas of on-site open space (contrary to the advice of our Independent Viability Consultant as to what the scheme can afford); there would still be a *significant* shortfall in overall contributions. This shortfall is not to be taken lightly when the impact in real terms is considered. The development would undoubtedly put pressure on the existing services within the village including the education and health system with no monetary mitigation secured whatsoever. This will clearly hold significant negative weight in the overall planning balance undertaken below.

### **Overall Conclusions and Planning Balance**

The application site is within a sustainable village and forms a site allocation albeit not in a conventional sense given that part of the application site was shown as a site with planning permission which has since lapsed. There is no doubt however, that the envisaged residential delivery of the site has contributed towards the calculations which now form the Councils five year housing land supply consolidated in the recent adoption of the revised Core Strategy.

The Parish Council comments articulate the local viewpoint and make great emphasis on the current road network which serves the village with its existing associated issues. However,

Members will be aware that it does not fall to the current application to solve existing highways issues but rather to ensure that the development could be safe in its own right. This has been subject to lengthy discussions and negotiations throughout the life of the application with the County Council (as the Highways Authority) now being in a position to accept the access arrangements presented (the only matter for formal consideration).

The outline nature of the proposal does not allow the ability to appraise the detail of the scheme at this stage. However, it is relevant at outline stage to agree the legalities of the associated contributions which would be secured for any development which would progress to reserved matters stage. Unfortunately, the applicant has presented a viability case throughout the life of the application which states that the development can afford no contributions whatsoever. This has equally been agreed by the Council's Independent Viability Advisor. Clearly this causes a significant concern in the determination of the application. In line with paragraph 64 of the NPPF, Officers have been able to secure agreement from the applicant that if approved, the proposal would be accompanied by a legal agreement to secure 10% on site affordable housing.

It is not lost on Officers that this would still amount to a significant shortfall in comparison to the overall contribution package which would be expected for a development of this size. However, the difficulty in refusing an application purely on this basis (noting that all other material considerations are now found to be acceptable subject to conditions) is that Independent Viability Advice confirms that the scheme cannot afford any contributions. In the context of an allocated site the risk is that this brownfield site would be left undeveloped. This would clearly have consequences for the Districts housing delivery and in a worst case scenario could put pressure on other greenfield sites not necessarily within sustainable settlements to deliver the required housing need.

Whilst noting the heavy compromises in respect to contributions as evidenced by the viability case, Officers are minded to attach significant positive weight to the allocated and brownfield nature of the site and its potential housing delivery which this site presents in line with the Strategic Plan for the District. On this basis the recommendation before Members is a finely balanced approval subject to the conditions outlined below and the securing of a legal agreement for the aforementioned 10% on site affordable housing as well as a minimum quantum of on-site open space.

### **RECOMMENDATION**

**That outline planning permission is granted subject to the conditions outlined below and the signing of an associated Section 106 agreement.**

#### Conditions

01

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

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

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

02

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

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

03

Any details submitted in relation to reserved matters for landscaping shall include a schedule (including planting plans and written specifications, cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species and shall include details of a management plan. It is recommended that both the boundary hedgerows are gapped up with native species such as hawthorn, blackthorn, hazel, guelder rose (*Viburnum opulus*), dogwood (*Cornus sanguinea*), crab apple (*Malus sylvestris*) and holly. The hedgerows, once re-established, should be sensitively managed on a two or three-year rotational basis to create a dense foliage and help boost the berry crop.

Reason: In order to ensure the landscaping of the site promotes biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2019).

04

The development hereby permitted authorises the erection of no more than 136 dwellings.

Reason: To define the planning permission in line with the technical studies submitted to accompany the application. To ensure that traffic generated by the proposed development is commensurate with the ability for the adjacent highway infrastructure to safely accommodate the additional traffic, in the general interest of highway safety.

05

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

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

06

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning

Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

07

To avoid negative impacts to nesting birds, any clearance works of vegetation on site should be conducted between October to February inclusive, outside the bird breeding season. If works are conducted within the breeding season, between March to September inclusive, a nesting bird survey must be carried out by a qualified ecologist prior to clearance. Any located nests must then be identified and left undisturbed until the young have left the nest.

Reason: In order to protect biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2019).

08

No dwellings shall be occupied until the highway works shown indicatively on drawing number 1936-F06 Revision G are provided.

Reason: In the interests of Highway Safety

09

No more than 50 dwellings shall be occupied until a 2 metre footway enabling a connection to bus stop NS0602 is provided on the east side of Farnsfield Road, in accordance with details to be first submitted and approved in writing by the Local Planning Authority.

Reason: In the general interests of Highway Safety and sustainability of the development.

10

The reserved matters for the layout for the development hereby permitted shall include detailed information including all key dimensions of road and footway widths, junction and forward visibility splays and shall be accompanied by swept path analyses of an 11.6m refuse vehicle throughout. The layout shall be in accordance with the Design Guide effective at that time. (For the avoidance of doubt the submitted Master Plan (P-P01) and Design & Access Statement shall be considered to be for indicative purposes only).

Reason: To ensure the development is designed to adoptable standards in the interests of Highway safety.

11

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after

development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

#### **Part A: Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems;
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

#### **Part B: Submission of Remediation Scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### **Part C: Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the

remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### **Part D: Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12

Development shall not commence within the application site until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that any features of archaeological interest are protected or recorded.

13

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details. Therefore a piling risk assessment will be required to be submitted in relation to the proposed development.

Reason: Piling or any other foundation using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

14

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local

planning authority:

1) A preliminary risk assessment which has identified:

all previous uses

potential contaminants associated with those uses

a conceptual model of the site indicating sources, pathways and receptors  
potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure the protection of controlled waters.

15

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure the protection of controlled waters.

16

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

Reason: To ensure protection of controlled waters.



17

Any subsequent reserved matters application shall be accompanied by an updated ecological survey carried out by a qualified ecologist within the relevant appropriate timeframes outlining the ecological potential of the site at that time. The development hereby approved shall thereafter be carried out in accordance with any recommended mitigation measures incorporated within the results of such survey.

Reason: To ensure the protection of the ecological value of the site.

18

Notwithstanding the requirements of condition 17 above, the development hereby approved shall be carried out in accordance with the requirements of Section 6.2 of the Phase 1 Habitat Survey dated April 2017 undertaken by BJ Collins including in respect to the landscape recommendations (already referenced in condition 03 above); a bat and bird sensitive lighting scheme; and the collection of any species found during works.

Reason: To ensure the protection of the ecological value of the site.

### **Informatives**

01

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

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

02

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

03

The Advanced Payments Code in the Highways Act 1980 applies and under Section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

04

It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (or District Council) in writing before any work commences on site.

In order to carry out the off-site works required, you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act.

05

Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) Tel: 0800 688 588

06

The Environment Agency wish for the following advice to be noted:

The CL: AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

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

The Environment Agency recommends that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for further guidance.
- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

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

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information.

New development is within 400m of an Noble Foods, Belle Eau Park Mill EPR/WP3534RW Installation site which *could result in the community at the proposed development being exposed to, odour and noise impacts*. The severity of these impacts will depend on *the prevailing weather conditions*. If the operator can demonstrate that they have taken all reasonable precautions to mitigate these impacts, the facility and community will co-exist, with some residual impacts. In some cases, these residual impacts may cause local residents concern, and there are limits to the mitigation the operator can apply. Only in very exceptional circumstances would we revoke the operators permit.

The Lead Local Flood Authority should be consulted regarding surface water disposal and whilst SUD's are welcomed parts of this site may not be suitable for infiltration on the basis that there may be contamination present.

#### 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 and Regeneration**



## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>18/02151/FUL</b>		
<b>Proposal:</b>	<b>Demolition of the existing garage and bungalow and the erection of a new vehicle sales garage, showroom and office accommodation with associated car parking</b>		
<b>Location:</b>	<b>White Post Garage, White Post, Farnsfield</b>		
<b>Applicant:</b>	<b>Minster Developments Ltd</b>		
<b>Registered:</b>	<b>19.11.2018</b>	<b>Target Date:</b>	<b>14.01.2019</b>
	<b>Extension of time agreed: 07.06.2019</b>		

**This application is referred to Planning Committee as the application involves a commercial proposal which could potentially deliver significant rural employment opportunities and the application is recommended by officers for refusal.**

### The Site

The site lies outside of the village of Farnsfield (E) to the south-west of the traffic island with the White Post Inn on the south-eastern side, White Post Farm to the north-east, White Post Cottage to the north and a small group of dwellings to the west. The site fronts onto Mansfield Road to the north and Old Rufford Road to the east. The garage building is the northern most building on the site and is single storey, fronted with traditional large-scale commercial garage doors. The bungalow is adjacent and has a hipped roof under rendered walls. The vehicular access is in between these buildings with a second access off Mansfield Road. Parking is to the front of the site and to the south of the buildings. To the west the land is open to countryside including improved grazing land divided into small fields by trimmed hedgerows.

The site has a noticeable gradient, especially nearest the A614 roadside. This slopes down towards the roundabout (highest point is at the south and lowest at the north). The same can be said of the approach from the North, with limited visibility of the site until within 150 metres.

### Relevant Planning History

**07/01277/FUL** - Three replacement dwellings and parking and external areas also access alterations to the White Post Garage - Refused 19.11.07

**07/00228/FULM** - 60 bedroom hotel and restaurant, three replacement dwellings, parking landscaping & access (Re-Submission) - Refused 28.06.07

**06/01381/FULM** - Demolition of existing garage and 3 No. dwellings, erection of 60 No. bedroomed hotel, themed restaurant, 3 No. replacement dwellings and associated access, parking and landscaping – Withdrawn 30.11.06

### The Proposal

The application seeks permission for the demolition of an existing vehicle sales garage and 2 bedroom bungalow and erection of a new vehicle sales garage, showroom and office accommodation with associated car parking. Proposed use: sui generis and B1 office.

The proposal would site the vehicle sales garage adjacent to the access off Old Rufford Road with the offices to the south of this. The Land to the rear of the buildings would be used for access and parking. The access off Old Rufford Road would be for entry only with the access on Mansfield Road for entry and exit. The vehicle showroom would have a partly curved façade and would be used to accommodate vehicles for sale with plant and office accommodation to the rear. The office building would have open office accommodation and ancillary rooms on the ground floor with offices above. The showroom would be single-storey and of a modern design with render and glazing for the walls and a projecting flat roof. The office building would be two-storey with an oversailing first floor and would be of cladding and glazing.

The building is proposed to be set back c. 10 m from the edge of Old Rufford Road with the intervening area landscaped.

Site Area: 3090m<sup>2</sup>

**Materials**

Walls - Monocache Render (white). Rockpanel cladding - Chamelon (two tone colour).  
 Roof - Flat roof - single ply membrane (grey). Rockpanel - Chameleon cladding (two tone).  
 Windows - Powder Coated Aluminium (grey).  
 Doors - Powder Coated Aluminium (grey).

**Floorspace comparison:**

Existing Gross Internal Floorspace m <sup>2</sup>	Gross internal floorspace to be lost by change of use or demolition m <sup>2</sup>	Total gross new internal floorspace proposed (including changes of use) m <sup>2</sup>	Net additional gross internal floorspace following development m <sup>2</sup>
<b>281 + 103</b>	<b>384</b>	<b>691.7</b>	<b>307.7</b>

Explained:

Existing Footprint: 384m<sup>2</sup>

Footprint Proposed: 492m<sup>2</sup>

Total Increase in footprint: 108m<sup>2</sup>

**Employees:** Existing: 4 full time employees. Proposed: additional 15 full time and 5 part time employees. Total: 24.

**Proposed Opening Hours:** Monday – Friday 8:00-18:00, Saturday and Sundays: closed.

**Cars:** Existing number of spaces: 20, total proposed: 33 (13 additional).

Documents deposited with the application:

- Site Location Plan - 18/2177/LP
- Proposed Site Layout - 18/2177/001A
- Proposed Floor Layouts - 18/2177/002A
- Proposed Elevations - 18/2177/003A
- Topographic Survey – 001
- Concept Visualisation – (V)002
- Concept Visualisation – (V)001

- Photomontage – 03
- Ex and Pro Photomontage - 04
- Travel Plan
- Transport Assessment
- Tree Survey
- Protected Species Survey
- Landscape and Visual Impact Assessment
- Design and Access Statement
- Biodiversity Survey and Report

#### Departure/Public Advertisement Procedure

Occupiers of nine properties have been individually notified by letter and a site notice posted.

Earliest decision date - 25.12.2018

#### **Planning Policy Framework**

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

##### *Farnsfield Neighbourhood Plan*

FNP4 - Local Employment Opportunities

FNP5 - Creating A Thriving Parish

FNP7 - The Quality Of Development

FNP8 - Landscape

##### *NSDC Amended Core Strategy - Adopted 2019*

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 2: Spatial Distribution of Growth

Spatial Policy 3: Rural Areas

Core Policy 6: Shaping our Employment Profile

Core Policy 9: Sustainable Design

Core Policy 12: Biodiversity and Green Infrastructure

Core Policy 13: Landscape Character

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

Policy DM5: Design

Policy DM8: Development in the Open Countryside

Policy DM9: Protecting and Enhancing the Historic Environment

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

National Planning Policy Framework 2019

National Planning Practice Guidance 2014

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

##### **Consultations**

**Farnsfield Parish Council:** No objection

**Highway Authority:** “This proposal is for the development of a new vehicle sales garage and associated offices following demolition of the existing vehicle sales garage and bungalow. The applicant has confirmed by email that the offices are to be part of the vehicle sales garage and not a separate entity.

The site layout plan submitted, dwg. no. 18/2177/001 Rev. A, demonstrates 33 parking spaces within the site, which includes 2 disabled spaces.

There are two existing access points into/from the site – Mansfield Road and A614 Old Rufford Road. The information submitted states that these are to be retained, and dwg. no. 18/2177/001 Rev. A indicates the access onto the A614 Old Rufford Road is to be ‘left turn entry only. No exiting’. In practice, this cannot be strictly controlled. It is, therefore, recommended that this access point be closed off altogether and the site operate solely from the access on Mansfield Road.

Therefore, subject to the following conditions, the Highway Authority would not wish to raise objection:

1. No part of the development hereby permitted shall be brought into use until the existing site access on Old Rufford Road that has been made redundant as a consequence of this consent is permanently closed and the access reinstated as verge 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 the parking areas are provided in accordance with the approved plan, ref. 18/2177/001 Rev. A. The parking areas shall not be used for any purpose other than the parking of vehicles. Reason: In the interests of highway safety.

#### Note to applicant

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

**Environmental Health:** The previous use of the application site is a motor vehicle garage with MOT servicing. Furthermore, the application documents (design and access statement) shows photographic evidence of petrol pumps being present. There is clearly the potential for the site to have been contaminated from this former use. As it appears that no desktop study/preliminary risk assessment has been submitted prior to, or with the planning application, then request that our standard phased contamination conditions are attached to the planning consent.

**Access Officer:** It is recommended that the developer be advised to give consideration to access and facilities for all, with particular reference to disabled people. BS8300:2018 - Design of an accessible and inclusive built environment - Buildings and external environment - Codes of practice contains useful information in this regard as well as minimum Building Regulations standards described in Approved Documents M and K. Access to, into and around the proposal and on all floors along with the provision of accessible features and facilities, should be carefully considered together with access from the boundary of the site and from car parking where carefully laid out provision for disabled motorists should be available carefully marked



details in this regard including proportion of spaces etc. A safe segregated 'traffic free' pedestrian route should be considered from car parking and other areas of the site. A separate enquiry should be made regarding Building Regulation requirements and it is further recommended that the developer be mindful of the provisions of the Equality Act

**No letters have been received from neighbouring occupiers.**

#### Comments of the Business Manager

The PPG 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 10th October 2017 Newark and Sherwood District Council adopted the Farnsfield 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 Farnsfield. 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*

The site is currently in use as a plant hire and sales operation and was formerly a vehicle (including MOT) garage. The proposal would use the site for vehicle sales and office use. I consider the main issues to be whether the location is suitable for the proposed use with regard to the Council's development strategy; the effect of the proposed development on the character and appearance of the area; and whether there would be any adverse highways safety impact.

Spatial Policy 1 of the Amended Core Strategy (ACS) sets out the settlement hierarchy for the district by identifying those settlements that are central to delivering the spatial strategy and the roles of settlement in this. Spatial Policy 2 sets out the spatial distribution of growth for the district. The site lies outside of the built up area of the 'principal village' of Farnsfield as a matter of fact. As the site is located outside of any settlement boundary, the proposal would fall at the bottom on the settlement hierarchy and falls to be assessed against Policy Spatial Policy 3 (Rural Areas) of the ACS. Policy SP3 advises that development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting, these proposals are to be considered against policy DM8 of the Allocations and Development Management DPD. DM8 explains the types of development that will be considered acceptable in the open countryside.

Core Policy 6 of the ACS supports the economies of the rural community and seeks to direct most growth to the Sub-Regional Centre of Newark, followed by Service Centres and Principal Villages. The policy does support the rural economy through rural diversification that will encourage "tourism, recreation, rural regeneration, and farm diversification, and complement new appropriate agriculture and forestry development. Development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact."

I note that the agent has contested that the site is situated within the “Open Countryside” explaining how they consider it to be ‘semi-rural’, whilst I appreciate their interpretation of the context of this site I must consider the policy designation of the area and the approach taken towards development within the open countryside which is strictly controlled to afford protection to rural locations.

Policy DM8 of the ADMDPD covers the replacement of non-residential buildings; stating that *“Where they (replacement buildings) are related to established uses or proposed uses enabled by other criteria of this policy, planning permission will be granted for the replacement of nonresidential buildings. Proposals will need to demonstrate that the buildings to be replaced originated from a permanent design and construction, are not of architectural or historical merit, have not been abandoned and are not suitable for conversion to other uses. The replacement building should be located within the curtilage of the site it is intended to serve”*.

Whilst the conversion of existing buildings is encouraged by DM8, the replacement with a new building is not precluded. This is however subject to the buildings being of permanent design and construction and of no architectural and or historical interest – the supporting text to this policy recognises that, where permanent buildings serve a beneficial purpose in relation to a non-residential use, their replacement can lead to operational and environmental improvements. However the policy text also states that in order to minimise the visual impact on the countryside, replacement buildings should be of similar size and siting to their predecessor. Proposals for buildings of substantially greater size or difference in siting will only be supported where operational or environmental improvements outweigh any visual impact (which will be considered further below). I consider the replacement building would not represent proportionate expansion of the existing buildings on site and there are no operational or environmental improvements that would outweigh this. This part of DM8 also specifically relates to the replacement of non-residential buildings and I note that one of the buildings subject to this application is a residential bungalow. As such I consider it appropriate to assess this application against point 8 of DM8 ‘Employment Uses’.

Policy DM8 seeks to limit development in the countryside to that including proposals to diversify the economic activity of rural business where it contributes to the local economy, business should be complimentary and proportional to the existing business in nature and scale and be accommodated in existing buildings where possible. Point 8 of DM8 states that small scale employment development will only be supported where it can demonstrate the need for a particular rural location and a contribution to providing or sustaining rural employment to meet local needs in accordance with the aims of Core Policy 6. Proposals for the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment. Such proposals will not require justification through a sequential test.

The proposal would replace the existing buildings with a new showroom and office building and would be for vehicle sales. The site has a history of motor related operations and historically was a repair garage and petrol station. The current use is for plant hire and sales. There is general support in the Development Plan for the growth of the rural economy and it is acknowledged that the existing site is in a vehicle based commercial use. However, this current use utilises the historic buildings which are relatively small scale and an established part of the character and appearance of the site and locality. The theme running through DM8 is that proposals should be complimentary and proportionate to the existing business in their nature and scale and be accommodated in existing buildings wherever possible. To minimise the visual impact on the countryside, existing buildings should be re-used wherever possible. **Agenda Page 282**

The proposal would represent a substantial development on the site and an expansion over the existing operation; it would not reuse the existing built form but seeks to completely replace the existing premises. It would be for vehicle sales and offices that are not directly related to rural employment or economy or fall within the above employment categories within CP6 – in fact the NPPF defines businesses of this nature as a ‘Main Town Centre Use’ that do not require a rural location. I acknowledge that the use of the site has evolved from a local garage to plant hire and sales which serves the local community, however the proposed use is for vehicle sales and office accommodation; this is not a use that specifically requires a rural location.

DM8 states that proposals for the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment, in discussions with the agent it has been confirmed that the business currently employs 4 people full time. The redevelopment of this site would seek to employ an additional 15 employees full time and 5 part time, however a justification for this expansion has not been provided. It has been queried whether the office part of this proposal is intended to operate separately from the car sales business given the scale of the expansion and the separate entranceways proposed to serve both parts of the building, whilst the agent has confirmed that this is not the intention I consider it to be an expansion of the function of the current business and the significant increase in employment figures would lead me to question whether this is a genuine expansion of solely the existing business. Whilst I note that this is a significant proposed increase in rural employment opportunity for the area I consider this level of business expansion to be disproportionate.

In addition to this, the expansion of the business with this new development would result in a 307.7 m<sup>2</sup> net additional gross internal floorspace which I do not consider to be proportionate to the small scale buildings currently in situ. As such the proposal fails to comply with the intentions of policies CP6 or DM8 which support the rural economy but seek to limit development to that which requires a rural setting to mitigate the impact on the countryside and rural areas. The disproportionate expansion of businesses within rural locations is not considered to accord with the provisions of the NSDC Amended Core Strategy or the NPPF which, when considering rural employment, promotes the diversification of agricultural or other land-based rural business and the conversion of existing building to facilitate business expansion.

Whilst I am mindful that the NPPF also promotes the sustainable growth and expansion of all types of business in rural areas through well-designed new buildings I consider the proposal to be disproportionate to the existing business function and location. Whilst I appreciate the needs of the business and recognise that in some cases expansion is necessary to support the economic activity of the rural business, it should be recognised that the expansion of any given site is likely to be limited at some point by its impacts on the countryside and particularly for this proposal that the rural sustainability of the proposed expansion is acceptable.

In any case, the policy states that when considering development within the open countryside, even expansions of existing businesses should be complimentary and proportionate to the nature and scale of the existing business. The building as proposed exceeds the proportions of the existing buildings present on the site in terms of net additional floor space. The visual impact will be considered further in the section below. Overall, a case has not been made in this application that this expansion requires such a large scale redevelopment of the site and it is therefore considered that the proposal is not acceptable in principle.

Policy FNP4 ‘Local Employment Opportunities’ of the Farnsfield Local Plan advises that development which includes new employment opportunities will be supported where the

envelope of Farnsfield. The NSDC Allocations and Development Management DPD identifies the application site to lie outside of the village of Farnsfield and as such this policy cannot be applied. Policy FNP5 'Creating A Thriving Parish' outlines that development will be supported for uses that will contribute to the vitality and viability of Farnsfield through the creation of new opportunities for community, retail, cultural, leisure and tourism, where it is within the village envelope. Outside of the Village Envelope, uses will be supported that contribute to tourism and rural diversification, where they are in accordance with the wider policies of the Neighbourhood Plan, in particular FNP8 which will be discussed in more depth in the section below. As commented earlier, this proposal is not considered to fall within a use which requires a rural location or consider to be rural diversification and therefore the proposal is not considered to accord with policy FNP5 of the NP.

#### *Impact upon the Character of the Area (Including Design)*

Core Policy 9 of the ACS requires development to have a high standard of design and be of an appropriate form and scale to its context and to be complimentary to the existing landscape environment. Policy DM5 of the ADMDPD requires development to reflect local distinctiveness and character and states permission will only be granted for development where the rich local distinctiveness of the landscape and character of built form is reflected in the scale, form, mass, layout, design, materials and detailing of new development proposals.

Policy DM8 of the ADMDPD states rural development proposals should be complimentary and proportionate to the existing business in their nature and scale and be accommodated in existing buildings wherever possible to minimise the visual impact on the countryside.

Core Policy 13 of the Amended 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 area is characterised within Policy 'S PZ 7 – Oxton Village Farmlands' of the Newark and Sherwood Landscape Character Assessment SPD as a Conserve and Create Area. The area is described as having a gently undulating topography with moderate visibility in and out of the area. The guidance specifically states that "threats to the area include expansion further of leisure activities at White Post Farm, further break down of field pattern by removal of hedgerows due to agricultural intensification and expansion of urban centres of Bilsthorpe and Farnsfield into the area." The policy goes on to state that the detracting features of the area are the busy roads and concentration of commercial and leisure facilities around the White Post Farm area and advises that to conserve the integrity and rural character of the landscape new development should be concentrated around the existing urban fringe of Bilsthorpe and Farnsfield. The existing field patterns should also be conserved by locating new small scale development within the existing field boundaries and proposals should be of a sensitive design and appropriate siting.

Given that the landscape character appraisal (LCA) specifically cites the area surrounding the busy roads and commercial and leisure facilities around the White Post Farm roundabout as a threat to the landscape character I am mindful of the potential visual impact of this proposal. The LCA also advises that new development should be concentrated around the existing urban fringe which would not apply to this location. Whilst I am mindful that the proposal seeks to replace existing built form, the buildings on site are of a relatively small-scale and appropriate to the rural context of the site. They are not of such merit that the retention could be insisted upon and the demolition is therefore acceptable in principle.

DM8 states that new buildings in these locations should be sited and designed to reflect their location and in the interests of minimising visual impact, new buildings should be restrained to the minimum necessary to sustain the business, and in accordance with the NPPF, should respect the character of the countryside. The proposal is to construct a contemporary style building subdivided into a car sales garage which is single storey and office accommodation which is two storey. The single storey element of the building is in a similar location to the existing bungalow however the replacement building repositions the built form within the site along the eastern site boundary. The existing bungalow is 5.1m in height and the single storey element of the new building proposed in a similar location is 4.3m. The two storey element of the building would be sited on a part of the site that is currently devoid of built form – this would increase to 7.3m in height and whilst this is only 0.3m higher than the existing two storey building on site I note that the existing building is sited adjacent to other two storey properties to the NE such that it assimilates with the existing massing. This proposal would relocate the two storey built form to the south of the site along the eastern boundary where the built form is notably lower with the existing bungalow. There is also no other built form further south such that I consider this two storey portion of the building would be prominent within the site and wider area.

The site slopes upwards from north to south (south being the higher point). The site is proposed to be levelled locally in the south east corner to facilitate the building but the above measurements have been taken from the proposed ground level such that I still consider the building will be prominent within the site. The design and access statement states that the new building would be significantly lower than the surrounding parameters of the White Post Inn building (E) which they state is 2 m higher, however I consider this point to be irrelevant in the appraisal of this new building given the characteristics of the site are different. The application site comprises low level buildings along the SE side such that this two storey replacement would not visually integrate into the existing built form within this corner of the roundabout which is clustered to the NW.

It is acknowledged that surrounding the roundabout there is substantial built form of varying style and design. However I also note that towards the south-west, past the application site, is an open field that buffers the distance between residential properties c.72m south, to the west the area is characterised by open agricultural fields. I therefore consider that the demolition of small scale traditional buildings appropriate to the rural context with a larger scale (in part two storey) overtly contemporary building would conflict with the rural character of the area and result in a significant expansion within the open countryside.

The proposed buildings would represent a substantial increase in the size and scale of buildings on the site (an increase in footprint by 108m<sup>2</sup> and net additional gross internal floor space by 307.7m<sup>2</sup>), would introduce a two storey building further south on the site where this is currently not two storey built form and an overall large-scale re-development in a rural location. The buildings would be based on a modern design approach using flat roofs, render, cladding and an oversailing first floor office building. A curved wall with full height glazing fronting the roundabout is proposed to act as a focal point for the car sales garage. Although the proposal is subject to this

modern approach in principle the proposal would result in a substantial change to the site which currently is appropriate to the rural context. The proposal would introduce a larger scale development of a modern appearance which would be at odds with the rural context. The design is not considered appropriate to this established rural location and by reason of size, scale, design and massing, would not reflect the local distinctiveness of the site or wider rural landscape. The site is a prominent one at a busy junction in an area which is characterized by sporadic incremental development which is largely small scale and appropriate to the rural environment. The proposal would dominate the site and surroundings and would not be sympathetic to the rural setting.

Whilst the agent references other nearby developments around the round-about junction I would maintain the view that the replacement building would exceed the scale and proportions of the existing site which is not of a similar context to some of the larger scale agricultural buildings that are present further north. The agent refers to a 12.4% to 16% increase in built footprint with the new proposal; however I would dispute these calculations which differ within the application form and D&A statement, I do however note that the building is proposed to increase to two-storeys on a part of the site where 2 storey built form is not clustered which would greatly increase the massing and scale of the development here. The agent explains how the current buildings on site are untidy and the proposed building would improve the visual aesthetic of the area. I would contest that these lower profile, previously residential buildings are 'untidy' and would instead note that these reflect the small scale development form that is appropriate in this location that is proportionate to the rural setting.

FNP7 of the Farnsfield Neighbourhood Plan discusses the quality of developments and advises how developments must demonstrate how it has taken into account the character of the village and its impact upon the landscape. FNP8 'Landscape' of the Farnsfield Neighbourhood Plan advises that development proposals located within or adjacent to a Landscape Policy Zone ('S PZ 7 – Oxtou Village Farmlands') should ensure they have considered and appropriately responded to the implications of the zone and demonstrates that the meeting of the landscape conservation enhancement aims would be contributed towards. In this case the proposal is not considered to be in accordance with the aims within the Landscape Policy Zone and would have an unacceptable impact on the character and appearance of the open countryside and surrounding area.

As a result of the proposed design, materials of building and scale in relation to the existing buildings that are visible on the site I am of the view that the building will not assimilate into the landscape and would be unduly prominent within the surrounding rural area contrary to Policy DM8. I do however note that the applicant has shown clear willingness to negotiate on the design of the building as this has been raised as a concern throughout the course of the application. The decision however was taken that given there was an in principle objection to the proposal and the re-design of the scheme would not have afforded the opportunity to overcome these problems, any negotiation on design would have given a false sense of hope and incurred the applicant further unnecessary time and/or expense. Should the committee disagree with the objection in principle to the proposal the applicant is willing to reconsider the design of the building.

In conclusion, the addition of an overtly contemporary building with extensive levels of glazing, render, cladding and prominence of location and overall scale of the building would make it unduly prominent from the surrounding rural area in contrast with CP13, Policies DM5 and DM8 of the Development Plan Document and the NPPF.

Policy DM5 of the ADMDPD requires development to have a satisfactory relationship with neighbouring properties and land uses. The site has historically been used for motor-based activities and is situated on a busy road. Therefore, the continuation of use for appropriate commercial operations can be supported in principle in terms of residential amenity. It is not considered the proposed use have any greater harmful impact on the amenity of local residents than the existing or historic operations.

The north the site borders the highway and the nearest neighbouring property would be set to the north of Mansfield Road. The proposed buildings would be set off the northern boundary and would have no undue adverse impact on this property. To the north-east and east the site is bordered by the highway with the nearest neighbouring buildings being the children's nursery and the pub. The buildings would be significantly separated from these sites and would have no undue adverse impact. To the south there are no immediate neighbours. To the west the neighbouring properties would be adjacent to the proposed vehicle parking with a significant separation distance to the proposed buildings.

As such, the proposal complies with the above policies and guidance and is acceptable in terms of residential amenity.

#### *Impact upon Highway Safety*

Policies SP7 and DM5 require the provision of safe and inclusive access, appropriate parking provision and seek to ensure that there should also be no adverse impact on the highway network as a result of the proposal.

A Transport Assessment has been submitted which states the following:

- The applicant expects the number of people using the new development to increase by around 7,200 per annum due to the addition of a new office building. The existing vehicle sales garage to be replaced with a new vehicle sales garage is not expected to generate any more staff or visitors. An estimated total of 38 visitors per day are expected for the proposed site, which translates into an estimated maximum of 9,880 visitors per year to the site (excluding weekends). However according to the TRICS data obtained, the site could generate as much as 192 vehicular trips per day. This taken into account, the maximum impact that the development will have on the existing highway is thought to be minimal, as this increase comprises less than 1% of the existing traffic at the roundabout;
- The predicted traffic generated by the proposals to redevelop a vehicle sales garage and office building will result in an increase in traffic within the local highway; however, the capacity assessment shows the White post Roundabout junction with Old Rufford Road and Mansfield Road can accommodate the additional vehicular traffic and as such the increase can be absorbed into the surrounding network without any discernible impact to the acceptable flow of traffic;
- The addition of "keep clear" markings at the access(es) would ensure any queuing on Mansfield Road east and the A614 Old Rufford Road south would not impact on the free flow of traffic moving into the site due to the proximity to the roundabout, in particular right turns into the site from the A614 Old Rufford Road south;
- Investigations into the number and severity of accidents recorded in the vicinity of the site are not indicative of defects in the highway layout and design. Given the volume of traffic

at the White Post Roundabout is on average around 20,463 vehicles per day (between 07:00-20:00), an accident rate of 0.4 per year in the last 5 years 5 months is considered to be minor and does not highlight any specific problems with the safety record of the local highway network. Any additional traffic to be generated by the development is unlikely to impact the existing road safety within the study area.

The proposed drawing demonstrates 33 parking spaces within the site, which includes 2 disabled spaces. There are two existing access points into/from the site – Mansfield Road and A614 Old Rufford Road. The information submitted states that these are to be retained and access onto the A614 Old Rufford Road is to be 'left turn entry only. No exiting'. In practice however the Highway Authority has stated that this cannot reasonably be controlled. They have therefore recommended that this access point be closed off altogether and that the site operates solely from the access on Mansfield Road. As such, the Highway Authority have raised no objection subject to conditions. These conditions are reasonable and could be imposed in the event that Members seek to approve the application. As a result it is considered that the application is acceptable on highway safety grounds.

### *Land Contamination*

The site has been used for vehicle repairs, sales etc. for many years and includes the provision of petrol pumps. A condition would be required in the event of permission being granted to address any potential residual land contamination to prevent harm to human health and the environment.

### *Ecology*

Core Policy 12 of the Amended Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Whilst the site is not considered to have significant ecological potential given the lack of vegetation and brownfield nature the site is located within a pSPA 5km buffer zone for nightjar and woodlark. Special Protection Areas (SPAs) are strictly protected sites classified in accordance with Article 4 of the EC Birds Directive, which came into force in April 1979. They are classified for rare and vulnerable birds (as listed on Annex I of the Directive), and for regularly occurring migratory species.

The NPPF (2019) states when determining planning application LPAs should apply the following principles as stated within paragraph 175 of the NPPF. This states that if "significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Development whose primary objective is to enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity."

A Protected Species Survey has been submitted with this application which confirms that there is no breeding bat or bird potential in the buildings, nor is there any evidence of past roosts. The grassland surrounding the site is also not considered to harbor any significant locally rare plants or plant communities and as such it is considered that the proposal is unlikely to have any detrimental impact on local biodiversity in accordance with CP12 of the Amended Core Strategy (2019). With regard to the SPA I note that given the developed nature of the site and there are no surrounding trees that are proposed to be impacted upon as a result of the development, nor would the development be located next to any trees such that, in my opinion I do not consider the proposal would result in a direct impact on the pSPA. The proposal therefore complies with the aims of Core Policy 12, Policy DM5 and the guidance in the NPPF.



## *Other Matters*

The agent has submitted an additional statement which, amongst other things, refers to CP9 and the point within this policy that stated that the LPA will support development proposals that demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes the existing built landscape and environments. In referencing this, the agent has stated that this proposals presents an opportunity to provide a thermally efficient, low carbon building constructed from modern materials and the latest construction techniques. Whilst I acknowledge the applicants desire to construct a well-performing building that utilizes modern techniques to improve sustainability this should not be at the expense of the character and appearance of the area or sustainability of the rural location which I consider that this would be.

The agent has submitted a letter referencing an application 14/01797/FUL (the Marston's public house at the A6075/A616/A614 roundabout). The agent explains how this application sets a precedent for the application at hand. Firstly I would note that every application must be assessed on its own merit and without prejudice. Nevertheless I have reviewed this approval and would note that this application was for the replacement of a Pub and Restaurant in which the officer report notes how policy DM8 confirms that visitor based tourism development will be permitted in rural locations in order to meet identified need, where it will support local employment and community facilities. To this end I consider the application at hand to be materially different to the above referenced application in that it does not represent a visitor based tourism business but a vehicle sales premises that does not require a rural function or support visitor based tourism – which I would also note that the majority of the surrounding business within the surrounding locality do.

## Conclusion

Overall, I do not consider the proposal to represent sustainable development in an open countryside location as a matter of principle; the applicant has not justified the requirement for this scale of expansion in a location away from the settlement and it is considered that the replacement of this residential and non-residential property for a business purpose that does not require a rural location does not fit with the requirements of policy DM8. The proposal would introduce a relatively large-scale commercial operation in replacement of a small-scale existing former-residential building which would be inappropriate in this rural context. It is considered that this proposed building would represent an incongruous replacement addition which would be harmful to visual amenity given it would disproportionately exceed the existing proportions of the site in this particular location and would be therefore contrary to Policies CP9, DM8 & DM5 of the DPD. As such, the proposal is contrary to Policies SP3 and DM8. Furthermore, the proposal is not considered to be appropriate visually to its rural environment and is contrary to policies CP9 and DM8.

## RECOMMENDATION

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

01

The proposal is considered to represent an unacceptable form of development in principle in an open countryside location which would detract from the rural character of the countryside. The need for this particular rural location or its contribution to the local rural economy has not been

demonstrated in this instance. Overall, it is considered likely that such an expanded business of the commercial nature proposed would be more sustainably be located elsewhere in accordance with the aims of the Spatial Strategy for the District. Furthermore, the size, scale, massing, design and materials of the proposal are not considered appropriate to the rural context of the site and surroundings and would result in unnecessary encroachment in to the open countryside.

The application therefore amounts to unsustainable and visually unacceptable development contrary Core Policy 6 (Shaping our Employment Profile), Core Policy 9 (Sustainable Design) and Core Policy 13 (Landscape Character) of the adopted Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 (Design) and Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management Development Plan Document (July 2013) as well as the provisions of the NPPF (2019).

### **Notes to Applicant**

01

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

02

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

### **Background Papers**

Application Case File

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

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

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





## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>19/00168/FUL</b>	
<b>Proposal:</b>	<b>Householder application for erection of second storey extension providing two bedrooms above an existing ground floor footprint</b>	
<b>Location:</b>	<b>Cobblers Cottage, Brickyard Lane, Farnsfield, Nottinghamshire, NG22 8JS</b>	
<b>Applicant:</b>	<b>Mrs Louise Smith</b>	
<b>Registered:</b>	<b>31.01.2019</b>	<b>Target Date: 28.03.2019</b>

**This application has been referred to the Planning Committee for determination by Councillor Laughton due to the concern that the size of development is not in keeping with surrounding dwellings.**

### The Site

The site lies within the defined built up area of Farnsfield. Farnsfield is identified as a Principal Village as defined by Spatial Policy 1 and 2 of the Amended Core Strategy DPD.

The site consists of a residential dwelling and associated curtilage. The building is a traditional cottage building, albeit it has been extended and altered. The building has some historic value, being identified as one of the first buildings along Brickyard Lane on the 1888 OS map. The building is considered to be a non-designated heritage asset. The application site is located outside of the conservation area, however, the conservation area adjoins the southern boundary of the site.

Properties in the area are predominantly residential with the immediate neighbouring properties to the site being modern single storey detached bungalows.

### Relevant Planning History

**15/00837/HPRIOR** Notice of householder prior approval for 9 x 8m single storey flat roof extension with patio doors at the end (staggered). It was confirmed that planning permission was not required for this proposal in June 2015.

**15/02122/FUL** Householder application for single storey extension to the rear of the property providing a new family room (previously started under Permission 15/00837/HPRIOR). Planning permission granted January 2016. It was brought to the attention of Local Authority Enforcement Officers that the extension approved under prior notification 15/008374/HPRIOR was not being built in accordance with the approved plan. This application sought to regularise this with a slightly different extension measuring 7.98 metres in length, 7.56 metres in width and 2.7 metres in height. This is the ground floor extension which is currently in place at the site.

**10/00378/FUL** Householder application proposed two storey rear extension and porch. This application was withdrawn in May 2010.

**68801350** Renewal of windows to dwelling and erection of garage. Planning permission granted January 1981.

### The Proposal

Planning permission is sought for the addition of a first floor rear extension to the existing dwelling. This is on top of an existing ground floor rear extension.

Following negotiations between the Planning Officer and applicant, amended plans have been submitted showing the proposal reduced in depth by 2 metres. The amended plans can be described as follows.

The proposal measures 5.89 metres in depth by 7.45 metres in width. It is stepped in marginally (approx. 0.4 metres) from each side elevation of the host dwelling and is set back from the rear elevation of the existing ground floor extension by 2 metres. Accommodation in the proposed extension consists of 2 no. bedrooms, 1 no. en-suite bathroom, a landing extension and storage. The first floor extension takes the form of a double rear-gable design. The eaves of the extension are the same height as the eaves on the host dwelling at approx. 4.85 metres. The ridges are lower than the ridge on the host dwelling at approx. 6.75 metres in height. The 2 metre set back between the existing ground floor extension and proposed first floor extension would be covered by a lean-to roof measuring between approx. 2.4 metres in height and 2.9 metres in height. Windows are proposed in the rear elevation of the extension and rooflights within the side eaves.

The documents under consideration are;-

DP-A-10500 Rev B, SITE PLANS-EXISTING & PROPOSED, received 3rd April 2019

DP-A-21001 Rev B, FLOOR PLANS-PROPOSED, received 3<sup>rd</sup> April 2019

DP-A-30001 Rev B, PROPOSED ELEVATIONS, received 3<sup>rd</sup> April 2019

SITE LOCATION PLAN, received 30<sup>th</sup> Jan 2019

DP-A-22000 SUN PATH STUDY-SPRING EQUINOX-REV-B

DP-A-22001 SUN PATH STUDY-SUMMER EQUINOX-REV-B

DP-A-22002 SUN PATH STUDY-AUTUMNEQUINOX-REV-B

DP-A-30001 DP-A-50001 AXONOMETRIC-PROPOSED-REV-B

DP-A-50002 NW AXONOMETRIC CUT-GROUND-PROPOSED-REV-B

DP-A-50004 AXONOMETRIC VIEWS-EXISTING SHOWING PROPOSED-REV-B

DP-A-50005 STREET LEVEL PERSPECTIVE VIEWS

DESIGN AND ACCESS STATEMENT

LETTER FROM APPLICANT DATED 2<sup>ND</sup> APRIL IN SUPPORT OF AMENDED PLANS

### Departure/Public Advertisement Procedure

Occupiers of seven properties have been individually notified by letter. A site notice has been posted and a press notice published.

### Planning Policy Framework

### The Development Plan

**Farnsfield Neighbourhood Plan Adopted 28th September 2017**

FNP7: The Quality of Development

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

SP7 – Sustainable Transport

CP9 – Sustainable Design

CP14 - Historic Environment

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

DM5 - Design

Policy DM6 – Householder Development

DM9 - Protecting & Enhancing the Historic Environment

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014
- Householder Development Supplementary Planning Document (SPD)

### **Consultations**

**Farnsfield Parish Council 27.02.2019;-** *“Farnsfield Parish Council objects to this planning application on the grounds that it will affect neighbouring properties adversely in regards to light.”*

**Farnsfield Parish Council 16.04.2019;-** *“Farnsfield Parish Council do not support the amended application on the grounds of loss of amenity to a neighboring property.”*

### **Conservation Officer 20.02.2019;-**

*“The application site is located outside of the conservation area, however, the conservation area adjoins the south of the site. The building has some historic value, being identified as one of the first buildings along Brickyard Lane on the 1888 OS map. The building is a good example of a vernacular building in Farnsfield. Due to the historic and architectural value of the building has been identified as a non-designated heritage asset.*

### **Legal and policy considerations**

*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 197 of the NPPF, for example, states that: the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

*Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.*

#### Assessment of proposal

*The scheme is for a first floor extension of an existing single storey extension to the dwelling. This adds significant bulk to the rear of the property. The scale and massing of the addition is no longer subservient to the principle house. Due to the orientation of the road and property, there are clear views of where the proposed extension will be.*

*A first floor extension could be acceptable. However, it needs to be significantly reduced in size, with a step down to the existing single storey extension.*

#### **Conservation Officer 16.04.2019;-**

*"The amended plans submitted reduces the first floor extension by 2 meters and introduces a mono-pitched roof to the remaining single storey element.*

*Although the amendment is not substantially different the reduction is sufficient enough to remove the harm to the non-designated heritage asset."*

#### **Neighbours;**

2 no. letters (one in response to original plans and one in response to amended plans) have been received by the occupiers of 1 no. neighbouring property. Concerns are;-

#### Original letter

Poor design

Will dominate the existing cottage and the two neighbouring bungalows

Impact on views to and from the adjacent conservation area

Impact on neighbouring amenity – loss of light

Further living accommodation will cause additional parking requirements impacting on safety

#### Letter in response to amended plans

Maintain previous objection

Loss of light

Poor design – not in keeping with traditional cottage

Dominates neighbouring bungalow

Visual impact is not shown properly in the applicant's submitted "Street level View Proposed" plan



## Comments of the Business Manager

The PPG 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 28th September 2017 Newark and Sherwood District Council adopted the Farnsfield 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 Farnsfield. 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.

### Design and Heritage Issues

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment. 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 197 of the NPPF, for example, states that: the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

Criterion 5 and 6 of Policy DM6 relate to design for householder development in general and state that the proposal must respect the design, materials and detailing of the host dwelling as well as respecting the character of the surrounding area including its local distinctiveness, the significance and setting of any heritage assets, landscape character and the open character of the surrounding countryside. The Council's Householder Development SPD states that additions must respect and be balanced with the scale and proportions of the host dwelling.

The building is a traditional cottage building, albeit it has been extended and altered. The building has some historic value, being identified as one of the first buildings along Brickyard Lane on the 1888 OS map. The building is considered to be a non-designated heritage asset. The application site is located outside of the conservation area, however, the conservation area adjoins the southern boundary of the site.

The Planning Officer raised concerns with the scale of the original proposal. The original proposal measured approx. 7.9 metres in depth. This was only the same depth as the existing ground floor extension approved in 2015 under 15/02122/FUL. However, the existing ground floor extension is very similar to what could be built under the extended permitted development rights which permits, under the prior approval process, an extension up to 8m in depth. Furthermore, the second floor element would be visible within the street scene with views from the north-west when travelling along Brickyard Lane. The original proposal was larger than the main part of the host dwelling which measures just 7.163 metres in depth (albeit there is an attached garage to the front of the property which appears to have replaced an original structure in this location).

The applicant was contacted and advised that there were concerns with the scale of the proposed extension. Paragraph 7.4 of the Council's Householder Development SPD states that extensions must ensure:-

*“that the addition respects and is balanced with the scale and proportions of the host dwelling, and is well related to the characteristics of the application site in terms of its size and shape.”*

This concern was exacerbated by the fact that the dwelling is considered to be a non-designated heritage in the form of a modest, traditional cottage.

The original proposal was considered to add significant bulk to the rear of the property to the extent that the scale and massing of the addition was no longer considered to be subservient to the principal house.

As such, the applicant was advised to reduce the proposed extension in size, with a step down to the existing single storey extension.

The applicant took on board the above planning advice and reduced the depth of the extension by 2 metres. A mono-pitch roof is now proposed to the remaining single storey element. A letter was submitted by the applicant in support of the amended plans stating that they did not wish to reduce the proposed extension any further as this would not give them the space they required.

On balance and in this specific instance, it is considered that the reduced scale of the proposal is acceptable and no longer dominates the host dwelling.

This is taking into account a number of considerations. This includes the scale of the existing rear extension (measuring 7.98 metres in length, 7.56 metres in width and 2.7 metres in height). This proposal adds a first floor to approx. three quarters of the depth of the existing extension and takes the existing 2.6 metre high flat roof to a double rear gable measuring 4.85 metres to the eaves and 6.75 metres to the ridge. This roof design somewhat lessens the impact of the second floor extension by making it as low as practically possible.

Furthermore, whilst the proposal would be visible from the street scene (when travelling from the north-west of Brickyard Lane), it would not be overly prominent due to its rear location.

For these reasons, I conclude that, on balance, the scale of the proposal is acceptable.

The proposed design details are considered to be acceptable. Materials are proposed to match the existing. However, given the fact that the proposal is a non-designated heritage asset, a condition

should be attached to the grant of any planning permission requiring samples to be submitted to and agreed by the Local Planning Authority.

I consider that due to the scale and nature of the proposal (householder development) and distance from the conservation area, the proposal will not impact on the setting of the adjacent conservation area.

Having taken the above information into consideration, I consider that the proposal does not have an unacceptable visual impact on the host dwelling which is a non-designated heritage asset, the wider visual amenity of the area or views to and from the adjacent conservation area. As such the proposal is considered to comply with the relevant design and heritage policies set out earlier in this report.

#### Impact on Residential Amenity

The NPPF, as revised, seeks to ensure a high standard of amenity for existing and future users of land and buildings. Criterion 2 and 3 of Policy DM6 relate to neighbouring amenity for householder developments and state that new householder developments should not have an adverse impact on the amenities of neighbouring users including loss of privacy, light and overbearing impact and that the layout of development within the site and separation distances from neighbouring development is sufficient to ensure that neither suffers from an unacceptable reduction in amenity by virtue of overlooking, loss of light or overbearing impacts.

Policy FNP1 of the Neighbourhood Plan (NP) which forms part of the Council's DPD, also states that:-

*“Developments within the village envelope of Farnsfield will be supported where ... they respect the amenity of neighbouring properties.”*

There is in excess of 30 metres from the proposed extension to the rear boundary of the application site. This is considered a sufficient distance so as to not cause an unacceptable impact on residential amenity to neighbouring occupiers to the south. The properties to the front (north) of the site will also not be impacted upon by the proposed extension due to its location to the rear of the host dwelling.

However, the impact of the proposal on both immediate neighbouring properties to the east and west of the site requires careful consideration. Both immediate side neighbouring properties are single storey bungalows. The dwelling to the east (Staddle Stones) is sighted on a similar alignment to the host dwelling and the dwelling to the west (Vine Cottage), located slightly further in to their plot with the principal elevation in line with the original rear elevation of application property.

There are no unacceptable overlooking issues onto either of these side neighbouring properties as the only new windows proposed on the side elevation are high level roof lights whereby they are sighted so as not to have a direct view to neighbouring occupiers (the main windows providing outlook and light are located in the rear elevation).

However, issues of overbearing and loss of light do require careful consideration.

With regards to the neighbouring property to the east (Staddle Stones), the proposal does not project further forwards or rearwards than this neighbouring property. Therefore, there are no

unacceptable loss of light issues to the front or rear windows of the neighbouring property. However, this property does have side ground floor windows facing the proposal. The side window closest to the proposal lights a garden room which is open plan into a living room. The garden room is an extension (granted planning permission in 2005) whilst the living room is part of the original dwelling. The proposed extension is between 2.9 and 3.3 metres away from the neighbour's property.

Whilst the neighbour does have side windows facing the proposal, there is also a rear window lighting the same room as well as a front window lighting the open plan living room. It should also be noted that the garden room itself is an extension with the side window closest to the extension being a new addition, albeit this is an existing arrangement. Due to concerns raised with the applicant they have submitted a sun path study to demonstrate potential levels of overshadowing throughout the year. Whilst the sun path plans do show a difference in impact to Staddle Stones this impact has to be balanced against the level of harm caused. It is accepted that there will be some light reduction to these windows for a short period of the evening, however as these rooms are lighted by other windows as well, it is not considered that the harm is so significant as to warrant a refusal of planning permission for this reason alone. It is therefore considered that the height and mass of the extension coupled with the M plan roof design helps to prevent unacceptable loss of light issues onto this neighbouring property.

The matter of overbearing is one which has received considerable attention and debate on its acceptability. Due to the scale of Staddle Stones when compared to the host property along with the juxtaposition of the two properties and the position of windows at Staddle Stones, there is a potential for an overbearing impact upon their amenity. However due to the proximity of the extension from Staddle Stones of between 2.9-3.3m, coupled with the position of other windows at this property, the scale and design of the roof, the proposal would not result in such a harmful overbearing outlook upon the amenities of the neighbouring occupier.

Turning now to the neighbouring property to the west (Vine Cottage), this neighbouring property is set further back within the plot than Cobblers Cottage such that the front elevation of Cobblers Cottage is approx. 1.8 metres further rearwards than the original rear elevation of Cobblers Cottage. However, given the separation distance between the two side elevations (approx. 4 metres), I do not consider that the proposal will cause unacceptable overbearing or loss of light issues onto the front windows of this neighbouring property. The rear windows of Vine Cottage are not affected by the proposal as they are set further back within the plot than the extension.

However, Vine Cottage does have side windows facing the site, one of which I understand to be a kitchen. However, I consider that the amended proposal will not cause unacceptable issues of overbearing or loss of light onto this neighbouring property due to separation distances (approx. 4 metres), juxtaposition of the two properties and the height and the roof design of the proposal helps to prevent such unacceptable issues.

For the reasons stated above, and taking in to consideration the concerns raised during the processing of the application, I conclude that the proposal will not have an unacceptable impact on neighbouring amenity and therefore complies with the relevant planning policies set out at the start of this section of the report.

### Highway Safety

Spatial Policy 7 of the Core Strategy states proposals should be safe, convenient and attractive for

all and be appropriate for the highway network. Criterion 1 listed in Policy DM6 states that householder development should include provision for safe and inclusive access and parking and should have no adverse impact on the highway network.

Parking and access arrangements at the site are to remain unaltered. Relevant planning policies do not require additional parking spaces to be provided for householder developments.

### Conclusion

The principle of householder development at this site is considered to be acceptable. On balance, I consider that the proposal does not have an unacceptable visual impact on the host dwelling which is a non-designated heritage asset, the wider visual amenity of the area or views to and from the adjacent conservation area. I consider that the proposal will not have an unacceptable impact on residential amenity or on highway safety. As such the proposal is considered to accord with the relevant planning policies, as set out earlier in this report.

### **RECOMMENDATION**

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

01

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

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

02

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

DP-A-10500 Rev B, SITE PLANS-EXISTING & PROPOSED, received 3rd April 2019

DP-A-21001 Rev B, FLOOR PLANS-PROPOSED, received 3rd April 2019

DP-A-30001 Rev B, PROPOSED ELEVATIONS, received 3rd April 2019

SITE LOCATION PLAN, received 30th Jan 2019

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

Reason: So as to define this permission.

03

No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.

Bricks

Roofing tiles

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

### Informative

01

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

02

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the gross internal area of new build is less than 100 square metres.

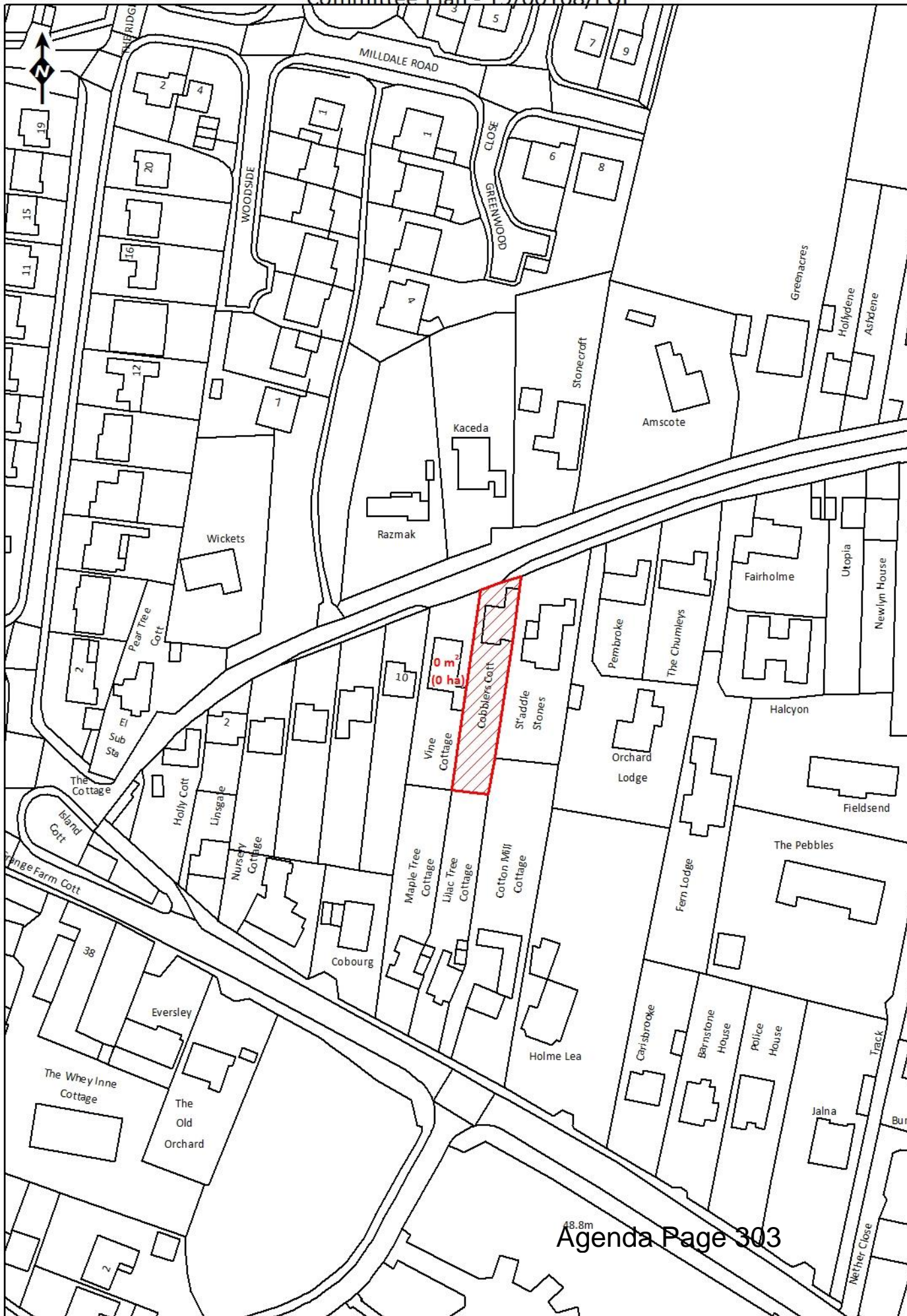
### BACKGROUND PAPERS

Application case file.

For further information, please contact Claire Turton on ext 5893.

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**



0 m  
(0 ha)





## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>19/00701/FUL</b>	
<b>Proposal:</b>	<b>Replacement dwelling</b>	
<b>Location:</b>	<b>Sawmills Farm Rufford Lane Ollerton NG22 9DG</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs D Bower</b>	
<b>Registered:</b>	<b>10.04.2019</b>	<b>Target Date: 05.06.2019</b>

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

### The Site

The application site forms a rectangular plot and its associated vehicular access from Rufford Lane to the south. As existing the site forms the residential curtilage of a single residential unit approved through the change of use from an agricultural building (as detailed in the site history below).

The wider site within the applicants ownership includes a stable building (approved for retention as detailed in the planning history below) as well as mobile field shelters and an unauthorized residential caravan and static mobile home.

The nearest residential neighbours are a cluster of properties either side of Rufford Lane before Rufford Lane crosses the Ford adjacent to the Grade II Listed Rufford Mill Complex. The site is situated within the open countryside with the defined settlement boundary of Ollerton being approximately 1.4km north east of the site. There is a public right of way immediately to the east of the site.

Immediately surrounding the site are open fields within an undulating and sparse landscape. Rainworth water runs in a broadly north south direction to the west of the site. Beyond this the landscape is defined by the road network of the A614 and dense areas of woodland, particularly in association with the Rufford Abbey complex and Registered Park and Garden with its defined boundary on the opposite side of Rufford Lane.

### Relevant Planning History

**18/02364/FUL** - Proposed retention of stables and change of use of land from agriculture (former poultry units) to (domestic) equestrian use ancillary to the residential dwelling approved under LPA reference 17/01026/CPRIOR (retrospective). *Application approved February 2019 albeit this application is on land within the applicants ownership rather than the site itself.*

**17/01026/CPRIOR** - Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to dwellinghouse and for associated operational development. *Application approved July 2017 thus the conversion works approved remain extant.*

**16/00041/CPRIOR** - Application for prior approval for change of use of an existing agricultural building to Class C3 (dwellinghouse) including creation of domestic curtilage and vehicle parking area. *Application refused and dismissed at appeal.*

**14/01843/CPRIOR** - Prior Approval of Proposed Change of Use of Agricultural Building to a Dwellinghouse (Use Class C3). *Application refused and dismissed at appeal.*

**11/01500/FUL** - Erection of a New Stable Block with Fenced Paddock Area to Provide Part DIY Livery and Partly for Applicant's Own Use. *Application refused and dismissed at appeal.*

### The Proposal

The current application seeks full planning permission for the demolition of the existing single storey dwelling (approved through the prior notification procedures) and its replacement with a single detached two storey dwelling. The dwelling would deliver four bedrooms with accommodation set across two floors with an approximate footprint of 293m<sup>2</sup>. The dwelling would have a maximum pitch height of around 7.2m and eaves of approximately 2.5m. The principle elevation is designed with two storey projecting gables and large elements of glazing. Materials proposed are predominantly brick work and clay pantiles albeit with small elements of cedar cladding and an oak framed entrance porch.

The application has been assessed on the basis of the following plans and supporting documents:

- Location Plan – 19-284-01;
- Existing Layout Plan – 19-284-02;
- Proposed Layout Plan – 19-284-03 Rev. A;
- Existing Plans and Elevations – 19-284-04;
- Proposed Elevations – 19-284-05;
- Proposed Floor Plans – 19-284-06;
- Design and Access Statement (with two associated appendices).

### Departure/Public Advertisement Procedure

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

### Planning Policy Framework

#### The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 3 – Rural Areas

Spatial Policy 7 - Sustainable Transport

Core Policy 3 – Housing Mix, Type and Density

Core Policy 9 -Sustainable Design  
Core Policy 13 – Landscape Character  
Core Policy 14 – Historic Environment

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

DM5 – Design  
DM8 – Development in the Open Countryside  
DM9 – Protecting and Enhancing the Historic Environment  
DM10 – Pollution and Hazardous Substances

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)

### **Consultations**

**Ollerton Town Council** - No comments received.

**Rufford Parish Council** – Rufford Parish Council considered this application at its meeting on 14 May 2019, The councillors unanimously decided to object to the proposal on the following grounds:

1. The design is excessively large with a footprint approximately 50% bigger than the existing building
2. The existing building is single storey. That proposed is substantially higher being two storey
3. The existing building is unobtrusive. The proposed building would be obtrusive and have a significant visual impact.
4. The councillors also question the validity of the application, bearing in mind that the site was an agricultural site for which permission was given to convert a chicken shed to a single story dwelling within the existing footprint.

**NCC Highways Authority** – The Local Highway Authority, (County Council) considers this proposal to be minor and there will be minimal material impact on transportation and the highway network. Therefore, the application can be dealt with by Nottinghamshire County Council's 'Standing Advice'

**NSDC Environmental Health (contaminated land)** –The application site has been the subject of an Enhanced Phase I Geo-Environmental Desk Study Report submitted by HSP Consulting Engineers Limited under a previous application (18/02364/FUL).

Following intrusive sampling, none of the analytical results exceeded the relevant screening criteria for the proposed residential use and the report deemed the site to be low risk.

As this application forms part of the same site as the previous application, I do not consider that any further investigation is required at this stage. However the environmental consultant commented previously that there remain further risks associated with the wider site that were not assessed as part of this earlier application. I would therefore expect that a contamination

condition will need to be attached to any planning consent for any areas of the site that did not form part of this earlier application, should they be developed in future.

**Ramblers Association** - The track that provides access to this property is a public right of way, Ollerton and Boughton Bridleway 1. We have no objection to the development as long as the bridleway remains safe for pedestrian use during the construction process.

**3 letters of representation has been received, details of which can be summarized as follows:**

- The proposed development would be above the allowances of Policy DM8 in that it would increase the pitch height from around 4m to more than 9m;
- The allowance is enable living improvements should not apply given that the building has only just been converted;
- The increased bulk and height will have a detrimental impact on visual amenity and the character of the area;
- The current building is sympathetic to its agricultural past;
- The development would lead to an increase in curtilage specified by Class Q;
- Comments from the Inspectorate on previous appeals for residential replacement of a small agricultural building are relevant as it explicitly deals with the rural impact of this type of development;
- The proposal would be contrary to Policy DM9 in that it negatively impacts on the historic environment with the replacement being more visible from Rufford Park;
- The current building is suitable for habitation;
- The application is a masterclass in planning manipulation to move a derelict shed to a grand property;
- The finished building misrepresents the status of the building as is;
- The building is significantly larger;
- The proposed dwelling would contribute to a sense of residential over development in an otherwise exposed rural location;
- The curtilage would increase above the Class Q allowances;
- The proposed replacement building is not architecturally outstanding and lacks obvious design innovations.

Comments of the Business Manager

Background

As is alluded to above, the existing dwelling on the site has been delivered through the prior approval 'Class Q' procedure which National Government introduced in order to allow provision for agricultural buildings to be converted to dwellings subject to certain conditions and restrictions. It is worthy of note however than the dwelling as built does not conform strictly with the approved plans insofar as there are not as many windows as was originally shown on the plans.

The drive behind this part of the legislation was to allow the re-use of redundant agricultural buildings to contribute towards the national housing crisis. Whilst allowances through the legislation are subject to conditions (including a requirement to complete the works within 3 years of the approval) there is no reference to whether or not it becomes appropriate for a converted agricultural building to be considered a lawful dwelling for the purposes of further planning

applications (such as this one).

Given the infancy of these types of applications (Class Q was introduced in 2015) there is little case law on the matter to assist. Clearly, the concern for Officers is that if treated as a lawful residential dwelling which ultimately may be acceptably replaced by the current Development Plan in principle, then there is a risk that the original intentions of the Government in bringing back into use vacant agricultural buildings would be lost to a housing stock of new replacement dwellings more often than not in countryside locations.

Officers are aware of an appeal example in 2018 where the Inspector granted permission for a completely new house partially because of the 'fall-back' position of a barn being converted. Whilst there were other material considerations in the appeal scheme and every application must be assessed on its own merits, Officers are minded to attach some weight to this decision given that there is a lack of advice to the contrary. Given that the building has already been converted to residential use (albeit not entirely in accordance with the approved plans) unfortunately it is considered that there would be even more of a case of a strong fall-back position at this site such that it would be difficult to resist the principle of a replacement dwelling purely because the original dwelling has arisen through the change of use prior approval process.

#### Principle of Development

On the basis of the above, the proposal falls to be assessed against the Development Plan as adopted. The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). 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. However, Spatial Policy 3 also confirms that, development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Direction is then given to the relevant Development Management policies in the Allocations and Development Management DPD.

Policy DM8 outlines a number of types of development that will be potentially accepted in an open countryside location. Policy DM8 accepts the principle of replacement dwellings subject to the following:

*'Planning permission will be granted where it can be demonstrated that the existing dwelling is in lawful residential use and is not of architectural or historical merit. In the interests of minimising visual impact on the countryside and maintaining a balanced rural housing stock, replacement dwellings should normally be of a similar size, scale and siting to that being replaced.'*

This has been addressed by the submitted Design and Access Statement and Officers would concur with the stance that the existing dwelling is not of any particular architectural or historical merit which would warrant its retention.

The Design and Access Statement acknowledges that the overall increase in footprint would be approximately 10m<sup>2</sup> however owing to the introduction of first floor accommodation the increase

in floor space would amount to approximately 40% larger than the existing building.

Rufford Parish Council have objected to the application (as listed in full above) partially on the basis of the scale of the proposed building quoting that the building is 50% larger in footprint. The agent has disputed this point during the life of the application with a revised plan which annotates the existing footprint.

The proposed dwelling is considered to be an acceptable level of increase in the context of the open countryside policy and therefore overall the principle of replacing the dwelling is considered acceptable subject to consideration of all other material planning considerations as undertaken below.

### Impact on Character

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.'*

The heritage context of the site comes in the form of the Registered Park and Garden, the boundary of which is the opposite side of Rufford Lane to the site access. Nevertheless, the replacement dwelling would be set back approximately 150m from Rufford Lane and thus the opportunity for the dwelling to affect the setting of the Park and Garden is significantly limited. Owing to the modest overall height of around 7.2m, and indeed the context of the existing site which has previously accommodated a poultry farm and its associated agricultural buildings, the proposed development would not impose any detrimental impacts to the setting of the nearby listed assets. It therefore satisfies the requirements of Core Policy 14 and Policy DM9. This conclusion has been verbally discussed with internal conservation expertise.

Moving then to assess the overall design of the replacement dwelling, it is notable that the Design and Access Statement adopts the approach that the new dwelling offers the potential to enhance the character of the site. Whilst I appreciate the case made in terms of the consolidation of a purpose built dwelling, my view is that this would amount to having a neutral character impact as the replacement dwelling in its modern form would have a greater degree of prominence in comparison to the existing building which clearly still takes reference from its agricultural past. Nevertheless, the landscape has been interrupted through the built form of agricultural buildings for some time and more recently through the acceptance of the retention of a stable block to the south of the site on land within the applicant's ownership. When accepting that there is already a dwelling on site, the modern design presented in a replacement is not considered fatal in principle.

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 site borders two policy zones within the Sherwood Policy Zone. The first is PZ 14 (Rainworth Water Meadowlands with Plantations) is identified as having a good landscape condition with few detracting features and a moderate landscape sensitivity. One of the landscape actions in terms of built features is to *'reinforce the sense of plan of the built environment by using materials and design that reflect the local character of the area around Rufford Mill.'*

The proposed material palette of red brick thereby offers the opportunity to conform to the landscape actions for built form. Officers have sought clarification on the exact use of materials during the life of the application but the agent has requested these details be agreed by condition.

It is noted that neighbor comments received during the life of the application have made reference to previous appeal decisions whereby an Inspector has considered the landscape impact of a proposed residential replacement of a small agricultural building. In this case (not in this District) it was essentially concluded that a two storey replacement dwelling would have a harmful urbanizing effect on the character and appearance of the countryside. Officers have carefully considered the referenced decision but do not consider that the parallels to the current application are strong enough to carry a refusal on landscape grounds. The landscape implications of the proposal have already been assessed above but it is worthy of note in the context of the identified appeal that the application site already has a small degree of urbanization in the acceptance of the approved stable block (discounting entirely the other unauthorized structures in the site referenced further below). Noting also the proximity to the main urban road network, it is not considered that the landscape impacts would be harmful to a degree that the scheme could be resisted in the same respects as the identified appeal decision.

#### 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.

Owing to its positioning with the open countryside, the site is relatively isolated in respect to residential neighbours. The nearest properties are to the south of Rufford Lane over 150m away. By virtue of this separation gap, it is not considered that there are any adverse impacts upon the amenity of nearby occupiers.

In terms of the amenity provision for the end occupiers of the dwelling, the site layout plan demonstrates a modest outdoor amenity provision. This is based on (albeit is slightly bigger than) the restrictions of the change of use prior approval process whereby the amenity space is restricted to the size of the building to be converted. Given the circumstances in which the existing

dwelling has come about, the modest amenity space is considered beneficial to limiting the impact on the open countryside (i.e. if it were bigger a wider proportion of the area would become domesticated). Officers are conscious that there are wide expanses of the adjacent land within the applicants ownership and therefore to mitigate the risk of future encroachment, further details of the boundary treatments to define the residential curtilage as presented have been requested. The agent has confirmed that these details could be agreed by a suitably worded condition.

#### 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 change of use prior approval process allows for the consideration of Highways access. The existing access from Rufford Lane has been found acceptable for the occupation of a single residential unit and given that the current application relates to a replacement dwelling, it is not envisaged that there will be any perceivable impact on the Highways network.

#### Impact on Contamination

The previous site use (prior to residential conversion) was a poultry farm. As is confirmed by the comments of Environmental Health listed in full above, the applicant has already done exploratory works to meet the requirements of a contaminated land condition which was imposed on the original change of use permission. On the basis that the replacement dwelling occupies the same position within the site, no further works would be required to allow for the replacement dwelling as proposed.

#### Other Matters

It is noted that as existing there are unauthorized residences in the form of a mobile home and a residential caravan. These have been discussed with the agent acting on behalf of the application and it has been confirmed that these are in situ during the renovation works of the existing building which whilst habitable is not yet complete. This is a reasonable justification and indeed one that is readily accepted through permitted development rights. Nevertheless, Officers will continue to monitor the status of the site through their enforcement powers regardless of the outcome of this application.

#### Overall Balance and Conclusion

The complex planning history which affects this site is noted. However, in the absence of any specific case law that a change of use prior approval dwelling cannot be considered as a lawful residential dwelling (and in fact the case law directs to the contrary) there is no reason to resist the replacement of the existing dwelling in principle. No other harm has been identified through the specific design of the scheme in respect to matters of character or amenity and therefore the recommendation is for one of approval subject to the conditions outlined below.

#### **RECOMMENDATION**

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



## Conditions

01

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

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

02

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

- Proposed Layout Plan – 19-284-03;
- Proposed Elevations – 19-284-05;
- Proposed Floor Plans – 19-284-06;

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

Reason: So as to define this permission.

03

No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

04

Prior to the occupation of the development hereby permitted, details of all boundary treatments shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented on site and shall then be retained for a minimum of five years.

Reason: In the interests of residential and visual amenity.

## Notes to Applicant

01

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

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

02

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

pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03

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

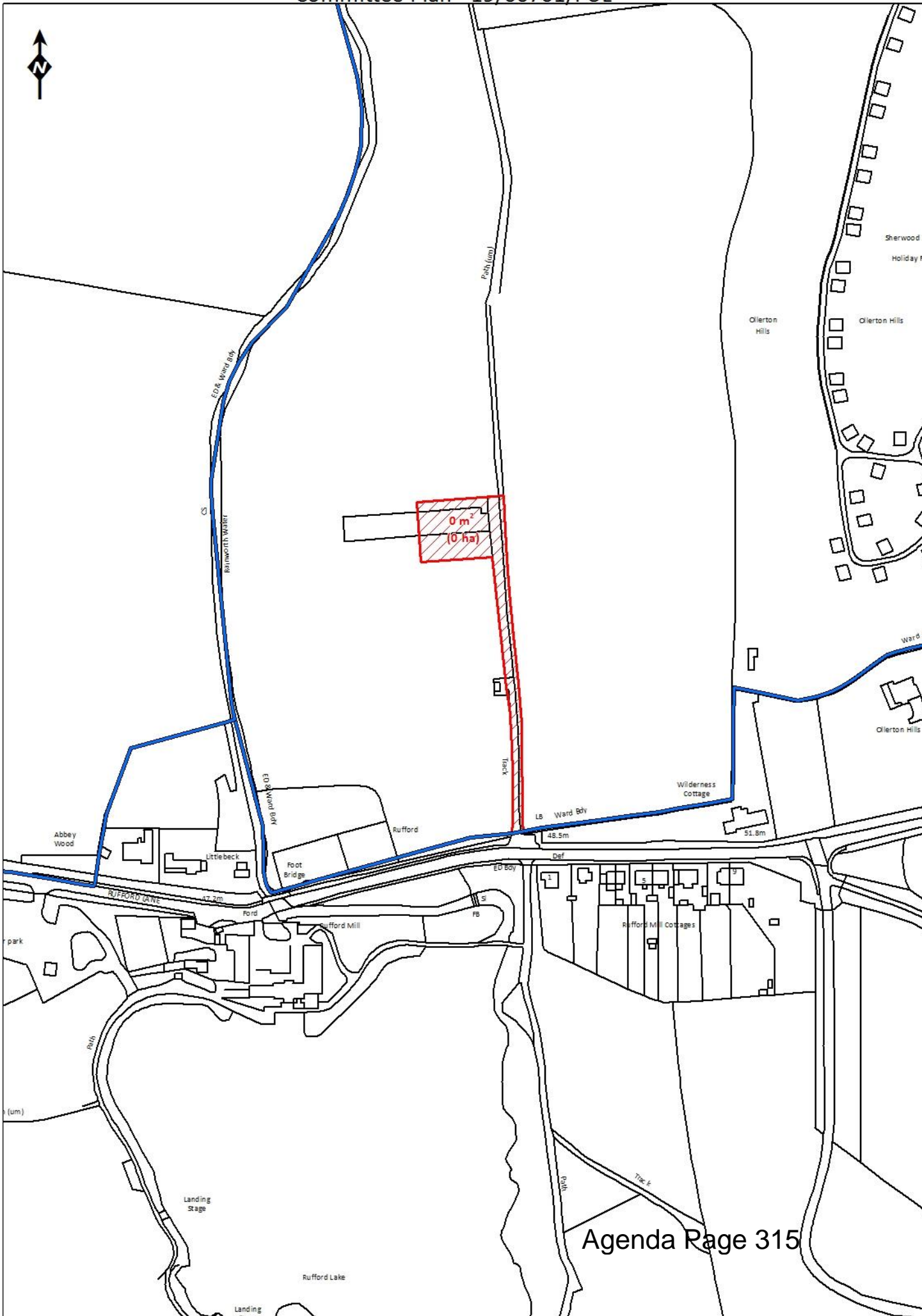
#### BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on extension 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 and Regeneration**



## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>19/00492/FUL</b>	
<b>Proposal:</b>	<b>Proposed replacement dwelling</b>	
<b>Location:</b>	<b>The Shed, Old Epperstone Road, Lowdham, Nottinghamshire, NG14 7BZ</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Cookson</b>	
<b>Registered:</b>	<b>15<sup>th</sup> March 2019</b>	<b>Target Date: 10<sup>th</sup> May 2019</b>

**The application is reported to Committee as the view of Lowdham Parish Council is contrary to the Officer recommendation.**

### The Site

The application is located on the south-western side of Old Epperstone Road and currently comprises a small detached dwelling which was converted in 2018 as part of a prior notification procedure under Class Q of Part 3 (Schedule 2) of the Town and Country Planning (General Permitted) (England) Order 2015. The building consists of a block work single storey structure finished with vertical timber boarding and felt and is situated within a plot of land set back approximately 30m from the roadside with an access drive to the side (east). Surrounding the dwelling is an open field (although somewhat disturbed/dug up) with no boundary treatments enclosing the site from this surrounding field.

Lazonby House lies immediately to the east of the site, which is separated by a 2m high close boarded fence. Approximately 65m to the west is Sherrards Farm which is separated from the site by fields, with fields also beyond the southern boundary of the site.

### Relevant Planning History

**17/02084/CPRIOR** - Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to dwellinghouse and for associated operational development (permitted 08.01.2018)

### The Proposal

The application seeks planning permission for the demolition of the existing dwelling within the site and the erection of a replacement dwelling partially on the footprint of the existing building. Access to the site would remain as existing.

The proposed dwelling would have an L-shape plan form with a footprint of approximately 110m<sup>2</sup> (99m<sup>2</sup>) with a ridge height of 5.9m. It is proposed that the dwelling would be externally constructed with horizontal timber cladding, brick plinth and non-interlocking clay pantiles.

## Submitted Documents

The following documents accompany the application:

- Block Plan and Location Plan – 19/292-01
- Existing Plan and Elevations – 19/292-03A
- Proposed Plan and Elevations – 19/292-04A
- Design and Access Statement (with Appendix IBA1)

## Departure/Public Advertisement Procedure

2 neighbouring properties have been consulted by letter.

## Relevant Planning Policies

### **The Development Plan**

*Amended Newark and Sherwood Core Strategy Adopted March 2019*

Policies relevant to this application:

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 2: Spatial Distribution of Growth

Spatial Policy 4B: Green Belt Development

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

*Allocations and Development Management DPD Adopted July 2013*

Policies relevant to this application:

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

Policy DM3: Developer Contributions and Planning Obligations

Policy DM5: Design

Policy DM7: Biodiversity and Green Infrastructure

Policy DM12: Presumption in Favour of Sustainable Development

### **Other Material Considerations**

*National Planning Policy Framework 2019*

*Planning Practice Guidance 2014*

## Consultations

**Lowdham Parish Council** – Support the proposal

**NSDC Contaminated Land Officer** – *The proposed development is in a potentially Radon Affected Area\*. These are parts of the country where a percentage of properties are estimated to be at or above the Radon Action Level of 200 becquerels per cubic metre (Bq/m<sup>3</sup>). Given the above I advise that it would be prudent for the applicant to investigate if the proposed development will be affected by radon and incorporate any measures necessary into the construction to protect the*

health of the occupants. Further information is available on the council's website at: <http://www.newark-sherwooddc.gov.uk/radon>

*\*based on indicative mapping produced by the Public Health England and British Geological Survey Nov 2007.*

**LCC Archaeology – No archaeological input required.**

**NSDC Access and Equalities Officer – It is recommended that the developer make separate enquiry regarding Building Regulations matters**

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

Comments of the Business Manager

### **Principle of Development**

The site is located within the Green Belt where new development is strictly controlled through the NPPF and Spatial Policy 4B of the Core Strategy. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF informs local planning authorities that they should regard the construction of new buildings as inappropriate in Green Belt although there are exceptions. One such exception does allow for the replacement of buildings providing the new building is within the same use and is not materially larger than the one it would replace. It is under this stipulation that the appropriateness of the proposal will be assessed further below.

In addition to the above, Policy DM5 requires new development to reflect the characteristics of the surrounding area through the scale, bulk, massing and design of the development, as well as ensure that there is sufficient parking provision and safe access to/from the site. Furthermore, development should have no adverse impact upon the amenities of the surrounding land uses and should ensure protection of ecology.

### **Impact upon Green Belt**

The NPPF states that substantial weight is given to any harm to the Green Belt and as a starting point, new buildings are considered inappropriate development within the Green Belt, although as paragraph 145 states there are exceptions to this including replacement building providing they are with the same use and not materially larger than the one it replaces.

The existing dwelling on site has been converted from an agricultural building within the last calendar year having carried out the works under the tolerances of Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). Class Q allows the conversion of agricultural buildings to dwellings without the need for a full planning application. To my knowledge the conversion of the building has been carried out lawfully and thus I am satisfied that the building is within a lawful use for the purposes of the Green Belt. However, having visited the site I see that the proposed boundary treatments proposed as part of the conversion has not been erected and thus the curtilage afforded to the building is not clear; whilst it would assist in ensuring only the land agreed under the prior notification is used in association with The Shed, I would not consider the lack of boundary definition to be surmountable to conclude the conversion is not lawful.

Whilst the building is, for the purposes of planning, considered to be a dwelling, the GPDO excludes dwellings converted under Class Q from benefitting from any permitted development rights in respect of householder development (Part 1, Schedule 2 of the GPDO). As such, there is no fall-back position in terms of extending or altering the property without triggering the need for planning permission.

Based upon the above, I am satisfied that the principle of replacing the dwelling with a dwelling would meet the exception set out by paragraph 145 of the NPPF, however the application proposes to increase the footprint of the building by 50% which in my view would result in a materially larger building and thus would not fully meet the requirements of paragraph 145. I am mindful that there have been previous replacement dwelling proposals supported by the LPA which have sought to around a 50% increase in size above the above it seeks to replace, however in these instances weight has been given to the realistic fall-back of extensions under permitted development, or in a few cases consolidation of buildings within the site to reduce encroachment upon the openness. As stated in the previous paragraph, The Shed has no fall-back permitted development to increase the size of the footprint and thus I cannot attach weight to this in weighing up the impact an additional 50% of built form would have upon the openness of the Green Belt.

The impact of a materially larger building within the site would in my view have a harmful impact upon the openness of the Green Belt, not least because its open and rural setting where visibility into the site from surrounding land is easily achieved and where built form is sparse; the impact of even a small increase in size is likely to result in some harm to the setting of the building. In addition to the increase in footprint, the proposal also seeks to increase the ridge height of the building by 1.8m, further representing a materially larger building but also significantly increasing the built form and prominence of the building within the street scene and the character of the area.

Alongside the issue of the replacement building, the application also seeks to increase the size of the curtilage associated with the dwelling from that agreed under the prior notification procedure in 2018. This enlarged curtilage would constitute a change of use of the land. Under Class Q of the GPDO there is a stipulation that the curtilage associated with the building must be no greater than the footprint of the building; it is assumed by Officers that this is to prevent over-domestication within the rural setting and where new residential development would not normally be permitted. Given the understanding of this requirement within the GPDO, I consider it appropriate to ensure that the curtilage remains as agreed as part of the conversion so as not to undermine the permitted development legislation, as well as ensure that there is no further domestication of the land that would bring harm to the openness of the Green Belt; whilst the erection of domestic structures can be controlled through conditions, the domestic use of the land changes the overall appearance of the site within this designated setting and would not prevent the positioning of garden furniture and structures, which detract the open setting.

Given the above, I am of the view that the proposal would be contrary to the aims of the NPPF with regards to protecting the Green Belt and would not fall within the exceptions set out within paragraph 145 of the NPPF. Amendments have been sought by the Officer to reduce the scale of the dwelling to the same as that currently in situ, along with amendments to the curtilage, however no revisions have been forthcoming.

## **Visual Impact**

Policy DM5 of the DPD require new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing. Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Furthermore the NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping.

The proposed dwelling would be sited in a similar location to the current dwelling, albeit would extend further to the rear to accommodate additional living space. The dwelling would be timber clad with a more sympathetic roof pitch and finish to match the neighbouring property, and the rural character of the area. Overall, the design would in my view be an improvement upon the existing dwelling, however this does not outweigh the impact that the new dwelling would have upon the openness of the Green Belt.

Aside from the design of the dwelling, the application proposes to extend the residential curtilage associated with the property. As detailed in the previous section, this would lead to further domestication of the land which is likely to have a harmful impact upon the Green Belt. Similarly, this domestication would erode the rural setting surrounding the site through the additional of domestic paraphernalia and manicured lawn and thus in my view would have a detrimental impact upon the visual character of the site within the local setting.

In terms of landscaping, no details have been submitted regarding the landscape elements of the site, nor has the applicant submitted details of proposed boundary treatments. As such, should Members be minded to approve the application, I would recommend that these details are conditioned to ensure that they are appropriate for the rural setting.

Given the above, whilst there are some positives of the proposal from a visual perspective, it is not considered that these outweigh the overall harm to the character of the area in this instance.

## **Impact on Residential Amenity**

Policy DM5 of the DPD states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. The NPPF also seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

The proposed building would be located in a similar location to that of the existing dwelling and would be single storey in height. The dwelling would be located approximately 5m from the boundary with Lazonby House and 11m from the side wall of this neighbouring property which I consider to be sufficient to ensure that there is no adverse impact upon the amenities of this neighbouring property.

With regards to the use of the site a residential property, this use has already been established and as such I would not expect the use, or its associated noise and comings/goings, likely to have any further impact from that currently experienced by the neighbouring property.



I am therefore satisfied that the proposal would not have an adverse impact upon the amenities of surrounding land uses, however this does not in my view outweigh the harm to the Green Belt identified earlier in this assessment.

### **Impact upon Highway Safety**

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

The Highway Authority have not been consulted on the application, however I take guidance from their comments on the prior notification application in 2017 which stated,

*This application is for the change of use of an agricultural building to a dwelling with associated parking, served by the existing access onto Old Epperstone Road.*

*This proposal is not expected to impact significantly on the public highway, therefore, there are no highway objections.*

As the application proposes to position the replacement dwelling in a similar location to the that current in situ, the existing parking arrangements would not be affected by the development, with sufficient parking available within the site to accommodate the larger dwelling. As such, I am satisfied that the proposal would not have a detrimental impact upon highway safety, however again this does not outweigh the harm identified with regards to the openness of the Green Belt.

### **Conclusion and Planning balance**

The application seeks consent for the replacement of the existing dwelling within the site. It is established that the current dwelling is in a lawful use, having been converted in 2018 under permitted development (Class Q). The proposed dwelling would be sited in a similar location as the existing dwelling, although is proposed to be 50% larger than the existing building. The NPPF places significant weight on the protection of the Green Belt and as such deems most development as being inappropriate within the designated area, with only a few exceptions constituting appropriate development. One of these exceptions is the replacement of a building providing it is within the same use as and not materially larger than the building it would replace.

In the case of the application brought forward, it is accepted that the principle of a replacement dwelling is acceptable owing to the use of the existing building, however the proposed building is considered to be materially larger than the one it would replace given the proposed 50% increase in size. The increase in scale is considered to result in harm to the openness of the Green Belt and as such the proposal would not comply with the aims of Section 13 of the NPPF and would not fit within the exceptions listed under paragraph 145 of the NPPF; no exceptional circumstances have been put forward to justify this identified to the Green Belt

Further to the above, the proposed increase in domestic curtilage is considered to conflict with the aims of the NPPF in that the change of use from agricultural land would alter the visual appearance of the site, with associated domestic paraphernalia likely to impact upon the rural character of the area and the openness of the Green Belt.

Whilst there is no detrimental impact considered likely with regards to highway safety and neighbour amenity, with the design of the dwelling also considered to offer some visual improvement to the site, these merits of the scheme do not outweigh the harm to the Green Belt.

It is therefore concluded that the proposal would result in harm to the Nottingham-Derby Green Belt, contrary to the NPPF and Spatial Policy 4B of the Amended Core Strategy, and as such is recommended for refusal.

### **Recommendation**

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

#### **Reason for Refusal**

01

The proposed replacement dwelling would result in a materially larger building than the one it would replace and would adversely affect the openness of the Green Belt. The proposed increase in the size of associated residential curtilage would also result in a change of use that would, by association of domestic paraphernalia, harm the openness of the Green Belt. The proposal would therefore constitute inappropriate development within the Green Belt and there are no very special circumstances to outweigh this harm. As such, the proposed development would be contrary to Spatial Policy 4B (Green Belt Development) of the Newark and Sherwood Amended Core Strategy (2019) and the National Planning Policy Framework (2019), a material planning consideration.

#### **Notes to Applicant**

01

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

02

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date.

Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

#### **BACKGROUND PAPERS**

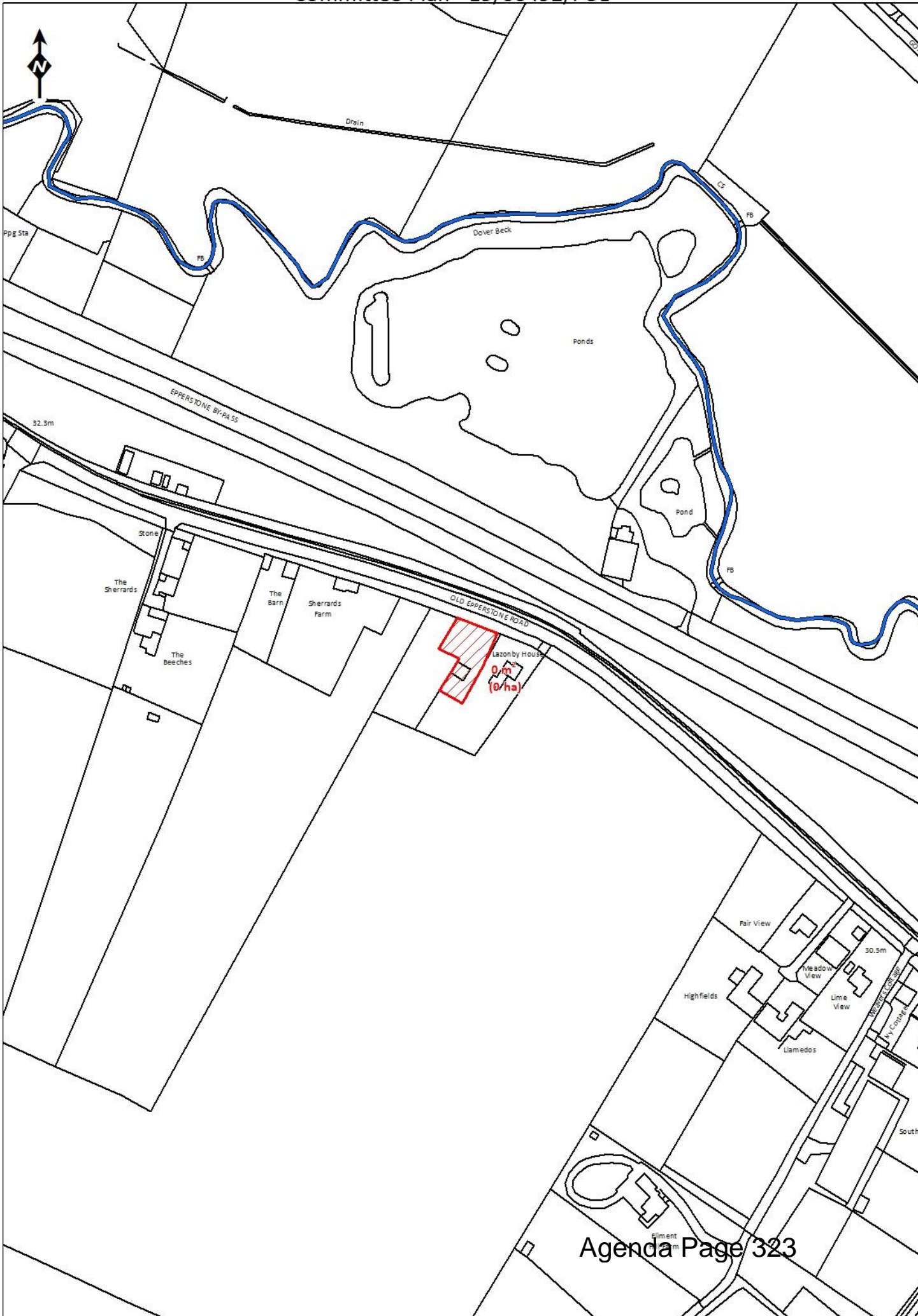
Application case file.

For further information, please contact Nicolla Ellis on Ext 5833.

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 – 4 JUNE 2019

<b>Application No:</b>	<b>19/00551/FULM (MAJOR)</b>	
<b>Proposal:</b>	<b>Creation of a Fish Farming Facility at Wigsley from Agricultural Land as a Farm Diversification Business (resubmission of 17/02043/FULM).</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>01 April 2019</b>	<b>Target Date: 01 July 2019</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.**

### 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. 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 is located c4.3km west of the River Trent and following recent modelling works undertaken by the Environment Agency the entire site falls within flood zone 2 (as it was previously) and part of the site (3.65h or c14%) to the north-east is now also within flood zone 3. The area is locally identified as being prone to surface water flooding.

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

**17/02043/FULM** – ‘Creation of a Fish Farming Facility at Wigsley from Agricultural Land as a Farm Diversification Business’ on same site as the current proposal. This application was refused by the Planning Committee in March 2019 (contrary to officer recommendation) for the following reason:

*“As a matter of fact the amount of material to be removed from the site during the construction period of the development has changed substantially during the lifetime of the application; from over 102 tonnes to less than 2 tonnes without a compelling explanation. In the opinion of the Local Planning Authority the application has failed to demonstrate credibility and enforceability regarding this, the consequences of which could give rise to significant impacts on the environment including the associated vehicle movements which may not be properly mitigated. The application has given rise to uncertainty regarding the impact of the sports fishing taking place on site (and whether this did indeed form part of the final proposal or not) and whether proper regard had been had in terms of the cumulative assessment of traffic and disturbance impacts associated with this element. The application also failed to demonstrate that the scheme could be appropriately phased, or its implementation be guaranteed in order to avoid a part completed development and avoid visual harm to the landscape. The application also fails to demonstrate how the scheme passes the sequential flood risk test. Taking all matters into account, it is concluded that the development has failed to demonstrate its acceptability in terms of the following policies of the Development Plan. These are from the adopted Newark and Sherwood Core Strategy; Spatial Policies 3 (Rural Areas) & 7 (Sustainable Transport), Core Policies 9 (Sustainable Design), 10 (Climate Change) 12 ( Biodiversity and Green Infrastructure) and 13 (Landscape Character) and from the adopted Allocations & Development Management DPD; Policies DM5 (Design), DM7 (Biodiversity and Green Infrastructure), DM8 (Development in the Open Countryside) and DM12 (Presumption in Favour of Sustainable Development) as well as the National Planning Policy Framework 2019 and its associated Planning Practice Guidance. There were no material considerations that outweighed the failure to demonstrate the above matters.”*

**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.

### Background and Proposal

Members will recall the planning application under reference 17/02043/FULM was refused at the March 2019 Planning Committee. There are a number of matters that have changed which are material to you as decision makers in this resubmission for the creation of a fish farming facility.

Firstly the site was previously identified as being in flood zone 2 (at medium risk of flooding) and in an area prone to surface water flooding according to Environment Agency (EA) maps. However following recent modelling works undertaken by the EA, new data has been released showing that 3.65h of the north-eastern part of the site is also within flood zone 3 (at highest flood risk) and it continues to be located in an area prone to surface water flooding. This matter will be discussed further in the relevant section of this report.

Secondly the amended Core Strategy has now been adopted and carries full weight. This will be discussed where necessary throughout the report.

### The Proposal

The applicant already operates a fish farm (Float Fish Farm, which started trading in 2007) which is 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.

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 clarified that there is no leisure or sport use in the proposal and 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. The proposed buildings are finished with timber cladding on the walls and shingle tile on the pitched roof.

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 up to 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 one fish stock pond (FP2) would be created along with reed beds and a growing pond (GP11), 1 area 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 (GP1 – GP10) and one area of parking;
- Phase 3 to the southwestern part of the site would comprises two fish stock ponds and associated reed bed, scrub habitat and 3 areas for vehicle parking;
- Phase 4 to the north-west part of the site would comprise a fish stock pond (FP1), a reed bed (feeding into FP3 and FP4) and scrub habitat.

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:

- Drawing Number: DH/400/17 – Location Plan – dated 6 September 2017;
- Drawing Number: DH/401/17 Rev C – Site Layout dated 12 March 2019;
- Drawing Number: DH/402/17 – Plan of the Proposed Buildings, dated 5 September 2017;
- Drawing Number: DH/403/17 – Cross Sections, dated 8 June 2018;
- Drawing Number: DH/404/17 – Cross Sections, dated 8 June 2018
- Drawing Number: DH/405/17 – Topographical Survey, dated 19 February 2018;
- Drawing Number: DH/407/17 – Cross Sections, dated 7 June 2018;
- Drawing Number: DH/408/17 Rev A – Phasing Plan, dated 12 March 2019
- Supporting Statement (including Design and Access Statement) – dated 12 March 2019 with the following appendixes:
  - Construction Management Plan;
  - Documents relating to excavation;
  - Flood Risk Assessment – updated May 2018 (author: Geoff Beel Consultancy), submitted 29.11.2018;
  - Ecological surveys;
  - Agricultural Land Classification – dated November 2018 (author: Soil Environment Services, Reference: SES/FFF/WFF/#1); and,
  - Landscape & Visual Assessment – dated March 2018 (author: Collington Winter, reference CW067-RPT-001).

## 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 expiring on 2<sup>nd</sup> May 2019.

## **Planning Policy Framework - The Development Plan**

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

Spatial Policy 1: Settlement Hierarchy  
Spatial Policy 2: Spatial Distribution of Growth  
Spatial Policy 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
- Agricultural Land Classification: protecting the best and most versatile agricultural land, Natural England, TIN049, 19/12/2012

## Consultations

### **Wigsley Parish Meeting – (22.04.2019)**

Objection approved at Wigsley Parish Meeting on 09/04/2019

“It is noted that the previous planning application 17/02043/FULM was refused but only contrary to officer recommendation. Wigsley Parish Meeting thanks Councillors on the Planning Committee for their careful consideration of the refused application and the uncertainty about many aspects of the application which they recognised. This is a very significant major application adjacent to a small village and there is no room for any uncertainty about what is proposed because of the potential impact on residents.

In addition, having reviewed the committee report for the refused application and assessed the



resubmitted scheme, we continue to object to the application on the following grounds:

1. Noise and disturbance from excavations over a 4 year time period on 6 days per week. There is still no proper noise assessment. This would be quite simple to carry out. First of all, measure existing background noise levels. Then set up noise monitoring equipment at the nearest noise-sensitive premises and carry out some excavations at the closest point over the course of a day using the actual excavators. There are many companies that the applicant could engage to produce such a report which the District Planning Authority could then check. Alternatively, Environmental Health Officers at the District Council should be capable of doing the same.

The response of the District Council Environmental Health Officers in the committee report is simply not detailed enough. The proposed Construction Management Plan is of no value if the actual excavations are too noisy and result in disturbance to the residential amenity of villagers. There is no empirical evidence upon which the Environmental Health Officers have based their response.

It is also noted that the Construction Management Plan put forward by the applicant does not take account of the recommendations of the Environmental Health Officers in terms of hours nor the condition recommended in the committee report. Thus, the suggested hours by the District Council were:

07:30 to 18:00 on Mondays to Fridays

In contrast the applicant proposes:

07:00 to 17:50 on Mondays to Fridays

Clearly, there is greater potential for noise and disturbance at 7:00 am in the morning and so we again object to the applicant's suggested hours of construction.

Although the applicant states that favourable weather conditions may reduce the construction period to 2.5-3 years, it has to be recognised that the site is within the Flood Zone.

Consequently, during winter months the water table is invariably very high with very heavy ground as a result, so the Parish Meeting has little confidence that the construction period will be reduced.

It is also noted that, although the overall levels of projected vehicle movements are modest, there could be peaks and troughs which may add to the noise and disturbance from the scheme to the further detriment of residential amenity.

2. Flood Risk - Sequential Test still not carried out. The Parish Meeting highlighted this issue previously and it formed one of the reasons for refusal of the previous application. However, the applicant has again failed to address the matter. The protestations of the applicant in the committee report are far too vague and it has to be acknowledged that North Scarle Road/ former Wigsley Airfield has been notable for its flooding at times of heavy rain.

3. Limited scope for frontage landscaping. Whilst there are some modest improvements in this regard, extending the development close to North Scarle Road means that the landscaping will have an artificial, unnatural quality in this countryside location. Given the very large size of the site, avoiding fish ponds close to the road would allow for a greater depth of planting allowing the scheme to be more sensitively assimilated into the landscape."

### **NCC Highways Authority – (17.04.2019)**

The NCC Highway comments dated 17 December 2018 contained within the Applicant's supporting statement (Appendix 5, document 5.7) which raised no objection to the amount of proposed lorry movements was based on information entitled 'Wigsley Site Lorry Movements Proposed' that suggested:

- Total Loads to export from site = 167 Loads over 4 years
- Year 1 – Nil loads
- Year 2 April - October 13 weeks x 5 loads Out;
- Year 3 April - October 8 weeks x 5 loads Out
- Year 4 April - October 12 weeks x 5 loads Out plus 1 week x 2 Loads Out

This is approximately 1 load, or 2 HGV trips (1 in & 1 out) per day, but only during certain periods. This is not considered excessive and is not perceived to significantly compromise highway safety or capacity.

Therefore, the highway Authority raises no objection to the application subject to a condition for the submission and approval of details of the site access and for a schedule of construction lorry routing arrangement should be agreed by planning condition.

### **NCC Planning; Minerals and Waste/Ecology - (09.04.19)**

Our comments would remain the same as the previous comments made on the 17/02043 application, with our latest comments on further information provided in December 2018. The previous comments are noted below.

#### ***NCC 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 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.

### ***NCC 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 Nottinghamshire County Council, County Hall, West Bridgford, Nottingham NG2 7QP 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).

### **NCC Lead Local Flood Authority – 05/04/2019:**

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.

### **Natural England – (05.04.2019):**

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published under the [Standing Advice](#) for protected species for local authorities. However, advice can be sought from ecology services available.

### **Nottinghamshire Wildlife Trust – 08.04.2019:**

Our comments are based on the following ecological information:

- Ecological Scoping Survey (Prime Environment January 2018)

- Float Fish Farm Lt., Great Crested Newt Mitigation Report (Prime Environment October 2018)
- eDNA Survey Report, Float Fish Farm Ltd (Prime Environment 21/07/2018)

### *Amphibians*

The Ecological Scoping Survey reveals that a second pond, 39m north-west of the site on private land could not be accessed during the survey. The applicant's ecologist states 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. Within the Float Fish Farm Ltd. Supporting Statement (revised 12th March 2019) Section 3.3 Ecology states: *"We have therefore provided a Newt Mitigation Strategy so as to deal with any newt habitats that might exist and during the spring of 2019 we will commission a Newt DNA survey for this additional pond area not on our site"*. Ideally, the updated Newt eDNA survey results should have been submitted with this application. The results of this survey may have a bearing on the design of the proposed development site. Without these results we are of the opinion that the Local Planning Authority is not in a position to make an informed decision about the ecological impacts of this proposal. The presence of great crested newts would be a material planning consideration.

**The Nottinghamshire Wildlife Trust** have had sight of the Newt eDNA survey and provides the addendum 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.

### *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. We strongly recommend that the LPA ensures that this survey is undertaken before the planning application is decided.

### *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 5 m 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.

### *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.

### *Protection of Local Wildlife Site*

We have lingering concerns about the impacts of this proposal on Wigsley Dismantled Airfield Local Wildlife Site (LWS 5/205). When comparing the Phasing Plan to the location of the LWS it would appear that the northern tip of the LWS will be adversely impacted by the proposal. We ask the LPA to ensure that the whole of the LWS is protected from development.

<https://maps.nottinghamcity.gov.uk/insightmapping/#>

If this proposal will lead to the loss or damage to the LWS then we would have to reconsider our position. In addition, there 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 Amended Core Strategy (March 2019).

Core Policy 12 Biodiversity and Green Infrastructure states:

*"The District Council will seek to conserve and enhance the biodiversity and geological diversity of the District by working with partners to implement the aims and proposals of the Nottinghamshire Local Biodiversity Action Plan, the Green Infrastructure Strategy and the Nature Conservation Strategy. The District Council will therefore: • Expect 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."*

### ***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.

Naturescape  
Maple Farm  
Coach Gap Lane  
Langar  
Notts  
Tel: 01949 860 592  
Web: [www.naturescape.co.uk](http://www.naturescape.co.uk)

Paragraph 109 of the NPPF states that the planning system should look to provide net gains in biodiversity where possible, whilst Paragraph 118 advises that opportunities to incorporate biodiversity in and around developments should be encouraged.

We also note that an area of the LWS (but outside the planning application area) is under the applicant's control. We would be happy to provide advice on appropriate management for this area if that would be helpful.

Please do not hesitate to contact Nottinghamshire Wildlife Trust if you wish to discuss our comments. I would be grateful if you would keep us informed about the progress of this planning application."

### **Environment Agency - (15.04.2019)**

The proposed development will only meet the National Planning Policy Framework's requirements if the following planning condition is included.

#### Condition

The development shall be carried out in accordance with the submitted flood risk assessment (ref GCB/HUDSON and dated May 2018 compiled by Geoff Beel Consultancy) and the following mitigation measures it details, namely:

1. Finished floor levels are set no lower than 6.30m above Ordnance Datum (AOD).
2. Resilience measures must be utilised to a minimum of 6.60m AOD.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

#### **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 – (02.04.2019)**

The site is outside of the Trent Valley Internal Drainage Board district and catchment. There are no Board maintained watercourses in close proximity to the site. No comments to make in respect of this consultation.

### **Upper Witham Internal Drainage Board - (18.04.2019)**

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 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)

**North Kesteven District Council** – No comment received

**NATS** – (10.04.2019) no safeguarding objection.

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

**NSDC (Environmental Health)** – comments relating to 17/02043/FULM:

(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.’

**One representation has been received (forwarded on by the applicant) which states:**

“In response to your conversation regarding the drainage on Wigsley Old Air Field. We have farmed either side of your land, that you are trying for planning permission on, since 1996 and have never had the fields flooded. In response to the highway flooding, it was quite severe in the winter of 2011/2012. This has been rectified by Notts Highway by cleaning out the old taxiway drains at the side of the road, And by digging a new ditch system to join onto the existing ditch network. I cannot see any problems going forward as long as the ditch, that you now own, is kept well maintained.”

### Comments of the Business Manager

The main issues for consideration in this application assessment are:

- The Principle of Development including the Loss of Agricultural Land;

- Excavation Impacts/Viability/Engineering Operations;
- Effect of Phasing;
- Traffic implications & Highway Impacts;
- Impact on Residential Amenity;
- Impacts on the Countryside and Landscape;
- Impact on Trees;
- Impact on Ecology;
- Flood Risk; and,
- Planning Balance and Conclusions.

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

Section 336 of the Town and Country Planning 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)...”

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

As such it is considered the proposal is not an agricultural use as defined by the Act. However, Policy DM8 makes clear that development in the countryside will be strictly controlled and limited to certain types of development which includes rural diversification. More specifically Policy DM8 states Proposals to diversify the economic activity of rural businesses will be supported where it can be shown that they contribute to the local economy. DM8 continues by advocating 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, 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).

It is recognised that 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. Nevertheless, 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. Notwithstanding the ecological implications (discussed later in the report) it is considered the proposal accords with the spirit of both national and local level policy objectives.

#### Excavation Impacts/Viability/Engineering Operations

It is noted the development involves excavation of material to create the fish and growing ponds. The applicant has confirmed and it has been corroborated by a Chartered Quantity Surveyor that the amount of material to be brought off site would equate to 2,511 tonnes which would comprise primary material (screened top soil).

The NCC Minerals and Waste Team commented on the previous application and assisted with calculating the volume of materials to be removed and were broadly satisfied. Given this application proposes to remove the same amount of material from the site it would be reasonable to consider their view would remain in broad satisfaction.

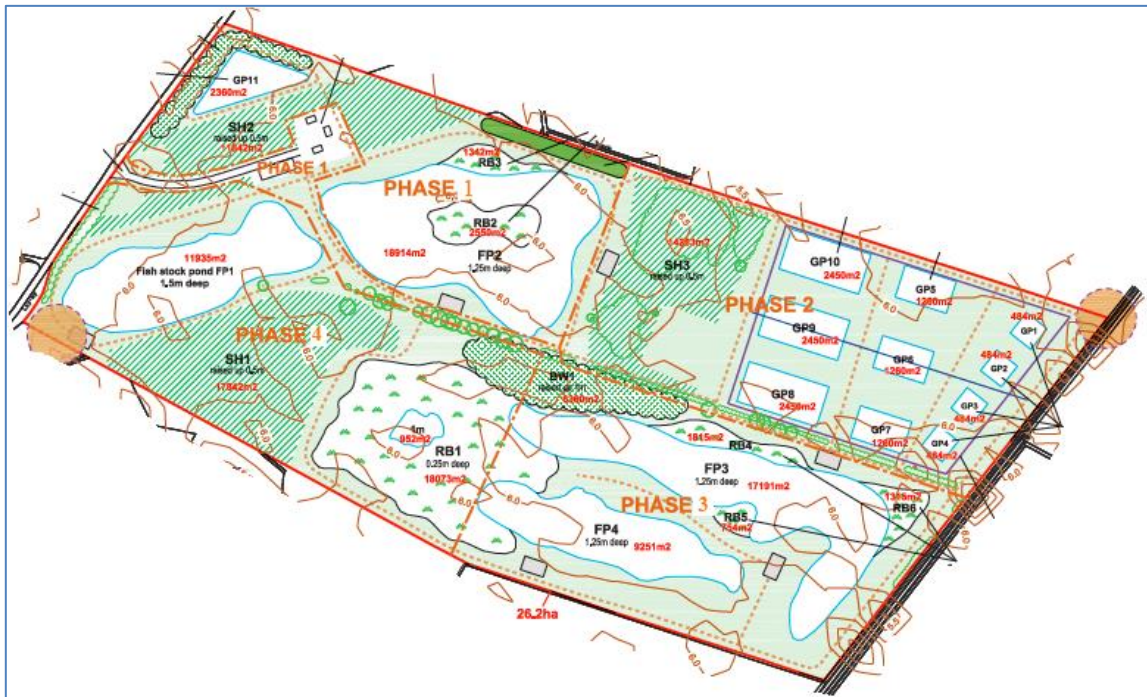
To reiterate NCC confirmed that they were satisfied that the previous proposal would not constitute a minerals or waste operation but rather given the depths involved would amount to an engineering operation that is a district planning matter. This application involves the same amount of excavation and as such it would be difficult to reach a different view other than an engineering operation which would still rest with the District Planning Authority. However, taking into account the previous comments and the depths of the digging it is considered expedient to control this matter by planning condition to avoid extraction of minerals such as sand if Members are minded to support the scheme.

In respect of the completion of the works to avoid a despoiled site which would be harmful to the environment it is noted the development sees a reduction in the amount of material taken off the site compared with previous schemes. Given the development would be undertaken in four phases this cumulatively reduces the cost and ultimately the risk to the site being completed. The application proposes that none of the material will need to be removed, other than sold and through a planning condition can ensure the development is completed in phases (with not more than one phase being developed until the previous is substantially complete) which would minimise the risk of leaving the site in an state which would harm the environment.

This application now proposes a significantly lower level of excavated material to be taken off site, which inevitably reduces the amount of traffic movements. On the basis of the level of excavation over the four year construction period, it is expected to result in an average of 1 HGV tipper load per week. In addition, given the control on the phasing of the development 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. The proposed phasing would follow a natural clockwise direction where the development would commence near to Scarle Road providing the buildings, small growing pond (GP11) and a fish pond. This would then set the direction of the service roads enabling the continuation of the site over the three remaining phases, finishing back at the site's entrance. Although the RB1 which is mainly in Phase 4 crosses over into phase three, it is envisaged that FP3 and FP4 can be completed before incorporating RB1. Nevertheless, this matter can be rectified through a planning condition which would require a detailed phasing plan is submitted prior to works commencing on the site.

### 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 based to adequately line the ponds. Given the water table in the whole area is relatively high and there

would not be excessive downward pressure enticing water to escape and therefore the retained on site sub soils will hold water.

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 that 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 it is considered that the volume of traffic created by this development is unlikely to be excessive or to cause disturbance and annoyance to neighbouring occupiers by HGV's travelling through the village. The Highways Authority has raised no objections to the scheme and overall it is considered that the traffic implications are acceptable in line with Policy SP7 and DM5.

#### Impact on Residential Amenity

CP9 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 per week and it is not anticipated that the activities would have a detrimental impact on residents. It is not anticipated there to be any odour from live fish at this farm.

The main impact to residential properties is likely to arise from the construction phase of the development in terms of noise and general disturbance. To this end the applicant has provided a 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.

Taking into account open nature and the comments from the Environmental Health Section on the previous application it is considered the construction hours would lead to a loss of amenity given the noise associated with the machinery to excavate the site. It is therefore considered more appropriate for works to commence from 0730 Hours until 1800 Hours on weekdays and from 0800 Hours to 1300 hours on Saturdays. A condition can be imposed to restrict construction to during these hours. The Parish Meetings comments on the matter of noise have been noted, however this is a matter that officers are satisfied can be made acceptable through planning condition and noise was not a matter that Members raised as a concern in their refusal reason in

March.

There is no associated external security lighting and as such there would be no light impacting on amenity.

Therefore it is considered that the scheme accords with CP9 and DM5 in terms of amenity and allowing existing residents acceptable living conditions during both the construction and operational phases.

### 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. 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 requires the landscape character of the surrounding area to be conserved and 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 (LCA) 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. From long distance views the proposed ground works would assimilate into the wider setting and given that the landscape is poor and the sensitivity is low, there is scope to develop the site in this manner. The areas of woodland and habitat that will be created also comply with the policy action of 'create' for this area. It is therefore considered 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 and 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.'* Taking into account the application site and its setting it is considered the visual amenity of the area would not be adversely affected by the proposed development.

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. The proposed buildings are domestic in scale and the general design is considered appropriate in its setting. Notwithstanding the details described on the application form, it is considered expedient to require the submission of the finishing materials by planning condition to ensure they complement the visual amenity of the surrounding area.

The appearance and scale of the 3 buildings, subject to the use of appropriate materials, is considered acceptable per se. However I remain 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 they 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. Members give not give a view on this at the last meeting and the scheme remains as previously presented in this regard.

### 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 have been submitted in support of the scheme. The survey identifies 40 individual trees and 25 groups of trees or hedgerows are present on site with 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, which have a lower level of significance and in the case of the group vegetation only small sections are to be removed, to allow for access roads for example. Whilst the losses of trees are regrettable, it is considered the losses are acceptable given the size of the application site. The subsequent loss can adequately be compensated by appropriate re-planting within the site and can be secured through a soft landscaping scheme.

It is acknowledged that the health of trees can suffer if the soil around the trees and roots are

significantly changed. The site plan shows the central track and BW1 would be raised by 1 metre above the existing ground level. However, the plan does annotate that an area around the existing trees would be kept at the existing level. Clearly, this would require further investigation. 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. It is considered these matters are reasonable and necessary and as such can be controlled by condition.

### Impact on Ecology

Policy DM7 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.”

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 woodland would be raised by 1 metre above the existing ground level.

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 a condition there is no objection to the proposal in this respect furthermore it would bring some longer term ecological enhancements as more habitats (as opposed to arable fields) would be created.

The impact on protected species has been considered. There is the potential for Great Crested Newts to be present on site; particularly in Pond B. 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 the LPA 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 a condition that assesses the impacts upon GCN it is considered the impact on the protected species has been fully considered and 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 it is considered that the impact of the tree and vegetation loss to be low and can be mitigated through the planting of native species elsewhere. The impact on ecology is also found to be acceptable and can deliver enhancements which is a positive for the scheme.

### Flood Risk

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

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 primarily within Flood Zone 2 (being at medium risk of flooding) with parts of the eastern area in Flood Zone 3 according to the Environment Agency Flood Maps. The applicant has submitted a Flood Risk Assessment (FRA) in support of their application. The FRA is supported by an addendum statement which sets out the following:

1. After applying a sequential approach the FRA confirms the development is water compatible and suitable for location in Flood Risk 2. Therefore there is not a requirement to carry out the exception test. In any event when the exception test is applied it results in a form of development that is in an appropriate location under NPPF flood risk policy.
2. 11 agencies have been contacted in the Nottingham Area enquiring whether land is available in parcel lots of around 80 acres. The Agents have confirmed that size of land was not coming up for sale and when parcels of this size did come up they were mostly sold prior to coming to the open market.
3. Using searches through Right Move website the land available as of 12/03/19 were too small in size except one which then shows to be in a NVZ (Nitrate Vulnerable Zone) This negates this land in this area as it is not compatible with fish breeding and rearing.

In this instance it is considered the applicant has demonstrated a sequential approach taking into account the size of the application site. 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, it is considered the proposed use 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. Therefore the Exception Test is not required. Notwithstanding this, the development needs to be safe for its lifetime.

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 has requested a condition to ensure that drainage does not contribute to flooding which is reasonable. It is therefore concluded 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 Conclusion

It is acknowledged that the loss of c26ha of Grade 3a agricultural land is a negative that weighs against the scheme.

The level of material to be excavated from the site remains as was previously reported to the Planning Committee in March. A Chartered Quantity Surveyor continues to corroborate that this is accurate and NCC Minerals and Waste team were also satisfied that this was reasonable.

The application has demonstrated the scheme passes the Sequential Test in terms of flood risk. Given the proposed use is 'less vulnerable' in flood risk terms, the exception test is not required and that the scheme would be safe for its lifetime as demonstrated through a FRA.

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. As such substantial weight must be given to the economic role of sustainability.

Whilst the loss of grade 3a agricultural land is a negative, the scheme will bring some ecological gains which also weigh in favour of the scheme. No other harm that cannot be mitigated has been identified.

Taking all the factors into account it is considered the proposal tips the balance towards an approval and as such it is recommended 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 Phasing Plan (Drawing Number: DH/408/17 Rev A) submitted 29.11.2018, no development shall commenced unless and until, a detailed phasing plan has been submitted to and approved in writing by the Local Planning Authority.

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 has been substantially complete.

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 (Approved Plans)**

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

- Drawing Number: DH/400/17 – Location Plan – dated 6 September 2017;
- Drawing Number: DH/401/17 Rev C – Site Layout dated 12 March 2019;
- Drawing Number: DH/402/17 – Plan of the Proposed Buildings, dated 5 September 2017;
- Drawing Number: DH/403/17 – Cross Sections, dated 8 June 2018;
- Drawing Number: DH/404/17 – Cross Sections, dated 8 June 2018
- Drawing Number: DH/405/17 – Topographical Survey, dated 19 February 2018;
- Drawing Number: DH/407/17 – Cross Sections, dated 7 June 2018;

Reason - For the avoidance of doubt and to ensure a satisfactory standard of development

### **04 (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 first been 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.

### **05 (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 routeing has been first been 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.

### **06 (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 C.

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.

## **07 (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 an ecological survey has first been submitted to and approved in writing by the Local Planning Authority which demonstrates that the vegetation to be cleared is not utilised for bird nesting.

Should the survey reveal the presence of any nesting species, then no clearance of any vegetation shall take place during the bird nesting season until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the duly approved methodology.

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

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

The development shall be carried out in accordance with the submitted flood risk assessment (ref GCB/HUDSON and dated May 2018 compiled by Geoff Beel Consultancy) and the following mitigation measures it details:

1. Finished floor levels are set no lower than 6.30m above Ordnance Datum (AOD).
2. Resilience measures must be utilised to a minimum of 6.60m AOD.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason - 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 future users of the site against the risk of flooding.

## **09 (Construction Hours)**

Notwithstanding the Construction Management Plan contained within the Supporting Statement revised 12 March 2019, construction or development (including excavations) shall only take place between the hours of 0730 Hours until 1800 Hours on Mondays to Fridays inclusive and between 0800 Hours and 1300 Hours on Saturdays.

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 unless and 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.

### **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 shall not recommence until the mitigation measures set out in the Great Crested Newt Mitigation Report (author: Prime Environment, Project No. 423) V1 October 2018 have been carried out in full on site.

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.

#### **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.

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 (Materials of proposed building(s))**

Notwithstanding any description of materials in the application and the requirements of condition 3 of this permission, no above ground works shall take place until samples or full details of all materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The development shall thereafter be implemented in accordance with the duly approved materials.

Reason - To ensure use of appropriate materials which are sympathetic to the character of surrounding area 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.

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

## 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@nottscc.gov.uk](mailto:hdc.north@nottscc.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.

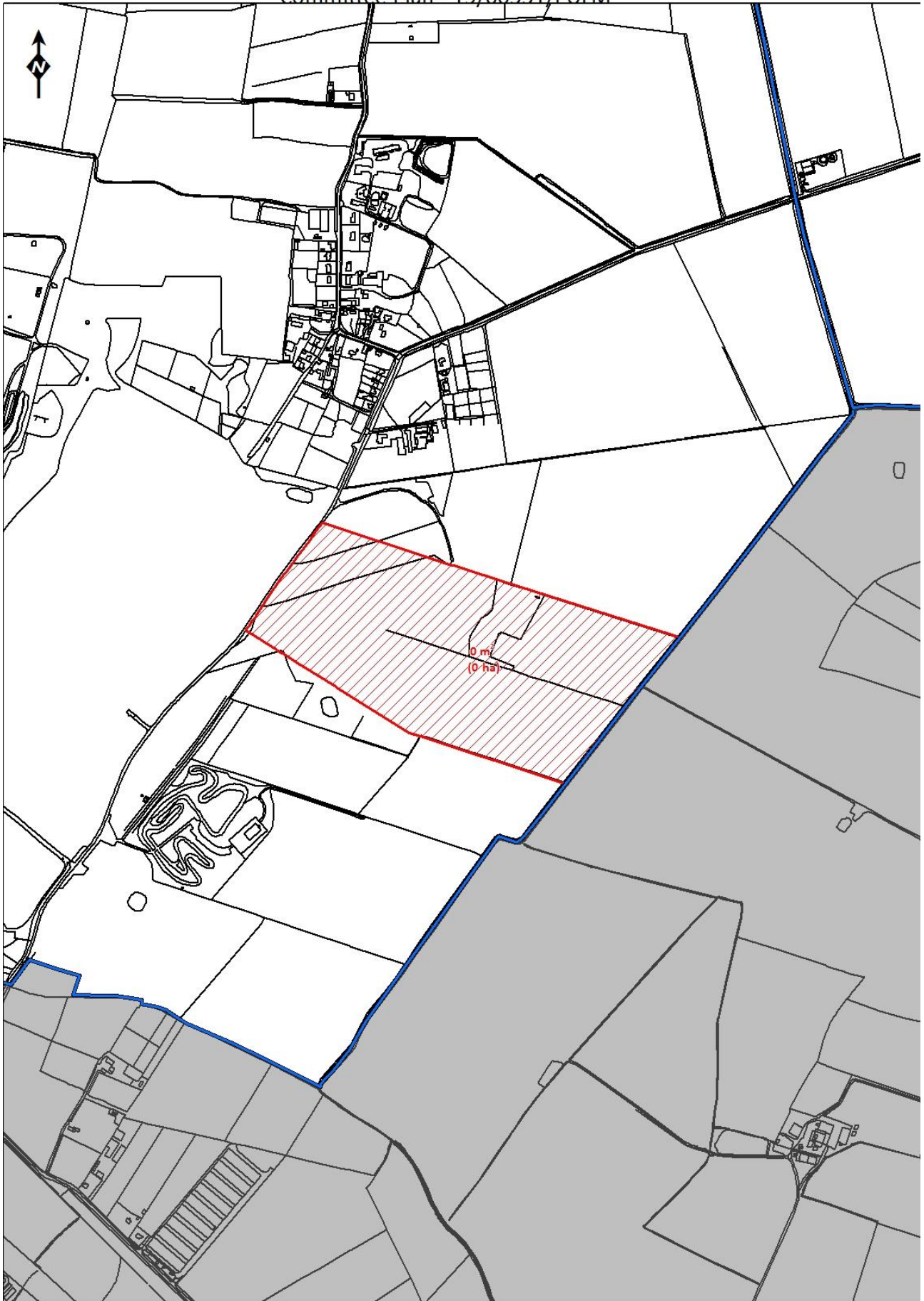
## Background Papers

Application case file.

For further information, please contact Richard Byrne on [richard.byrne@nsdc.info](mailto:richard.byrne@nsdc.info)

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 – 4 JUNE 2019

<b>Application No:</b>	<b>19/00755/FUL</b>	
<b>Proposal:</b>	<b>Erection of Dwelling (Re-submission of 18/01863/FUL)</b>	
<b>Location:</b>	<b>Land To The Rear Of 112-118, High Street, Collingham, Nottinghamshire</b>	
<b>Applicant:</b>	<b>Mr Jonathan Bailey</b>	
<b>Registered:</b>	<b>24.04.2019</b>	<b>Target Date: 19.06.2019</b>

**This application is referred to the Planning Committee in line with the Council's Scheme of Delegation as the recommendation is contrary to the view of the Parish Council. The original 18/01863/FUL application was also determined by the Planning Committee in January 2019.**

### The Site

The application site is an approx. 25 m x 24 m field to the east of High Street within the defined village envelope of Collingham. The site also lies within the Collingham Conservation Area and is just outside the boundary for the Collingham Main Open Area (Co/MOA) which lies to the east, as defined by the ADMDPD.

The development site measures approximately 25m by 25m, including the access the site is around 950m<sup>2</sup>.

The site is accessed from a driveway off High Street (west) which also serves the rear of 112 High Street which lies directly to the west along with the rear gardens of 112-118 High Street. The site is bounded to the east by a 2m high (approximate) hedge and vegetation, to the south by a redundant agricultural building and to the west by the rear garden fences of 112-118 High Street. Further to the east of the boundary of the site is part of the Collingham MOA and the footpath which links Woodhill Road with Swinderby Road.

The site is mainly located within a residential area with residential properties bounding the site to the west and south. A site to the rear of Billericay, 124 High Street, to the north of the application site, has planning consent for two dwellings which was granted by Members under 17/00283/FUL.

The application site is not visible from the surrounding public realm as existing built development on High Street screens it. Access is only achieved from the southern side of 112 High Street. Currently the site is used for the keeping of horses with some areas laid to lawn and hardstanding.

### Relevant Planning History

**18/01863/FUL – Erection of Dwelling – Refused by Members (January Planning Committee) 21.1.19**

Reasons for Refusal:

1. In the opinion of the Local Planning Authority by virtue of its design and siting the proposal is considered to represent harmful backland development that would adversely and unacceptably impact upon the historic grain, character and appearance of the designated Collingham Conservation Area village and failing to meet the minimum requirement in

statute (Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) of preservation and rather would erode the historic urban grain of this part of High Street. 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 Districts Housing delivery 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, Core Policy 9 (Sustainable Design) and Core Policy 14 (Historic Environment) of the adopted Core Strategy and Policy DM9 (Protecting and Enhancing the Historic Environment) and Policy DM5 (Design) of the adopted Allocations and Development Management DPD.

2. As a matter of fact an extant planning permission exists in respect of land to the north of the site for two dwellings which are committed in that they could be developed without further reference to the Local Planning Authority. In the opinion of the Local Planning Authority the proposal by virtue of its proximity to the common northern boundary (being less than 10m rear elevation to rear elevation) would result in an unacceptable relationship between dwellings to meet the needs of privacy, with an unacceptable adverse impact in terms of being overbearing and oppressive as well as giving rise to a perceived overlooking impacts upon the future occupiers of the two committed dwellings. The proposal is therefore contrary to Core Policy 9 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD as well as the National Planning Policy Framework.

**PREAPP/00114/18** – Proposed dwelling – General objection on the grounds of impact on the character of the area by virtue of the proposal resulting in uncharacteristic backland development and an increase in housing density that would impact the historic urban character of the area – An objection was also raised regarding highway safety.

**12/01581/OUTM** - Outline application with access, layout and scale to be considered incorporating the demolition of the existing built structures and the erection of 10 dwellings together with associated access road – Withdrawn 2013

### The Proposal

Full planning permission is sought for the erection a 4 bedroom two storey dwelling with a detached garage on the land to the rear of 112-118 High Street, Collingham.

The main bulk of the new dwelling is two storey, dropping to one and a half storeys with a cat slide roof on the western elevation. The dwelling is proposed to be c. 19.3 m x 6.7 m with linear plan form (orientated N-S) with a maximum ridge height of c.8.3 m, eaves c.5.1 m reducing to 3.6 m to the west – the northern portion of the dwelling is single storey at 4.9 m to the ridge and 2.3 m to the eaves. The two storey dwelling would be positioned approx. 5.3 m from the northernmost boundary of the site with the rear elevation following the eastern boundary line. The design of the dwelling is intended to reflect the barn vernacular but is decidedly modern in appearance with extensive contemporary glazing elements.

The detached garage is proposed to be 8.5 m x 5.4 m, 5.4 m to the ridge and 2.9 m to the eaves and approx. 1.1 m from the western boundary.

The private amenity space would be provided towards the east of the dwelling and would be approx. 6.35 m x 24 m (approx. 155.5 m<sup>2</sup>) to the east and approx. 19.9 m x 10 m to the north of the dwelling between the proposed property and the northern boundary. The amenity space would

be taken from the west from High Street to the south of 112 High Street.

The dwelling would provide a dining room, kitchen, living room, cloak room, utility room and a study/bed 4 at ground floor and four bedrooms at first floor with a bathroom and an ensuite bathroom.

The dwelling is proposed to be constructed of:

Walls - Mixture of Wienerberger Oast Russet Sovereign Stock Red stock brick at lower level, with black timber cladding (burnt cedar or ash) at upper levels and on single storey element

Roof – Slate

Windows - Aluminium in Anthracite Grey and Oak Timber casement windows with top hung rooflights in Anthracite Grey

Doors - Aluminium in Anthracite Grey and Timber along with glazing. Garage Doors – Timber personnel door and powered main door

Guttering and Downpipes – uPVC

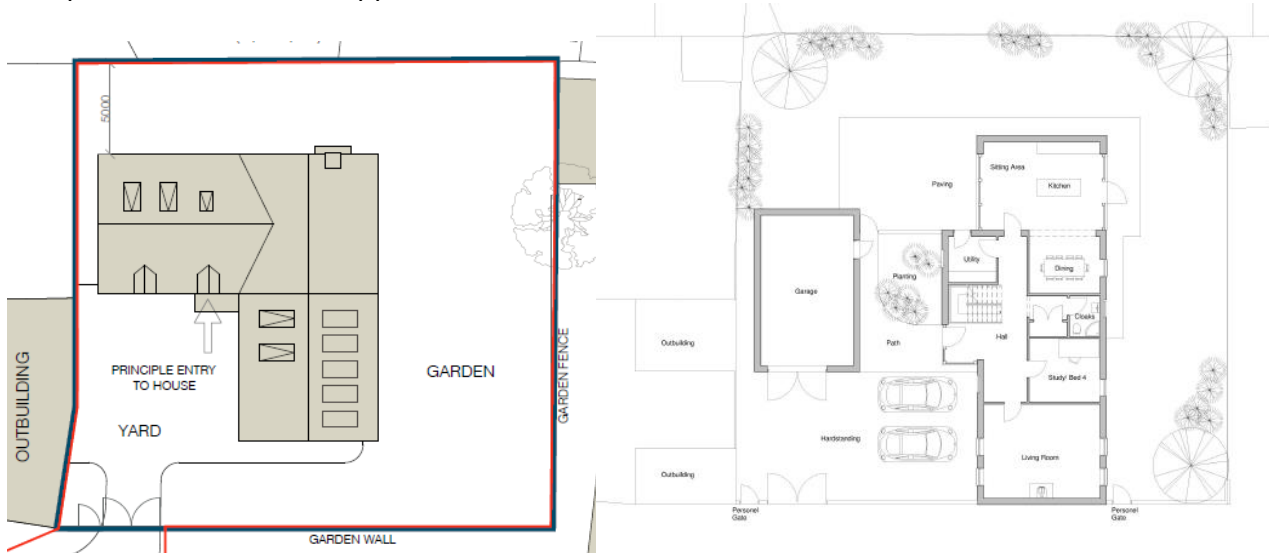
Front Wall – 1.8 m high brick wall at the front with timber gates

Eastern Fence – 1.8 m high close boarded timber

A boundary wall along the southern boundary is proposed to be constructed (precise specification has not been provided) with a gated entrance for vehicles and pedestrians. The eastern boundary is proposed to have a garden fence (precise specification has not been provided).

The garden is proposed to be laid to grass with a gravel or paved area for car parking and a paved patio area around the northern end of the dwelling although precise details of the landscaping has not been confirmed.

Comparison with refused application:



*Refused application: 18/01863/FUL*

*Pending Consideration*

**CIL** – Gross Internal floor space of the new dwelling is proposed to be 260 m<sup>2</sup>

Documents deposited with the application:

- Site Location Plan
- Block Plan – T615 A-203
- Site Layout Plan - T615 A-202

- GA Plans - T615 A-200
- Revised Proposed Elevations - T615 A201 Rev A
- Composite Block Plan
- Planning, Design and Access and Heritage Impact Statements
- CIL Determination Form

### Departure/Public Advertisement Procedure

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

Earliest decision date - 23.05.2019

### **Planning Policy Framework**

#### **The Development Plan**

*NSDC Amended Core Strategy - Adopted 2019*

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 2: Spatial Distribution of Growth

Spatial Policy 7: Sustainable Transport

Core Policy 3: Housing Mix, Type and Density

Core Policy 14: Historic Environment

Core Policy 9: Sustainable Design

Core Policy 12: Biodiversity and Green Infrastructure

Core Policy 14: Historic Environment

Policy Co/MOA: Collingham – Main Open Areas

*NSDC Allocations and Development Management DPD Adopted July 2013*

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

Policy DM3: Developer Contributions and Planning Obligations

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 Considerations

National Planning Policy Framework 2019

National Planning Practice Guidance 2014

Collingham Conservation Area Appraisal

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

#### Consultations

**Collingham Parish Council** – Support the proposal.

**NSDC Conservation Officer** – “As the application is a resubmission (with a revised design) of the previous submission I repeat some of my earlier comments:

The application is still for a large family home and a detached garage to the rear of historic buildings on High Street, within the Conservation Area of Collingham. **Agenda Page 359**

This application follows negative pre-application advice and as such I reiterate my earlier comments for PREAPP/00114/18. In summary, a proposal for new housing here was felt to be backland development which would harm the historic grain of this part of the Conservation Area and cause harm to the character of the Conservation Area.

Comparisons will be made to the planning history for the adjacent site (PREAPP/00081/16 & 17/00283/FUL) but there are several key differences between these two sites which are key to how to assess the different impacts of each proposal.

In the site adjacent there is no historic grain to preserve as the pre-existing modern dwellings had already been placed well back from the street frontage, so the modern historic building line had already been lost. While the new houses approved here are set back from the road, they would not be 'backland development' as they sit next to the modern dwellings and not behind. Indeed, we specifically negotiated out of the initial proposal an additional new house which would have created backland development. While the modern placement of the dwellings is not a positive feature, replicating this building line in this particular area caused no further harm to the character of the area here.

However, this site is quite different, being land to the rear of positive historic buildings, which sit directly adjacent to the street front, giving good street front enclosure and providing a clear and legible historic plan form and building line. This is a positive part of the character and appearance of the Conservation Area.

The proposal therefore needs to be read completely in the context of this specific site, where it would clearly be backland development, contrary to the historic grain of the village, which is a feature we should be specifically trying to conserve. I would stress that harm to character is of great importance as a Conservation Area is designated for both character and appearance. In being contrary to the grain of historic Collingham it would harm the character of Collingham Conservation Area. The minimum requirement in statute is that an application should preserve the character and appearance, which means to cause no harm to this.

I appreciate there are (and historically were) later outbuildings set behind the street front building line here, but they are/were just that – outbuildings; clearly ancillary in scale, character and appearance and do not/did not disturb this hierarchy of the principal buildings on the street front. The proposal is a substantial two storey building, very much a rival in status and size to the street frontage development and having no relationship with those buildings. It would be in no way a reproduction of historic grain and its orientation across the plot, i.e. north to south (as opposed to along the plot east to west) does not follow the alignment of the street front buildings here (which have been laid out along traditional medieval burgage plots), which exacerbates the unwanted backland character of this proposal .

This is why I wish to reiterate my earlier concern that this is not appropriate development for Collingham and would harm the character of Collingham Conservation Area, being harmful to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Considering the size and complexity of the overall Conservation Area the level of harm would be less than substantial, but be real and perceptible nonetheless.

It would also set a harmful precedent that, in a settlement like Collingham, could have a very real likelihood of coming forward.

I have the following comments on the design, but must stress that the overall impact of these points



would not change my in-principle objection to this proposal: I note the design is now overtly contemporary and with the weatherboarding I presume is to emulate an outbuilding, although the glazed gables and overall appearance is not that of a traditional barn, neither does it relate to a farmyard or farmhouse. The design is not necessarily unattractive in isolation, but neither does it carry any reference from the local area. The nod to barn architecture certainly does not reduce this to an ancillary outbuilding and in scale it is still overtly a large family home - even the detached garage is wider than the traditional street front properties directly adjacent.

As such I reiterate my earlier finding of less than substantial harm to Collingham Conservation Area.”

**The agent has queried some of the Conservation Officers Comments such as A: her reference to “pre-existing modern bungalows”, B: her potentially overlooking the “large agricultural building” that was present historically on the site and her reference to the detached garage building being wider than the traditional street front properties, as such she has provided the following further clarification:**

“A: This building line I refer to at this point is made of a mixture of 2, two storey buildings and one bungalow. This error aside my analysis of the modernity of this building line is correct.

B: I believe they are referring to the building marked with a question mark on the plan below. I have also marked the existing outbuilding ‘x’, which is obviously smaller than the current proposal. The building marked with a question mark is now demolished (and is shown as such on their current site plan), is not of a form that would be beneficial to replicate again and may well have been erected under pd. For these reasons I do not think this would carry much weight as a planning precedent to inform suitable development at this site. The bench mark for a decision as to whether there is any heritage harm is against the current site and surrounds.



C: This refers to a comparison of gable widths and apologies this was not clear. I have crudely annotated what I mean on the plan below, which shows the new build garage gable to be in excess of the traditional building’s gables:



*The above image shows the width of the new build garage gable to be in excess of the traditional building's gables*

**NCC Highways – The Highways Officer has reiterated their previous comments** “The proposed dwelling would take access from the existing access adjacent to 112 High Street. This access is narrow in part; about 3.7m which is insufficient for two cars to pass one another, and has very poor visibility for drivers wishing to emerge on to High Street.

If a vehicle leaving the site encountered one entering the site, then there is the possibility that a car may have to wait on the A1133 High Street, or reverse out on to it.

Given the nature of this road and the volumes of traffic this is not considered acceptable.

In view of the above, the additional traffic generated by the proposal would increase the risk of an accident and therefore this Authority is likely to object to any formal planning application.

#### Recommended Reason for Refusal

The traffic generated by the proposed development would be likely to result in an unacceptable increase in danger to the users of the highway due to increased use of the existing access & junction with the A1133 which is geometrically substandard in terms of the access having insufficient width to accommodate two-way vehicular movements, and poor junction visibility with the A1133.”

#### **Additional Comments from NCC Highways 15.5.19 regarding Swept Path Plans –**

“Whilst I find the swept path diagram itself lacking in veracity, the further clarification and suggested condition offered in Anthony Northcote’s email of 14 May, below, is sufficient to overcome the issue of cars turning within the site.

I think if you were to apply his suggested condition, or something similar, then there would be no further comment from this Authority.”

*Email from Agent 14.5.19 “As requested please find attached a scaled plan illustrating car swept paths superimposed. These are based on swept paths that were previously agreed with Nottinghamshire County Council Highways on a farmyard conversion in Kneeton where the access, parking and manoeuvring was a key consideration because in fact the access was narrower than this site. We have used 3 colours, black and red respectively for the two parking spaces and blue which shows the ability in fact to turn around fully on the access drive just outside the site.*

*For information the wider overall site of No.112 and the land & paddock is owned by the father of the applicant. Our client owns the proposed plot and has a defined right of vehicular/pedestrian access for the full width of the access to the plot. He also actually has a defined right of vehicular/pedestrian access beyond the plot gate along the land south of the full length of the plot.*

*It is also possible to turn around on the access immediately adjacent to the rear of No.112 but we have not illustrated this as potentially this could be occupied by a parked car associated with No.112.*

*You may want to consider the following condition:*

*“The dwelling hereby permitted shall not be occupied until space has been laid out within the site in accordance with the submitted plans for 2 cars to be parked and for vehicles to turn so that they may enter and leave the site where it joins High Street in forward gear.”*

**NSDC Contaminated Land** – “The application site was part of an earlier larger development site under application ref: 12/01581/OUTM. A contamination desktop study was carried out as part of this previous application by HSP Consulting Ltd (report ref C1650, dated 2012). This document identified several areas of potential contamination (including areas on this application site) and recommended that intrusive investigations be carried out. Given this information, I would expect the use of our full phased contamination condition.”

#### Comments of the Business Manager

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

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

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

The site is located within the main built up area of Collingham. Collingham is defined within the Adopted Newark and Sherwood Core Strategy (2011) as a Principal Village where there are a good range of facilities to support further housing. In settlement terms there is thus no objection in principle to housing. Notwithstanding acceptability with respect to the settlement hierarchy it is noted that site is also just west of the defined Collingham Main Open Area (Co/MOA) and within the conservation area. As such it is considered that the principle of new residential development, due to the siting within a sustainable settlement, is acceptable. However other material considerations should be taken on board and those are discussed further in this report.

#### *Impact upon Character (including upon the Main Open Area and Heritage Impacts)*

Policy DM5 of the DPD requires development to reflect ‘the scale, form, mass, layout, design, materials and detailing’ of the surrounding built form. 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. **Agenda Page 363**

proposals affecting the historic environment 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). 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 their setting.

As stated in the previous section, the site is located just west of the MOA. Due to the proximity it is important to understand the function of main open area within the wider context of the village. The Council's view is that the principle of development within the MOA's of the district will normally be resisted, however we acknowledge that in some instances, development has occurred within the more enclosed parts of these MOAs that could prejudice future development opportunities. However it is accepted that this site lies outside of the MOA and as a result is not necessarily contrary to this part of the ADMDPD.

The Co/MOA is referred to as being important within the context of views from High Street. In terms of a viewer's experience what is important is the sense of space when viewed from this area. What is clear on site is that the area is clearly defined as separate land with established boundary treatment and no public access apart from along the footpath which lies to the east of the site. Having regard to the function which the space performs I am of the opinion that given the new dwelling has been sited behind the existing build line on High Street and is excessive in scale it would undermine the ability of the retained open area to the east to continue to perform this function.

The High Street is currently the main road through Collingham which is characterised by historic properties facing the road, notably cottages, barns and other vernacular buildings. The historic mapping indicates that the properties 110-118 High Street forms a tight-knit cluster between open fields. The historic cottages provide setting to the Grade II listed Aberdeen House which lies to the west of the application site across the highway on the Church Lane/High Street junction facing southwards. The 20th century infill development to the north of the application site, 124 and 126 are 1950s/60s in origin and appear to be police house style which offer social and historic context that contributes positively to the Conservation Area. It has been accepted that 124 High Street offers limited historic and architectural interest; nonetheless, the spaciousness of the layout to 124 is an echo of the former openness of the land to the east of the High Street. Its sharp contrast with the more compact development directly to the west of this site emphasises the original village layout.

However, it should be acknowledged that permission has been granted for the erection of 2 dwellings to the north of the application site and to the south of 124 High Street. The application site for this application is paddock land that lies directly behind the rear gardens of the tight knit dwellings and as a result a dwelling here would result in backland development behind the established line of built form on this point of the High Street.

The properties to the west on High Street present a typically linear form of development which have extended linear ranges projecting towards the east; all of the properties have extensive c. 20m curtilages and from aerial photography I am satisfied that with the proposed development of

outbuildings present in the rear gardens along High Street, it is clear that this is the end of the build line with the MOA to the east. I believe there are no other examples of dwellings having been built in the land to the rear of the residential properties in any other case than 17/00283/FUL in which the dwellings are at a perpendicular angle (referenced within the planning statement).

The Conservation Officer has commented on this advising "Comparisons will be made to the planning history for the adjacent site (17/00283/FUL) but there are several key differences between these two sites which are key to how to assess the different impacts of each proposal.

In the site adjacent there is no historic grain to preserve as the pre-existing modern dwellings had already been placed well back from the street frontage, so the modern historic building line had already been lost. While the new houses approved here are set back from the road, they would not be 'backland development' as they sit next to the modern dwellings and not behind. Indeed, we specifically negotiated out of the initial proposal an additional new house which would have created backland development. While the modern placement of the dwellings is not a positive feature, replicating this building line in this particular area caused no further harm to the character of the area here."

I agree with these comments. It is acknowledged that permission has been granted for the erection of two dwellings in the site to the north, which do not correspond with the traditional build line of the area, however it is not to say that that sets a precedent for development here and each application is dealt with on its own merits; the reasoning from the conservation officer above is notably different given the association of the dwellings to the west of the application site and the defined building line that would be degraded by the construction of the dwelling within this application.

The proposal site remains to be considered to represent backland development, which is not generally supported by either national or local planning policy - proposals creating backland development will only be approved where they would be in-keeping with the general character and density of existing development in the area, and would not set a precedent for similar forms of development, the cumulative effect of which would be to harm the established character and appearance of the area. As stated above I am mindful that the built form on the southern side of the site, comprising 110-118 High Street represent linear built form which front the highway with their principal elevations at the back edge of the pavement. These dwellings have reasonable residential curtilages which have had some linear range extensions. Other than that there are no other examples of dwellings having been built in the land to the rear of these properties.

With regards to the above, I consider that the proposal to create a dwelling to the rear of 112-118 High Street would be out of keeping with the general character and density of the surrounding area. The supporting statements advise that the style of this new dwelling is designed to reflect the existing barn that once stood to the east (not currently on site) and the massing of the dwelling intends to reflect subservient barn structures that would typically exist behind historic properties. The conservation officer has comments on this point below however in conclusion I remain of the opinion that this new dwelling would be out of character with the surrounding character of the area. In addition, approval of development of this nature in this location would set a precedent for similar forms of development to occur within the paddock land and MOA to the east of High Street that would cumulatively create harm to the established character of the surrounding area by virtue of uncharacteristic and harmful backland development and an increase in housing density off High Street.

I agree with the Conservation Officer that this backland development would be harmful to the historic grain of the village and that it fails the minimum requirement in statute as it doesn't preserve the character and appearance, which means to cause no harm to this.

In addition to the harm on the historic urban grain of the CA the Conservation Officer also comments on the design of the new dwelling, which she stresses that any mitigation of these points would not change her in-principle objection to this proposal. The CO commented that the design is contemporary with the weatherboarding which is presumed to emulate traditional rural outbuilding. However the design with the glazed gable and overall appearance does not achieve that and the hierarchy of development is somewhat skewed. However given that the principal of this new dwelling has received a strong objection from the CO on the grounds of inappropriate backland development that would result in harm and erosion to the historic urban grain the applicant has not been requested to amend the scheme in line with these additional design comments. This is because working positively and proactively with the applicants would not have afforded the opportunity to overcome the in-principal objection, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

In conclusion I remain of the view that the proposal to construct a new dwelling in the land the rear of 112-118 High Street, Collingham would unduly harm the character of the surrounding area and as such is contrary to Amended Core Policy 9 and 14, Policies DM5 and DM9 of the ADMDPD and Section 16 of the NPPF. Although the harm would be considered to be less than substantial, no clear and convincing justification has been presented and there are no public benefits that would outweigh this harm. The proposal is also considered to fail to comply with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### *Impact upon 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.

The properties most likely to be impacted by the development are No's. 112-116 High Street to the west and no. 124 to the north and the two new dwellings approved directly to the north of the site. Whilst I acknowledge that permission has been granted for two new dwellings directly to the north of the application site, the impact on the amenity of these dwellings cannot be afforded full weight given they are yet to commence development on these dwellings however they are a material consideration in this assessment given the permission is extant.

The dwelling is proposed to be c. 19.3 m x 6.7 m with linear plan form (orientated N-S) with a maximum ridge height of c.8.3 m, eaves c.5.1 m reducing to 3.6 m to the west – the northern portion of the dwelling is single storey at 4.9 m to the ridge and 2.3 m to the eaves. The main part of the dwelling is two storey to the eastern elevation dropping to one and a half storeys with a cat slide roof on the western elevation. The dwelling would be positioned approx. 5 m from the northernmost boundary of the site with the side elevation following the northern boundary line and approx. 12.3 m from the western boundary.

The private amenity space would be provided towards the east of the dwelling and would be approx. 6.35 m x 24 m (approx. 155.5 m<sup>2</sup>) to the east and approx. 19.9 m x 10 m to the north of the dwelling between the proposed property and the northern boundary (154.1 m<sup>2</sup>). This is considered to be proportionate to the size of the dwelling proposed in this location.

From the site plan the dwelling would be positioned with its rear elevation facing east, the N side elevation would be positioned approx. 28 m away from the nearest dwelling to the north (No. 124), the dwellings approved under 17/00283/FUL would be approx. 10 m away from the side elevation of the proposed dwelling (side to rear). 116 High Street would be c. 12 m to the west of the side elevation of the detached garage with 114 High Street c. 12 m from the side elevation and 112 High Street 22 m from the side elevation of the southern projecting gable range.

The relationship with the neighbouring dwellings to the west would be close by, separated towards by the rear gardens of the dwellings that front on to the High Street and the detached single storey garage proposed along the western boundary of the site. I do note that to the west is an outbuilding range that would separate the proposed dwelling and garage from the rear elevations of the dwellings to the west. As a result the introduction of further built form would not have a greater impact on the enjoyment of the residential gardens to the west. The garage is proposed to be located 1 m off the boundary of these properties however, again the presence of outbuildings along the western common boundary would prevent any overbearing or overshadowing impact as a result of this garage.

In addition, given the dwelling is proposed to be linear, positioned on a N-S alignment with the dwelling screened by the detached garage I do not consider that any privacy issues would occur through overlooking to the west. The windows that would not be screened by the detached garage would be at first floor but would serve the landing void with two higher level windows serving the ensuite and entrance to one of the bedrooms. The ground floor windows would be screened by the existing boundary treatment along the western boundary such that there would be no undue impact on neighbours through overlooking. The eastern boundary is proposed to have extensive glazing however given no dwellings are present to the east and the elevation would look out onto the main open area I do not consider there would be any amenity issue to consider.

The north side elevation is proposed to have contemporary glazing up to the ridge at ground floor and one window at first floor on the two storey portion of the dwelling. I note that at present the proposed dwelling would be c.28 m from the neighbouring dwelling to the north and given the limited glazing proposed in this elevation and the positioning of the dwellings side to side I do not consider any neighbouring amenity issues would arise.

I have also considered the relationship between the proposed new dwelling and the two dwellings granted consent under 17/00283/FUL. Whilst I acknowledge that this permission has not been implemented I would highlight that it is an extant permission granted in April 2017 with c.1 year 5 months remaining – as such I give weight to these dwellings and the designs that have been approved. The two dwellings are proposed to be two storey and be positioned c.4.6 m from the common boundary with this application site. Both dwellings are proposed to have main habitable room windows on their rear elevation which would look onto the rear elevation of this new dwelling. The new dwelling subject to his application is proposed to have one window at first floor to serve a bedroom and glazing up to the ridge at ground floor to serve the kitchen sitting area. The side elevation of this new dwelling would be c. 9.6 m from the rear elevation of the approved dwellings to the north however the two storey element where this first floor window is proposed would be 5 m further south. Given that this small window on the rear elevation could be obscurely glazed and would not be the only window serving this room (with one rooflight also proposed) I am satisfied that any overlooking could be mitigated through the imposition of a suitably worded condition.

In addition, given the single storey nature of the new dwelling on the northern side and the relationship of side to rear over 14.6 m separation distance I am satisfied that the proposed dwellings

would not be unduly impacted, the design of the dwelling ensures that there would not be an unduly overbearing or oppressive impact.

On the basis of the above assessment, I am of the view that the proposal complies with Policy DM6 of the DPD.

### *Impact upon Highway Safety*

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

The proposal is for the erection of a house served from an existing access that already serves one dwelling and the application site. The proposed site plan shows that there is sufficient space within the site for the dwelling, parking area and space for maneuvering within the site - the applicant has demarcated parking bays on the site along with the detached garage building and as such I am confident that there is capacity for off street parking and turning within the site.

From my site visit I can conclude that the junction visibility existing on to High Street is poor, particularly to the north/right where one would hope to find a splay of 2.4m x 43m, although I note that a visibility splay plan has not been submitted to clarify whether this would be achievable in this location. Visibility is partially masked by the corner of 112 High Street. The agent has stated within the planning statement that the existing access “does not meet the modern standards that would be applied to the creation of a new access”. Whilst I accept that this is an existing access point on to the High Street I must consider the intensification of this access point and whether this would increase the risk of safety to road users.

I accept the agents statement that the site was historically used as an agricultural merchants yard, however this use ceased some time ago (c.7 years) and the agent states that prior to this use the land was used for agricultural purposes. The agent states how the agricultural merchants included lorry ownership and daily deliveries were made to the site from this access point on to the highway. Notwithstanding this I would reiterate that the land is no longer used for this purpose and has not been in the recent past.

Currently the High Street is a classified ‘A’ road that carries c.5000 vehicles per day with an HGV proportion of about 8.6% (2015 figures provided by NCC Highways). The agent refers to a ‘HGV ban’ although I would note that this is a time restriction of access and that HGVs still use the A1133 frequently, as witnessed on my site visits as part of this application, the previously refused application and at pre-application stage. The access point onto High Street at this site is obscured by the buildings that flank the entrance – the agent makes reference to existing properties along High Street that have similar access arrangements but these do not set a precedent for new development.

The agent comments on the ‘SLOW’ road markings and the parked cars often present on the High Street as justifications as to why this access should be acceptable as “vehicle speeds along High Street are generally low” – I would note that this is a 30mph road and as stated above, has a high capacity, with HGV use. Notwithstanding the historic use of the site, the application must be assessed on its own merit and the risk that it would present now.

In assessing the application the Highways Officer reiterated their comments on the initial application which are within the consultee response section with the Highways Officer's report for



completeness they are summarised as the width of the access being insufficient for two cars to pass one another, and has very poor visibility for drivers wishing to emerge on to High Street. The additional traffic generated by the proposal would increase the risk of an accident. They therefore object to this proposal on the grounds that the traffic generated by the proposed development would likely result in an unacceptable increase in danger to the users of the highway due to increased use of the existing access & junction with the A1133 which is geometrically substandard in terms of the access having insufficient width to accommodate two-way vehicular movements, and poor junction visibility with the A1133.

Nevertheless, notwithstanding the objection from the Highway Authority, the Planning Committee previously concluded when considering this application in January 2019 that the access here was acceptable and refusal on highway grounds could not be defended based on most occupants of properties off High Street being subject to similar access arrangements. This re-submission application does not alter the access arrangements that were previously considered and therefore, notwithstanding the County Councils technical advice, the previous decision of the authority is a material planning consideration, Committee members at the time, concluded that a refusal on highways safety grounds would be unwarranted and as such I must conclude that the access arrangements are acceptable.

NCC Highways have been informed of this view and have therefore requested that the applicant demonstrate that cars can enter and leave the site in forward gear - adequate car turning space was required to be demonstrated and provided. In response the agent submitted plan ref. 'Swept Path Analysis' which has been agreed with NCC Highways to be acceptable to evidence the above. I therefore consider that based on the above conclusion and the plans provided that the development is acceptable with regards to the highways impact. I consider it reasonable to condition that the car parking spaces are laid out in accordance with the submitted plans prior to occupation to ensure vehicles can enter and exit on to the highways safely should permission be otherwise forthcoming.

#### *Impact upon Trees and Ecology*

Amended 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 site is predominately hardstanding and scrubby grassland which is occasionally used for the grazing of horses - there are no trees within the application site itself although there are a few smaller trees within the wider area. There is a single larger tree to the east of the site which is not protected by a Tree Preservation Order, but as it lies within the Conservation Area it is afforded a degree of protection against its removal without prior consent. As this lies outside of the site it is not proposed to be removed or to be affected by the proposal.

There is not considered to be any significant ecological value to the land subject to this application that would support any wildlife – as such the proposed development is considered to accord with the aims of policy DM7 of the DPD.

#### *Community Infrastructure Levy*

The site is located within Housing High Zone 3 of the approved Charging Schedule for the Council's Community Infrastructure Levy. As such residential development in this area is rated at £70m<sup>2</sup> for

CIL purposes. Gross Internal floor space of the new dwelling is proposed to be 260 m<sup>2</sup> and as such the CIL charge on the development would be £ 18,270.

### *Conclusion*

The principle of new residential development in Collingham is acceptable as a matter of principle. However in this case I consider that this proposal would create harm to the established character of the surrounding area by virtue of uncharacteristic backland development and an increase in housing density that would unduly harm the historic urban grain and character of the area. Although the harm would be considered to be less than substantial, no clear and convincing justification has been presented and there are no public benefits that would outweigh this harm. As such the proposal is contrary to Core Policy 9 and 14, Policies DM5 and DM9 of the ADMDPD and Section 16 of the NPPF. The proposal is also considered to fail to comply with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I also consider that approval of development of this nature in this location would set a precedent for similar forms of development to occur which would harm the character of the surrounding area and would therefore not be acceptable in principle.

As such I conclude that this application should be refused.

### **RECOMMENDATION**

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

01

In the opinion of the Local Planning Authority by virtue of its design and siting the proposal is considered to represent harmful backland development that would adversely and unacceptably impact upon the historic grain, character and appearance of the designated Collingham Conservation Area village and failing to meet the minimum requirement in statute (Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) of preservation and rather would erode the historic urban grain of this part of High Street. 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 Districts Housing delivery 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, Core Policy 9 (Sustainable Design) and Core Policy 14 (Historic Environment) of the Amended Core Strategy (2019) and Policy DM9 (Protecting and Enhancing the Historic Environment) and Policy DM5 (Design) of the adopted Allocations and Development Management DPD.

### **Notes to Applicant**

01

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

02

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

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

Background Papers

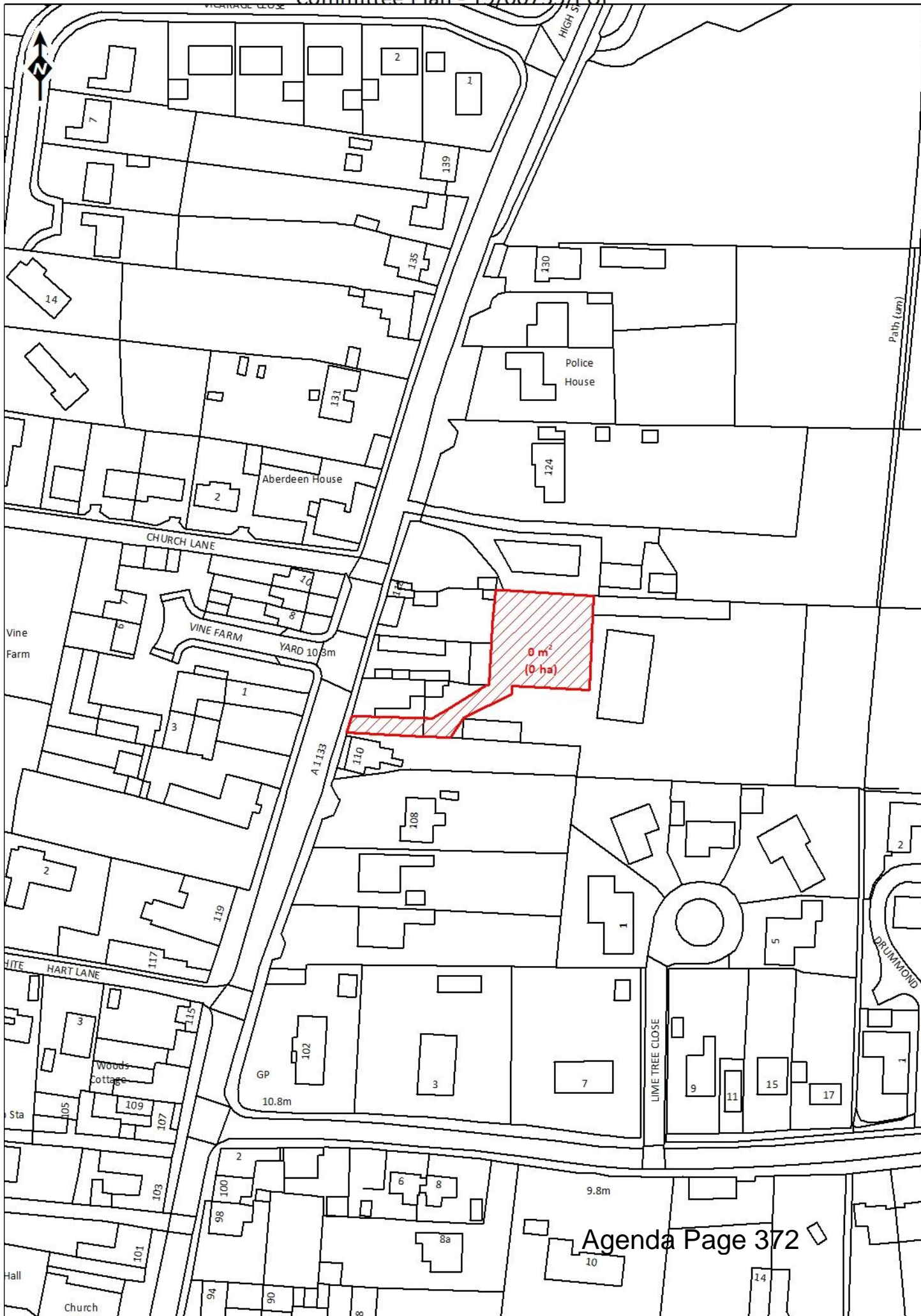
Application Case File

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

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

**Matt Lamb**

Director Growth and Regeneration





## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>19/00473/FUL</b>		
<b>Proposal:</b>	<b>Proposed two storey rear extension, detached annex accommodation in rear garden and associated works.</b>		
<b>Location:</b>	<b>11 Maypole Road, Wellow NG22 0EF</b>		
<b>Applicant:</b>	<b>Mr &amp; Mrs Rawlinson</b>		
<b>Registered:</b>	<b>13/03/2019</b>	<b>Target Date:</b>	<b>08/05/2019</b>
	<b>(Extension of time agreed until 15/05/2019)</b>		

**This application is before Members for consideration because part of the proposal is for an annexe. Under the scheme of delegation an annex requires committee consideration where the Parish Council's view do not align with the officer recommendation, which is the case here.**

### The Site

The application site is located within the parish of Wellow. Maypole Road is a cul-de-sac at the southern end of the village, comprising largely current/former Council properties. This part of the village is outside of the Conservation Area.

I am advised that a number of the properties in this area, including No.11, were rebuilt in the 1980s as a result of land subsidence in the area. The house is a right hand side, 3-bed semi detached dwelling that sits within a row of largely identical properties, each with front and rear gardens. While many of the other properties on Maypole Road appear to have been significantly modernised and have driveways to the side of the houses, No.11 has not. Its current layout comprises two downstairs rooms and three bedrooms and a bathroom on the first floor.

### Relevant Planning History

EXP/00027/19: Site static caravan for additional sleeping arrangements – permission required.

### The Proposal

The proposal is for the erection of an annexe in the rear garden that will serve as ancillary accommodation to the house. The applicant has indicated that the current resident (a relative) is extremely unwell and is unable to readily negotiate the stairs in the house in order to use the bathroom and to get to their bedroom. A supporting statement regarding the need for two-bedrooms within the annexe was submitted during the consideration period. This indicates that the applicant and his family (two adults and three children) intend to move in to the house, while the current occupant will live out of the annexe. Due to his condition two separate bedrooms are

required within the annexe for he and his partner.

The annexe therefore comprises a brick built and timber clad rectangular structure with a membrane covered flat roof. Inside two small bedrooms are proposed, with a kitchenette and bathroom. The annexe is proposed to be situated 10.8m away from the rear elevation of the host dwelling and 1.0m away from the curtilage boundary.

The dimensions of the annexe are approximately:

5.1m wide

7.1m long

3.0m high

To help care for their relative who will be accommodated in the annexe, the applicants intend to move in to the house, but requires additional accommodation. In order for the property to accommodate more people the proposal also includes a two storey, brick built rear extension. As the revised plans show, this is for increased living accommodation on the ground floor and two new bedrooms at first floor level. The revised elevations show the extension replicates the eaves and ridge height of the host dwelling with 2x rear (west) facing first floor windows and bi-fold doors covering the width of the ground floor level. Following discussions with the agent about the potential impacts of the extension it is set 1m in from the boundary with the neighbouring property to the south and the roof has been hipped. Velux-style rooflights are proposed on the north and south facing roofslopes. Materials are proposed to match those of the existing house.

The dimensions of the proposed extension as amended measure approximately:

- 7.0m wide
- 3.7m deep
- 4.7m high to the eaves / 7.2m high to the ridge

The following documents have been submitted with the application:

- REVISED SLP WITH EXISTING ELEVATIONS (01 A)
- REVISED SLP WITH PROPOSED ELEVATIONS (02 C)
- PROPOSED PLANS AND ELEVATIONS (03)

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

Occupiers of the five nearest neighbouring properties have been notified by letter.

### **PLANNING POLICY FRAMEWORK**

#### **The Development Plan**

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

- Spatial Policy 1: Settlement hierarchy
- Spatial Policy 2: Spatial distribution of growth
- Spatial Policy 3: Rural Areas
- Core Policy 9: Sustainable design

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

- Policy DM5: Design
- Policy DM6: Householder Development
- Policy DM6: Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework
- Planning Practice Guidance
- Householder Development SPD (2014)

### **CONSULTATIONS**

#### **Wellow Parish Council:**

The Council agreed to Support the extension to the house.

The Council Objects to the residential annex as it is not in keeping with the street, may set a precedence, the parking is considered inadequate and it is Tandem Development.

#### **Representations:**

Comments have been received from four neighbours, all of whom object to the above proposal. The reasons for the objections are summarised below:

- The proximity of the annex to the boundary;
- The garden is not considered large enough to adequately accommodate another dwelling – particularly if it were occupied by two separate families;
- Inaccurate plans – failing to show neighbour's window positions;
- Concerns about visual amenity of neighbours – being perceived to be 'hemmed in';
- The annexe in conjunction with the extension would appear to loom above the boundary line;
- Concerns that at some point in the future an application may also be sought to add a further storey or other extensions to the annex/dwelling;
- Concerns about residential amenity and loss of privacy with windows on all sides of the annexe This new build would affect the enjoyment and privacy of my own garden with it being;
- The two story rear extension will overlook the whole of our garden and be overbearing on our whole garden. The annex and extension together will make us feel boxed in;
- Perceived impacts on sunlight and daylight;
- The look of the extension will stand out from the rest of the houses;
- The character of the houses will change. It will have the "terracing affect" in a nice idyllic village;
- Concerns about the development affecting the routing of existing sewerage pipes;
- Noise during construction;
- The development will exacerbate existing on street parking problems.



## **Comments of the Business Manager**

### **Principle of Development**

#### *Annexe*

The application seeks to erect an annexe in the rear garden of No.11 Maypole Road for family members to occupy. The Council's SPD for householder development states that where annexes include all of the primary aspects of accommodation (bedroom/ living room, kitchen and bathroom) and the unit could be lived in separately with limited or no relationship to the host dwelling either through a family member or the level of accommodation then it will be considered as a new dwelling and so not householder development. In such circumstances, full planning permission for a new dwelling would be required with relevant policies of the development plan being applied in its consideration.

The settlement hierarchy for the district is set out in Spatial Policy 1, whilst Spatial Policy 2 deals with the distribution of growth for the district. This identifies that the focus of growth will be in the Sub Regional Centre, followed by the Service Centres and Principal Villages. At the bottom of the hierarchy are 'other villages' which do not have defined built up areas in terms of village boundaries. Consequently, given its location in a rural area, the site is subject to the criteria of LDF Spatial Policy 3 (Rural Areas). This provides that within settlements which do not meet the locational criterion of this policy but are well related to villages that do, consideration will be given to the infilling of small gaps with 1 or 2 dwellings so long as this does not result in the joining of outlying areas into the village in question, or the coalescence with another village. Such development will need to comply with the scale, need, impact and character criteria of this policy.

Notwithstanding the SPD guidance, the application as made is for residential annexe accommodation and proposed for family members who require support in their day to day lives. The supporting information indicates that the intention is for members of the extended family to live as a single family unit with the annexe providing sleeping accommodation and additional space for some degree of independent living.

Based on the details provided, while the building proposed has a full suite of facilities that make it feasible to operate as an independent dwellinghouse, the evident need of the occupants it is considered such that the proposal is genuinely for 'annexe' accommodation and therefore should be regarded as such in policy terms. Furthermore, given the location of the annexe and its positioning within the garden of the host dwelling, with shared access and amenity space, it is not considered that a separate residential dwelling house would be readily assimilated whilst retaining suitable amenity space/access. I therefore conclude that both a physical and functional link to No.11 Maypole Drive is demonstrable and any approval granted should be suitably conditioned to ensure that the annexe remains as such.

#### *Extension*

Under Policy DM6 the principle of householder development is supported, subject to applicants demonstrating compliance with the relevant policy criteria and the advice contained in the Council's Householder Development SPD. Policy DM5, underpinned by Core Policy 9, also sets out

a range of matters for consideration when determining planning applications in relation to design. The NPPF reinforces the above policies, making clear that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. However, conversely, the NPPF states that where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

### **Character and Visual Amenity**

With regard to both parts of the proposed development, LDF Policies SP3 and CS9, supported by DM5 and DM6 all require proposals to respect the character of the surrounding area and local distinctiveness. The Council's Householder Development SPD gives context to the way in which these requirements should be met, stating that additions to dwellings should respect and be balanced with the the scale and proportions of the host dwelling, and relate well to the characteristics of the application site in terms of its size and shape. Specific guidance in the SPD (Section 8) indicates that rear additions to dwellings should be designed in a way which is sensitive to the host dwelling and the prevailing character of the surrounding area.

#### *Annexe*

Upon visiting the site, whilst Wellow evidently has a strong defined and distinctive character within much of the village, this particular area at the rear of properties on Eakring Road and Maypole Road/Maypole Close clearly exhibits a suburban residential character. Consequently, I consider that it lacks any measure of sensitivity that would render the proposed use as inappropriate and out of character. Views of the rear of the site are almost entirely contained by the surrounding houses, with only a small gap between No.11 and No.13 would allow views of the gable end of the of the annexe from the roadside.

Looking across rear gardens along the western side of Maypole Road there is a spread of domestic outbuildings such as sheds and detached garages. Notably, to the south (at the rear of No.9) the outbuilding is of a similar size and occupies a similar position to that proposed at No.11. Subsequently, it is considered that the proposed brick construction and timber cladding will appear consistent with the visual character of many garden sheds – notably to that of the existing shed in the garden of No.11 itself. I therefore believe that in character terms, despite concerns raised in representations about its potential impact on the character of the area, the proposed residential annexe is not harmful.

#### *Extension*

The Council's Householder Development SPD states that the overall objective for additions to residential dwellings should be based around its successful integration with the host dwelling and its surrounding area. The design should ensure it respects and is balanced with the the scale and proportions of the host dwelling and relate well to the characteristics of the application site in terms of its size and shape.

As stated in my comments relating to the annexe (above), it is considered that the rear elevation of No.11 Maypole Road is all but obscured from the roadside. As such, the visual impact of the proposed extension would be limited to views from the rear of other surrounding properties. While it is noted that there are no other two-storey rear extensions along the row of properties on the western side of the road, this is not to say that the proposal would be harmful to the character of the area. After discussing the form of the extension at length with the architect – specifically in relation to the potential amenity impacts (see below), a number alterations have been made that have, to my mind, also improved the visual relationship with the host dwelling.

The proposal incorporates use of materials matching the existing dwelling and although the proposed extension roof is not subservient to the host dwelling (set out as a preference of the SPD) the hipped end is sensitive to the angle of the existing pitched roof and reduces its overall prominence. While I acknowledge that a hipped roof form is different to the gable form of the host dwelling, as is discussed below, this is intended to help reduce the perceived overall mass of the extension.

Overall, in terms of visual amenity, I do not believe that this is a particularly sensitive area and the proposal is relatively well designed and successfully integrates with the host dwelling.

### **Residential Amenity**

Policy DM6, underlined by the guidance in the Housholder SPD, highlight consideration of the impact of householder development proposals on the amenities of neighbouring users as being crucial to the development of an acceptable scheme and should be an important design principle. This should take account of the relationship between the application site and neighbouring buildings / land; how the neighbouring buildings positioned in relation to the application site; and how the site sits with any neighbouring private amenity space. Furthermore, whilst the ‘right to light’ is not a planning issue it is crucial that householder development does not lead to significant overshadowing of neighbouring properties and/or their private amenity space. As with the above considerations it is most likely that significant impacts will occur when two storey development is proposed in close proximity to or along boundaries (SPD para. 7.15).

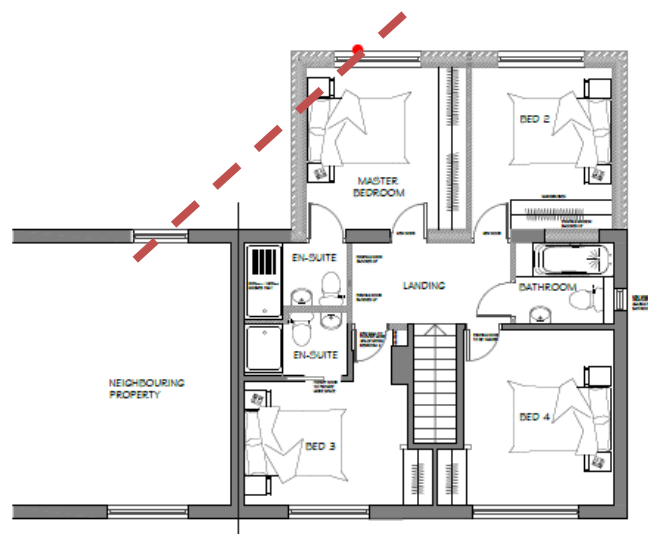
### *Annexe*

The proposed annexe accommodation is an aspect of the proposal that has generated some concern amongst local residents (summarised above). However, in assessing the proposed position of the annex and the position of its windows relative to other properties, I do not foresee any significant residential amenity impacts being generated. In terms of the size of the structure, relative to the boundary fence between No.11 and No.13, which sits at approximately 1.5m in height, it is unlikely that it would cause either an overbearing impact nor cause overshadowing. Similarly, the height of the fence is also considered likely to mostly obscure any potential view from the small rear windows, shown on the internal floorplan of the annexe as serving the two bedrooms. As these are on a level with the rearmost portion of the neighbouring property’s garden and not in line with any habitable rooms they are unlikely to cause a significant loss of privacy. Were either the applicant or the neighbour satisfied with this arrangement it would be feasible to increase the height of the boundary treatment as necessary. The relationship between the two gardens is illustrated in the images below.



*Extension*

Initially it was the rear extension to the host dwelling that generated the greatest concern from officers, in terms of the potential impacts upon neighbour amenity. Although the extension is to the north of the adjoining dwelling, therefore largely avoiding risk of loss of direct sunlight or overshadowing, it was nevertheless perceived as likely to create a significant mass that risks being overbearing on No.9. Having discussed my concerns with the architect, the drawings have been amended to set the extension in by 1.0m from the boundary and reduce the depth by 0.3m which, in addition to hipping the end section of the roof, significantly reduces the degree to which it appeared overbearing – particularly from the neighbour’s first floor bedroom window. While I recognise the valid concerns raised in the neighbour comments about the scale of the extension I am also mindful of what is achievable through the applicant’s fallback position under permitted development rights. As such, I believe that the steps taken to adjust the dimensions of the extension represent a reasonable compromise.



FIRST FLOOR PLAN  
1 : 100

While the above image (taken from the revised plans) shows that the proposed extension slightly exceeds the depth/width that would be supported when applying the 45 degree rule, this is weighed against the fact that the orientation of the two properties means that there will be no direct loss of sunlight or overshadowing. Similarly, with a separation distance of approximately 4.5m between the side elevations of No.11 and No.13, I do not envisage that the proposed extension will have unacceptably adverse impact on the neighbour to the north.

It is noted that comments have been made about the potential for the first floor windows of the extension to increase the extent to which surrounding gardens are overlooked, however, in the absence of any other protruding rear extensions I believe that the proposal will not exacerbate the situation beyond what is current. An increase of 3.7m in depth is considered unlikely to make a great difference to potential for overlooking properties to either side, while the rear garden of No.11 still extends almost 20m beyond the proposed rear elevation. This would seem to be a satisfactory separation distance from gardens adjoining the rear boundary.

I turn now to consider the combined effect of the proposed extension and the annexe on the outside amenity space that would remain. The Householder Development SPD advises that the host dwelling should retain a reasonable amount of amenity space relative to its size. A rough calculation of the existing residential curtilage to the rear is approximately 210 square metres, while the combined floorspace of the annexe and the extension would reduce this by approximately 62 square metres. Although the number of residents in the property would increase from two to seven, with a broad age profile, I do not consider that the remaining space would be anywhere near inadequate. This would only be considered so were the annexe proposed as a separate dwelling and not to be used in association with the host dwelling. In this location it would appear that there is insufficient space to provide separate means of access whilst retaining adequate amenity space for two separate dwellings.

Finally, the cumulative impact to on-street parking (as raised by the Parish Council) is not likely to go beyond that which could ordinarily be expected with a family of five, with children of driving age still being at home. As such, I am satisfied that in this regard the proposal complies with the requirements of Policies DM5 and DM6.

## **Conclusion**

In conclusion, I am satisfied that the proposed development meets the requirements of the relevant development plan policies, in terms of both the proposed annexe being associated with the host dwelling and the visual and residential amenity impacts arising from the proposed additions.

## **RECOMMENDATION**

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

## Conditions

01

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

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

02

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

REVISED SLP WITH EXISTING ELEVATIONS (01 A)  
REVISED SLP WITH PROPOSED ELEVATIONS (02 C)  
PROPOSED PLANS AND ELEVATIONS (03)

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

Reason: In the interests of residential and visual amenity.

03

The materials to be used in the construction of the external surfaces of the extension hereby permitted shall be as stated in the application unless otherwise agreed in writing by the local planning authority through an application seeking a non material amendment.

Reason: In the interests of visual amenity

04

The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling, known as 11 Maypole Road, Wellow.

Reason: To prevent the creation of a separate dwelling in a location where new residential development would not normally be permitted.

## Notes to Applicant

01

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 the gross internal area of new build is less than 100 square metres.

02

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

**BACKGROUND PAPERS**

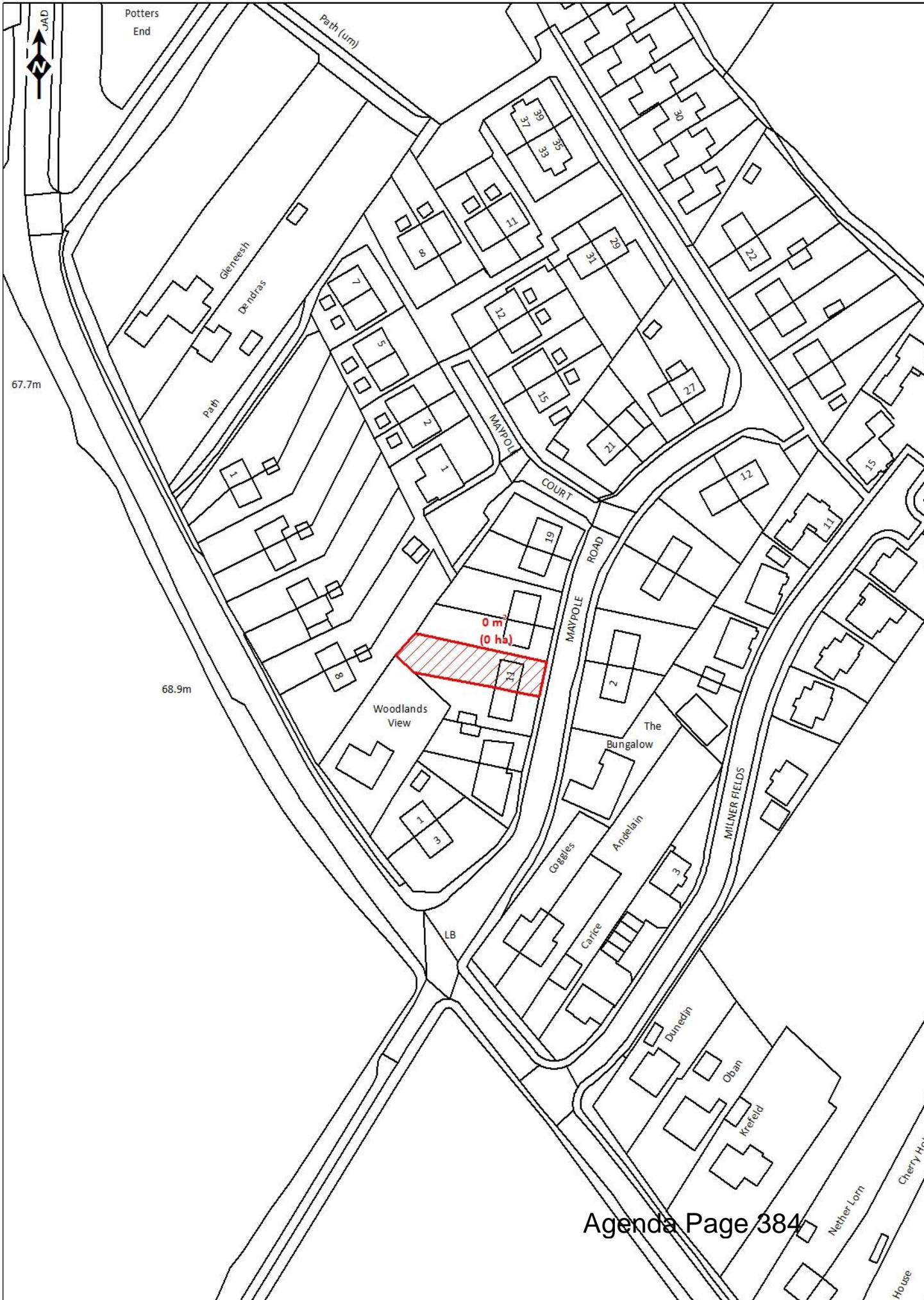
Application case file.

For further information, please contact Tim Dawson on ext 5769.

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 and Regeneration**

Committee Plan - 19/00473/FUL







## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>19/00408/FUL</b>	
<b>Proposal:</b>	<b>Demolition and replacement of an existing dwelling and the refurbishment and conversion of a traditional stone barn building to form 2 no. units of holiday let accommodation. The proposal also incorporates the partial demolition of a portal building and the demolition of a partially collapsed outbuilding.</b>	
<b>Location:</b>	<b>Grange Farm Newhall Lane Edingley Nottinghamshire NG22 8BT</b>	
<b>Applicant:</b>	<b>Mr D Brown</b>	
<b>Registered:</b>	<b>01.03.2019</b>	<b>Target Date: 26.04.2019</b>
	<b>Extension of Time Agreed Until 07.06.2019</b>	

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Edingley Parish Council have supported to the application which differs to the professional officer recommendation. Cllr Rainbow has also verbally requested the application be referred to Committee if Officers are minded to refuse.**

### The Site

The application site forms the curtilage of Grange Farm positioned to the east of and accessed from Newhall Lane. Newhall Lane itself also forms a public right of way. The application site is approximately 0.31 hectares in extent within the open countryside with the nearest settlement being the village of Edingley to the north east of the site. There are however dispersed neighbouring properties in closer proximity to the site including the property known as Grange Close approximately 50m to the west of the site.

The site as existing comprises the existing vacant two storey red brick Farmhouse; a stone outbuilding previously used for agriculture; the remains of a brick outbuilding which has partially collapsed and a portal barn with an associated yard.

The site is located approximately 0.7km to the north east of the Newhall Reservoir Meadow Sites of Special Scientific Interest (SSSI). The Farm is within the SSSI Impact Risk Zone associated with the designation. The site is within Flood Zone 1 according to the Environment Agency maps as well as being at very low risk of surface water flooding.

### Relevant Planning History

There is no formal planning history in relation to the site albeit the applicant has sought pre-application advice prior to the submission of the current application.

## The Proposal

The current proposal seeks for a number of separate elements as follows:

### *Demolition of Farmhouse and Replacement Dwelling*

The application seeks to demolish the existing Farmhouse on the basis that the structure is extremely poor as evidenced by an accompanying structural report. The proposal includes details of a replacement two storey, 4 bed dwelling utilising the footprint of the existing dwelling. The proposed plans demonstrate a balcony on the eastern first floor elevation. The accompanying plans demonstrate an internal floor space of approximately 250m<sup>2</sup>. The maximum pitch height of the proposed dwelling is approximately 8.3m with an eaves height of around 5.3m. Specific materials have not been specified through the application submission with the applicant confirming they would be amenable to a condition to agree these details if permission is forthcoming.

### *Refurbishment and Conversion of Outbuilding*

A structural survey focusing on the existing stone barn confirms that repair works and some localised building work would be required to bring the building into use. Following these works it is intended that the building be converted to 2 no. holiday let units each comprising self-contained living facilities and one en-suite bedroom. New openings including roof lights are proposed to be introduced to the building.

### *Demolition of Outbuildings*

The proposal also seeks planning permission for the demolition of a partially collapsed brick outbuilding and part of a portal framed building amounting to approximately 240m<sup>2</sup> (approximately 210m<sup>2</sup> of the building would be retained).

The application has been considered on the basis of the following documents and plans:

- Existing Dwelling Volume and Site – S117/1031/1 Rev. 01B (received 12<sup>th</sup> April 2019);
- Proposed Detached Dwelling – S117/1031/2 Rev. A;
- Proposed Barn Conversion – S117/1031/3 Rev. A;
- Site Location Plan and Site Plans – S117/1031/4;
- 3D Perspective View with Levels – S117/1031/5;
- Rendered Images – S117/1031/6;
- Planning, Heritage, Design and Access Statement;
- Protected Species Surveys;
- Structural Engineers Report dated 19<sup>th</sup> December 2016 (Farmhouse);
- Structural Engineers Report dated 4<sup>th</sup> May 2018;
- Structural Update Letter dated 12<sup>th</sup> April 2019;
- Ground Floor Proposed Strengthening – P16 – 427 SK1;
- First Floor Proposed Strengthening – P16 – 427 SK2;
- Farmhouse Repairs Budget Cost Plan received 10<sup>th</sup> May 2019;
- Letter dated 13<sup>th</sup> May 2019 by HWA Consulting Engineers;
- Letter Dated 21<sup>st</sup> May 2019 – Rebuttal to Conservation Officer comments from applicant.

## Departure/Public Advertisement Procedure

Occupiers of three properties have been individually notified by letter. A site notice has also been displayed near to the site.

## **Planning Policy Framework**

### **The Development Plan**

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 3 – Rural Areas  
Spatial Policy 7 - Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 7 – Tourism Development  
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**

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

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

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)
- Conversion of Traditional Rural Buildings Supplementary Planning Dated (Nov 2014)

## Consultations

**Edingley Parish Council** – Support the proposal.

**NCC Highways Authority** – This application is for the demolition and replacement of an existing dwelling and the conversion of a barn to form 2 units suitable for holiday let accommodation. The proposals are to be served by the existing access onto Newhall Lane. The access width is approx. 4.7m, and due to the site location and the low number of units proposed, this is acceptable to the Highway Authority.

The site plan, ref. SI17/1031/4, demonstrates two parking spaces for the replacement dwelling and two spaces for the holiday let accommodation.

The existing vehicular access into the site is in poor condition and requires a verge crossing to be constructed and surfaced in accordance with the Highway Authority's specification.

Therefore, the Highway Authority would not wish to object to this application subject to the following:

1. No part of the development hereby permitted shall be brought into use until a vehicular crossing is available for use and constructed in accordance with the Highway Authority's specification. **Reason:** In the interests of highway safety.

2. No part of the development hereby permitted shall be brought into use until the access to the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. **Reason:** In the interests of highway safety.

#### Note to applicant

The development makes it necessary to construct a vehicular crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

**Natural England** – Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment.

Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

**Nottinghamshire Wildlife Trust** – No comments received.

**NSDC Conservation** – *Comments received 16<sup>th</sup> May 2019:*

Paragraph 197 of the NPPF states that, *'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing*

*applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.* This is echoed in the Council's Core Policy 14 and DM9.

## Summary

**The farmhouse and threshing barn are non-designated heritage assets.**

**The proposal to demolish the farmhouse would cause substantial harm and there is no clear and convincing justification for its demolition.**

**The current scheme for the stone threshing barn conversion is harmful, causing less than substantial harm. The benefits of converting this building carry little weight as similar benefits could be delivered in a better scheme.**

1. Proposed demolition of the farmhouse

### *Grange Farm as a building of local heritage interest/non designated heritage asset*

Newark and Sherwood District Council does not have an adopted Local Interest List. The buildings considered to be of local interest are generally identified through the application process. In this case the building was identified as a non-designated heritage asset by the Conservation Officer through pre-application advice.

Historic England advises (Historic England, *Local Heritage Listing*, Historic England Advice Note 7 (May 2016)) that factors to consider for a building which might be considered to be of local interest, or a non designated heritage asset, include: age; rarity; aesthetic interest; group value; archaeological interest; archival interest; historic association; designated landscape interest; landmark status; social and communal value.

It is considered that this building has significance relating to its age, aesthetic interest, and group value.

'Grange' as a place name normally refers to the outlying farm serving a monastic establishment. Despite the intriguing name I cannot make any specific link to a known monastic establishment.

However, the house is a former farmhouse and in my estimation dates to the later Georgian/early Victorian era in age and style, being early to mid C19 in date. While the quality of the map is a little unclear there are buildings on the site in Sanderson's Map of 1836, but it is hard to be sure if these are the same buildings:



*Sanderson's Map of 1836 on the left, compared to modern map on the right*

The buildings at this farm are clearly depicted on the historic map from 1875/85:



The following features of the house point to the classically inspired architecture of the Georgian era: proportions and form of the house including use of chimneys; the brick; the use of Flemish bond; the proportion of the window openings and their decorative window header and the arched opening and overlight to the door.



The building shows architectural aspirations, certainly exhibiting polite architecture to the front elevation at least.

The distortion than can be seen on the front elevation from structural movement has not detracted from this attractive façade.

The building has Flemish bond brickwork to the front elevation, where the brick bond alternates headers and stretchers. This brick bond was first used in England in about the 1630s but really gained in popularity in the late C18 and become a dominant brick bond for the next century. It is one of the features very commonly seen in architecture of the Georgian era. The bricks here are relatively soft and varied in texture and colour, indicating a handmade brick from the local area. It is noted that Flemish bond is not used on every elevation but this is itself an important part of the building's history. Flemish bond was a fashionable bond not just because of its pleasing aesthetic effect, which is evident here, but also because it was a conspicuous show of wealth - this bond requiring more bricks per square meter (owing to the frequent use of headers) than a stretcher bond, for example. As a result few building owners could afford to use such an expensive brick bond on the less visible elevations and it was invariably limited to the most important elevation. That this expensive bond was limited to the most visible façade here speaks of the architectural aspirations of the building and the desire of the owner to display status.

The use of formal architecture on the front is in contrast to the rear elevation, where small paned flush casements were used within segmental brick arches. Some of these small paned windows still survive. This is a more vernacular approach taken on the less visible and more working end of the building, typical of this era.





The attached outbuilding is a later monopitch brick structure of no particular architectural or historic interest. Other than the addition of this outbuilding to the side, the building plan-form is well preserved and fully legible.

As a late Georgian farmhouse alone this building would be of local historic and architectural interest, but it additionally forms part of an attractive and traditional farm complex with the barns, giving it extra significance in terms of group value. The farm buildings themselves gain significance from their association with the historic farmhouse. It also forms part of a wider group of historic Georgian farm complexes generally in the District.

It is accepted that the windows on the front elevation have been altered but the attractive splayed headers with keystones, themselves of architectural and aesthetic interest, do survive. The decorative door surround is also preserved. The symmetry of the front façade, important in classical architecture, is well preserved.

The roof covering has been altered but the roof shape has not. The use of a chimney is again another feature of historic houses generally (being heated by combustible fuel and not central heating) and is part of its legible plan form.

Internally a simple cellular layout, with rooms heated by the fireplaces, served by flanking chimney breasts, can still be read.

It is worth considering that if this building actually was better preserved it would most likely be considered to be of national importance and be Listed - the general principle being that most buildings between 1700 and 1850 which survive in anything like their original condition are likely to be listed, as attested by our large legacy of listed Georgian buildings (reference from <https://historicengland.org.uk/listing/what-is-designation/listed-buildings/>). It is accepted then that a local interest Georgian building will therefore have had a degree of change but can still potentially be deemed of sufficient heritage to be considered of local interest.

### *Structural issues*

To retain the house the following structural interventions would be done:

- Demolish and rebuild attached store
- Internal structural ties within the floor structure, not visible externally
- One internal 'buttress'
- Replace the roof structure
- replacement of some or all first floor floors, extent not confirmed
- rebuild the chimneys
- potentially tank or fill cellars
- lift and relay ground floor covering

The Applicants/Agent argue that the works required to retain the building would be essentially leave nothing left of the historic building, but I am not convinced this is true given my analysis below:

#### *Externally*

By my reckoning the proposed works would retain the existing external appearance of the main building with the exception of a rebuild of the chimney stacks and a new roof covering.

Given that the existing roof covering is concrete the loss of this roof covering and its replacement with a potentially more appropriate covering could actually be a heritage benefit.

The rebuilding of the chimney stacks will therefore be new fabric but could be entirely complementary. It is also not an unusual repair on historic buildings, the bricks in the chimneys being subject to greater rates of decay than normal masonry anyway.

The front façade windows are not currently original so there is the opportunity to install a better looking window here, which with the use of slim profile double glazing, for example, would still be a visual improvement but also raise u-values at the property.

The demolition of the attached store would not harm the historic or architectural interest of the building, but could actually present an opportunity for a more harmonious extension which could enhance the house. The applicants could enter in pre-app discussion over this store area but there is the potential to deliver an extension that might better meet some of the owner's aspirations for living here, while preserving and potentially enhancing the host building.

The main house will essentially be little altered externally and its repair presents several key opportunities for improvements to its appearance.

#### *Internally*

Internally, the strapping and retention of the front wall has been confirmed as structurally achievable. It has been confirmed that the straps would be accommodated into the floor structure so do not hinder the use of the building and would not be visible externally.

To retain the front façade would require one new ground floor buttress. This would be a small return of wall in a location where a wall might well have been originally (looking at how it places the window back to the centre of the wall) and may actually reinstate room proportions. I do not think this renders the room un-useable despite what the Agent first suggested - it makes a very natural addition against the opening door into this room.

Internally the lifting and relaying of the ground floor would not lose any historic interest if any historic floor covering was re-laid.

One of the options for the cellars is actually to retain and tank them. Historic fabric would therefore be retained, but I have not inspected to see what would be obscured.

The loss of the roof structure (age unknown) and some of the floors is an acknowledged loss.

With regards to internal fabric it is accepted that internal works to non-designated heritage assets are beyond LPA control anyway, but we are of course considering how pragmatic it is.

Once repaired, there is no reason why the current layout, which still retains its legible cellular layout with chimney breasts heating the rooms, cannot be retained. There is certainly no structural requirement to harm this seemingly historic planform.

#### *Financial argument*

Financial calculations confirm that to retain the building is virtually the same cost as a new build, so actually very little weight can be given to costings. We also do not know what the end value of the refurbished historic building might be, which may well outstrip the investment.

There is no evidence to suggest that the repair strategy, while physically possible, is financially impractical.

I note the Agent mentions the cost of repairing the stone barn but has not advanced an argument suggesting the repair of the stone barn is only financially possible with the demolition of the historic farmhouse, so I give no weight to this reference.

#### *Energy efficiency*

Energy efficiency has been advanced as a reason for, or at least a benefit of, demolition and rebuild. Certainly it is not a persuasive argument on its own as a reason for demolition. In terms of considering the benefits of a new building, while I appreciate the potential energy efficiency of a new build, this must always be considered against the loss of embodied energy within the building to be demolished, the carbon footprint of new building materials and the potential to upgrade the existing building envelope.

#### *Additional structural submission 13<sup>th</sup> May 2019*

Their latest statement confirms that the front wall can be retained.

They do state that, *'The only way to overcome this and restore the front elevation wall to its as originally constructed condition would be to demolish and rebuild it.'* It is an accepted fact that the only way to get the front elevation plumb is to rebuild, but we do not necessarily need the building back to its *originally constructed condition* to still retain heritage significance. There are few buildings of this age which *would* be in their original condition. It is perfectly normal for historic buildings to have had movement and subsequent repairs and still be of significance.

I note the structural report then strays into areas of aesthetics for justifying demolition of the front façade. While the structural movement is visible on this front façade I do not believe it is unattractive, disfiguring or undermines the architectural and historic interest of this façade. This statement also confirmed that the measures required to retain the façade would not impact on the appearance of the front façade.

## Conclusion

The Council has sought additional information with this application which confirms: that the building is relatively well preserved; that the building is capable of repair; that the repairs would not result in any compromise to appearance or use-ability of the house; that the repairs would retain the majority of the external appearance of the house, while internally the loss relates to the roof structure and some floors, but otherwise the historic plan form and cellar structure could be retained; that the repairs are financially little different to the cost of a new build (and have not been weighed against end values); that there is no argument submitted to suggest retention of the house would compromise the re-use of the barns; and that the repairs to the farmhouse have the potential to deliver improvement to appearance and architectural interest.

I also feel I have demonstrated how and why the building is regarded as being a local interest building/non designated heritage asset.

To demolish the building is to lose all interest and as such is substantial harm. I do not feel there has been clear and convincing justification for this harm and am not convinced that a balanced argument is made for any public benefits.

The stone threshing barn, to be retained and converted, does derive some of its interest from its setting and association with its historic farmhouse as part of a wider farm complex. Its historic context will be harmed by the demolition of the farmhouse.

### 2. Barn Conversions

The stone barn is a former threshing barn built of stone and with axe cut timbers. It seems very likely to be one of the buildings depicted on Sanderson's Map, but in form and materials is likely to predate this map by some time. As a threshing barn it has the distinctive pattern of a large central opening on each long elevation, with minimal other openings. There are normally breathers either side of the main larger entrances, but I note these are missing from the existing and revised plans. However a careful inspection of the stonework shows there to be a pair of low level breathers flanking the main opening and I am concerned these have not been picked up:



Perversely, in a building with few existing opening and few opportunities for natural light, I see that three of these existing openings are *not* being re-used, and yet two large openings are being

created on the north elevation. In a threshing barn the distinctive larger opening in the middle is an important pattern to retain, and the barn would not have been built with stable-like entrances either side. These new openings should be removed from the scheme. It is also very likely there will be breathers here which would be lost to these new openings.

I also think the treatment of the large central openings is harmful, opting to retain a later infill and turn the large opening into two domestic doors with solid masonry between. The large openings should be opened up read as one large aperture. Part of the issue is from using these openings to create a party wall between holiday lets. However, I see no reason why internal divisions cannot dogleg around these openings.

I also note the internal space behind the threshing entranced is being divided up and not left open to the rafters. This takes away an important and distinctive sense of space which is one of the most attractive features of successful threshing barn conversions.

I include here a relevant part of the Supplementary Planning Document on the *Conversion of Traditional Rural Buildings*, which refers specifically to threshing barns at Appendix B:

#### *Threshing barns*

*1. The most familiar rural building is the threshing barn. The barn was a building for housing and threshing corn and the storage of hay and straw. Barns are generally the largest building in a farm group and are made up of three or more roughly equal sized bays. One of the central bays has large doors on either side and a stone flag threshing floor. Larger barns can have two threshing bays.*

*2. The bays to either side of the threshing floor(s) were used for storage. The solid walls of these areas were punctured with ventilation holes to prevent the crops from becoming mouldy and these vents are often arranged in geometric patterns. Similar small openings are sometimes seen on the gable ends. Barns often have one or two window like openings covered with wooden shutters, called pitching eyes, located at high level in the sides or ends, which were used for pitching corn or hay into the barn from a cart. The large doors and patterns of ventilation holes often give a strong symmetry and formality to the appearance of threshing barns. Barns were usually built with a single, undivided internal space. A floor was sometimes inserted into one of the side bays, presumably to give flexibility for storage.*

*3. The most suitable new uses for threshing barns are those that can utilise the internal space without significant subdivision and do not require blank areas of brickwork to be punctured with window openings. If detailed sensitively, the large openings can be glazed and the doors retained, giving an interior of contrasting natural light levels. However, areas of masonry patterned with ventilation holes flanking the threshing bay are extremely sensitive to new window openings.*

I think gable windows would be preferable to rooflights and that rooflights are not required for stairwells or bathrooms, so the number of these could be dramatically reduced or removed altogether. Paragraph 4.3 of the SPD states, '*Modest alterations such as the introduction of flush rooflights and small vents will be acceptable only if they are used with restraint and placed in discreet positions. If the overall effect of a particular proposal destroys the essential character of the building, the conversion will not be allowed.*'

In its current form this proposed conversion of a very historic and attractive threshing barn is harmful and is contrary to the adopted SPD, causing less than substantial harm to this non-

designated heritage asset. The public benefits of converting the building, in my opinion, carry little weight as there is a less harmful way to deliver the same benefit from a more suitable conversion scheme.

### *3. Demolition of small brick and stone barn*

There is one further small historic barn on the site which is due for demolition. This is a very dilapidated simple gabled brick barn with stone footings to one gable wall. The building is so decayed that it is impossible to determine form or function of this building. While there may well be age to the stone footings, the degree of significance is so reduced that I have no objection to its demolition.

**NSDC Environmental Health (contaminated land)** - This application includes the construction of a new residential dwelling and the conversion of a barn to holiday accommodation. Agriculture is a potentially contaminative land-use and such land can possibly be used for a wide variety of potentially contaminative activities including: non-bunded fuel storage, repair and maintenance of agricultural machinery/vehicles, storage of silage and other feed, slurry tanks/lagoons, disposal of animal waste and disposal of asbestos. There is clearly the potential for the site to have been contaminated from this former use. As it appears that no desktop study/preliminary risk assessment has been submitted prior to, or with the planning application, then I would request that our standard phased contamination conditions are attached to the planning consent.

**Archeological Advisor** - No archaeological input required.

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

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

#### Comments of the Business Manager

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

As is acknowledged by the description of the proposal above, the application seeks permission for various elements which lend themselves to slightly separate planning assessments. Thus in the interests of transparency the following appraisal is divided in to the distinct elements of the scheme in terms of the principle of the development.

#### Demolition of Farmhouse and Replacement Dwelling

The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). 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. Beyond this Spatial Policy 3 (Rural Areas) confirms that development in the open countryside, as is applicable to this site, will be strictly controlled and limited to certain types of development as outlined by Policy DM8.

In respect of replacement dwellings, Policy DM8 states that, *“planning permission will be granted where it can be demonstrated that the existing dwelling is in lawful residential use and is not of architectural or historical merit.”* It is also reaffirmed that, *“replacement dwellings should normally be of a similar size, scale and siting to that being replaced.”*

The house is a former farmhouse estimated to date to the late Georgian/early Victorian era in age and style. While the quality of the map is a little unclear it looks like an enclosure of land at this site exists in Sanderson’s Map of 1836 but that the building itself doesn’t. Certainly the site is on historic maps from 1884 onwards but there is a suggestion that the building well pre-dates this. Looking at the proportions and form of the house, the brick, the use of Flemish bond, the proportion of the window openings and their decorative window header, these point to the typical classically inspired architecture of the Georgian era. The building was once of some status, certainly exhibiting polite architecture to the front elevation at least.

While I accept that the windows and perhaps the door have been altered on the farmhouse, its overall form, approximate age and style of the building is clearly legible. As a late Georgian farmhouse alone this building would be of local historic and architectural interest, but it additionally forms part of an attractive and traditional farm complex giving it extra significance.

Given the identification as a building of architectural and historical merit there is a presumption against its replacement through Policy DM8. In addition, the application falls to be assessed against the heritage section of the NPPF. Paragraph 197 states:

*“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

The demolition of the existing dwelling as proposed would lead the entire loss of significance of the asset. The application submission has been accompanied by a Planning, Heritage, Design and Access Statement. The following is an extract from the Heritage Impact Assessment section:

*“...the farm house is quite plain and functional and lacks anything architecturally significant or special on the exterior that contributes towards making it an important example of a late Georgian early/Victorian farm house.”*

The statement goes on to consider the heritage significance of the farmhouse to be low. Whilst it is confirmed that it would be physically possible (on the basis of the submitted structural survey) to repair the farmhouse, the structural condition is concluded as being so poor that there would be little remaining of the original historic structure. This has been further confirmed through a letter dated 13<sup>th</sup> May 2019 from their Structural Engineers which confirms that the front elevation is suffering from distortion having bowed outwards by an estimated 100mm-150mm.

In applying the balancing act of the NPPF, the applicant’s position is that the benefits of the restoration of the stone barn (discussed separately below) to provide holiday accommodation would be enough to outweigh the total loss of the non-designated farmhouse.

The application has been assessed by internal Conservation Officers as listed in the comments section above. The detailed comments make reference to the protracted discussions which have taken place during the life of the application including through the consideration of financial

evidence. The details and justification submitted have ultimately not been persuasive to Officers in terms of accepting the loss of the non-designated asset in principle. The Structural submissions evidence that the house is capable of conversion and in being converted would, contrary to the applications submissions, still retain a large degree of the existing historic interest. The bowing referred to above is not visible to the naked eye on site and does not affect the historic interest of the building. Officers therefore consider that the first requirement of Policy DM8 in respect to replacement dwellings has not been met in that the building is of historic merit and thereby worthy of retention.

It is noted that the applicant has submitted a rebuttal letter to the comments of the Conservation Officer received 22<sup>nd</sup> May 2019. Reference is made to the use of language such as ‘clear and convincing’ and ‘less than substantial harm’. Officers would agree that the use of this language in the NPPF is in respect to designated heritage assets and therefore not relevant in the assessment of the current application. Members will be aware that the Conservation Officer comments form a consultee response and are not the sole basis of the decision which falls to Officers and indeed Members to weigh all matters of material consideration. For clarity, the appraisal of this application has been done on the basis of paragraph 197 of the NPPF in relation to non—designated assets.

Irrespective of the above discussion Policy DM8 seeks to ensure that replacement dwellings are normally of a similar size, scale and siting in comparison to the dwelling to be replaced. The submitted plans demonstrate the volume of the existing dwelling as being 435m<sup>3</sup> (excluding the part collapsed outbuilding) with a maximum pitch height of approximately 7.74m and eaves height of around 5.45m. Whilst the Planning, Design and Access Statement implies the proposed replacement dwelling is slightly larger, no specific figures are given in respect to the proposed volume figure. This has been sought during the life of the application for comparative purposes. The figures in respect to the existing dwelling include a part collapsed outbuilding albeit it has been confirmed that the volumes are approximate as the height of the outbuilding is not known given its state of partial collapse. The following table details the respective increases sought:

	Height (m)	Footprint (m <sup>2</sup> )	Floor Space (m <sup>2</sup> )	Volume (m <sup>3</sup> )
<b>Existing Dwelling</b>	7.74	104	166	500
<b>Proposed Dwelling</b>	8.3	133	250	790
<b>% Increase</b>	7%	28%	51%	58%

The proposed dwelling would be sited in the same positioning as that to be replaced. However, there is no doubt that the proposed dwelling would be larger in its size and scale as demonstrated above. Policy DM8 is not prescriptive in terms of potential increases in size which would be allowed although it is acknowledged that the level of accommodation offered by some older dwellings does not reflect current living standards. The example given in this respect is in regard to indoor bathrooms and thus does not in my view apply to the current application where the level of floor space appears more than adequate to provide for modern living. Moreover, the policy is clear that the Council does not wish to see the whole sale replacement of small with large dwellings.

The simple identification that the proposed replacement dwelling would represent an increase in dwelling size and scale is not enough to justify refusal alone without any resultant harm. In the case of the current application the proposal involves elements of demolition. Thus overall on site the volume of built form would be comparable in the proposed development scenario and would be similar in character impacts. Moreover in the scenario where the existing dwelling was to be



retained, it would be potentially reasonable to allow for some degree of extension to bring the building back into a viable use. On balance the level of size and scale increase is considered acceptable however it is nevertheless considered reasonable to remove permitted development rights for extensions if development is approved to ensure that the impacts on the character of the countryside are appropriately controlled and considered.

### Refurbishment and Conversion of Outbuilding

This element of the proposal seeks to convert the existing stone barn to the north of the dwelling to create two units of holiday accommodation set at two floors with an open plan living area at ground floor and a bedroom and en-suite at first floor. Two separate staircases would also be inserted internally. The stone outbuilding proposed for conversion is also considered to be a non-designated heritage asset potentially previously used as a threshing barn as indicated by the larger opening.

The retention of the non-designated heritage asset is supported in principle. Policy DM8 outlines an allowance for the conversion of existing buildings and The Council has produced a Supplementary Planning Document (SPD) in relation to applications to convert traditional rural buildings. Generally speaking, the less alteration that is required, the more appropriate the new end use will be. The proposal would introduce new openings to the north elevation as well as 6 new roof lights. No extensions are proposed to facilitate the proposed use. The specific design impacts are considered in further detail below.

Policy DM8 also details allowances for tourist accommodation where it is necessary to meet identified tourism needs, it constitutes appropriate rural diversification, including the conversion of existing building, and can support local employment, community services and infrastructure.

Core Policy 7 (Tourism Development) as revised by the Amended Core Strategy adopted March 2019 recognises the economic benefits of sustainable tourism and visitor based development (including accommodation) and therefore shows a broad support for tourism development which meets identified needs. Assessment is based on a hierarchical approach with the following being related to tourism development in the open countryside:

*Within the open countryside the proposal representing sustainable rural tourism development which meets one or more of the following:*

- *Forms part of a rural diversification scheme;*
- *Supports an existing countryside attraction;*
- *Has a functional need to be located in the countryside;*
- *Constitutes the appropriate expansion of an existing tourism or visitor facility;*
- *Supports local employment;*
- *Meets an identified need not provided for through existing facilities within the main-built up areas of 'settlements central to the delivery of the spatial strategy', or villages covered by Spatial Policy 3 'Rural Areas'; or that*
- *Supports rural regeneration through the appropriate re-use and conversion of existing buildings.*

The development would readily align with the final point in that it would bring the existing barn, which is a non-designated heritage asset, back into use. The case presented by the application is that the use of the building for holiday lets would also represent a rural diversification scheme which would bring a small income for the site owners which would in turn support and diversify

the rural economy. I would not dispute this and overall find the principle of the conversion of the barn to tourist accommodation to be acceptable.

### Demolition of Outbuildings

The other outstanding element of the proposal not discussed above is the demolition of both a partially collapsed brick building and part of a portal framed agriculture. Whilst the loss of the brick building is regrettable, having visited the site it is clear that this building is beyond means of repair and therefore it is considered unreasonable to resist its demolition in the context of the proposed redevelopment of the site.

The modern portal framed building is not considered to be of any specific architectural merit such that its partial demolition could be resisted in principle.

### Impact on Character and Design

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.

Clearly the loss of the farmhouse as proposed would negatively impact upon the character of the site itself. If Members were minded to accept this element in principle however, it still falls to assess the design of the replacement dwelling and indeed the design interventions to the conversion of the stone barn.

The proposed replacement is designed of a notably modern character with domestic elements including bay windows and a first floor terrace balcony. Unfortunately there is little reference to the farmhouse which the dwelling would replace. Equally there is little in design terms to assimilate the proposed dwelling with the stone outbuilding which would be retained.

In respect to the barn conversion element of the proposal, the design has been assessed through the comments of the Conservation Officer above:

*Perversely, in a building with few existing opening and few opportunities for natural light, I see that three of these existing openings are not being re-used, and yet two large openings are being created on the north elevation. In a threshing barn the distinctive larger opening in the middle is an important pattern to retain, and the barn would not have been built with stable-like entrances either side. These new openings should be removed from the scheme. It is also very likely there will be breathers here which would be lost to these new openings.*

*I also think the treatment of the large central openings is harmful, opting to retain a later infill and turn the large opening into two domestic doors with solid masonry between. The large openings should be opened up read as one large aperture. Part of the issue is from using these openings to create a party wall between holiday lets. However, I see no reason why internal divisions cannot dogleg around these openings.*

*I also note the internal space behind the threshing entrance is being divided up and not left open to the rafters. This takes away an important and distinctive sense of space which is one of the most attractive features of successful threshing barn conversions.*

I would concur entirely with the comments of the Conservation Officer. Ultimately the application has not taken the full opportunity to utilise the existing value of the barn failing to comply with the advice of the associated SPD. This element of the proposal alone is inappropriate to the non-designated heritage asset of the barn. The applicant has been offered the opportunity to amend the scheme in line with the Officer recommendations (notwithstanding that this would not overcome the overall principle objection to the wider scheme) but has chosen to bring the application before Members in its current form.

### Impact on 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.

The closest neighbouring resident is the dwelling known as Grange Close approximately 50m to the west of the site. Given that the site as existing features significant built form, and indeed taking into account the distances between the site and the neighbouring dwelling, I am confident that the development would not impose detrimental overbearing or overlooking impacts.

The proposal involves the conversion of the existing barn to 2 no. holiday lets. This, in addition to the replacement dwelling, would intensify the use of the site. However, the holiday lets are modest in their size which would be self-governing in terms of how many people would be at the site at any one time. The occupation of a single dwelling and two small holiday lets is not considered to amount to a level of activity which would lead to a noise and disturbance which would warrant concern from a neighbouring amenity perspective.

It is noted that the occupiers of the replacement dwelling would share a close spatial relationship with the transient occupiers of the holiday lets. However, through the redevelopment of the site, the site would implicitly become a mixed use site to a degree that any future occupiers of the replacement dwelling would be aware of the situation in terms of the adjacent holiday let accommodation.

Consequently no detrimental amenity impacts have been identified which would warrant resistance of the proposal in their own right.

### Impact on Ecology

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment.

The application includes the demolition of a number of existing buildings within the site and therefore has the potential to affect breeding bats and birds. On this basis, the application has been accompanied by a Protected Species Survey undertaken by BJ Collins dated September 2018.

The surveys recorded limited evidence of bat roosting within the attic space of the farmhouse including feeding remains typical of the Brown long-eared bat. Additionally, the stone barn showed evidence of a tawny owl and a bird of prey internally.

Given that the building supports a day roost and a night roost, any redevelopment will require a European Protected Species (EPS) license from Natural England.

Local Planning Authorities are required to consider the likelihood of a licence being granted when determining a planning application and should have in mind the three tests set out in Regulation 53 of the Habitats Regulations, namely:

- i. The consented operation must be for “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”; and
- ii. There must be “no satisfactory alternative”; and
- iii. The action authorised “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

In the case of the current application determination, it is considered that bringing the site back into use with a residential dwelling and additional tourism offer would represent a public benefit. As too would the restoration and conversion of the stone barn noting that it is a non-designated heritage asset. There is not considered to be a satisfactory alternative in this case albeit clearly the retention of the existing farmhouse would be favourable in ecological terms.

Provided that the proposed mitigation outlined at Chapter 6 of the Bat Survey and Mitigation Report is undertaken (which includes the installation of bat tubes), then I am satisfied that the development would not be detrimental to the population of the species. The mitigation measures could be secured by planning condition such that it is considered that the favourable conservation status of the bats would be maintained in this instance in accordance with the aims of Core Policy 12 and Policy DM7.

#### 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.

The replacement dwelling would have a negligible impact on the highways network as there would be no net addition of dwellings. However, the inclusion of holiday lets does present the risk of an increase in highways movements. As is referenced earlier, the holiday let units are modest in their size such that it is not anticipated that there would be more than one car per unit. On this basis the highways movements are not likely to be noticeable in the overall highways network.

The application has been assessed by NCC as the Highways Authority with their comments listed in full above. These confirm no objection subject to the imposition of conditions in relation to a vehicular crossing and a bound access material.

#### Overall Balance and Conclusion

Although the proposal relates to a site within the open countryside, it also constitutes an existing residential curtilage and therefore the principle of residential development and additional tourism accommodation within the site is accepted. However, the existing dwelling which is proposed for demolition is considered to be a non-designated heritage asset. As is confirmed by paragraph 197 of the NPPF 2018, a balanced judgement will be required in consideration of proposals affecting non designated heritage assets. In this case, noting a total loss of significance, Officers consider that the applicant has failed to demonstrate that this would be justifiable. Moreover, the stone barn intended for conversion as part of the scheme would have unsympathetic alterations contrary to the advice within the Conversion of Rural Buildings SPD. Overall, the proposal would amount to the complete loss of a non-designated heritage asset as well as the unsympathetic conversion of another. This would not be outweighed by the benefits of the proposal (notably the tourism offer) which Officers consider could be delivered in a far more sympathetic manner.

## **RECOMMENDATION**

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

#### Reasons

01

The proposal includes a replacement dwelling following the demolition of the existing property within the site. The existing dwelling is an attractive red brick late Georgian/early Victorian property regarded as a local interest building (and thereby a non-designated heritage asset). As a late Georgian farmhouse alone this building would be of local historic and architectural interest, but it additionally forms part of an attractive and traditional farm complex giving it extra significance.

The proposal includes the demolition of the entire dwelling which would result in the total loss of the significance of a non-designated heritage asset which has not been adequately justified noting that the evidence submitted demonstrates the building to be capable of conversion without significant intervention or cost in comparison to its replacement. The balanced judgement required by paragraph 197 of the NPPF 2018 is therefore tilted against the proposal. The proposal would also be contrary to Core Policy 14 (Historic Environment) of the Core Strategy and Policy DM8 (Development in the Open Countryside) and Policy DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD.

02

The proposal includes the conversion of an existing stone barn to two units of holiday accommodation. The building is regarded as a non-designated heritage asset and whilst its conversion and retention is supported in principle by Policy DM8, the design interventions proposed in this case are not considered to be sympathetic to the non-designated asset. The scheme does not intend to re-use existing openings as per the advice of the Conversion of Rural Buildings SPD and instead relies on the introduction of large new openings which are in themselves considered harmful. The benefits of the additional units of tourism accommodation would not outweigh the identified harm and therefore the proposal would be contrary to Core Policy 14 (Historic Environment) of the Core Strategy; Policy DM8 (Development in the Open Countryside) and Policy DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD as well as the aforementioned SPD and the NPPF which both form material planning considerations.

## 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.

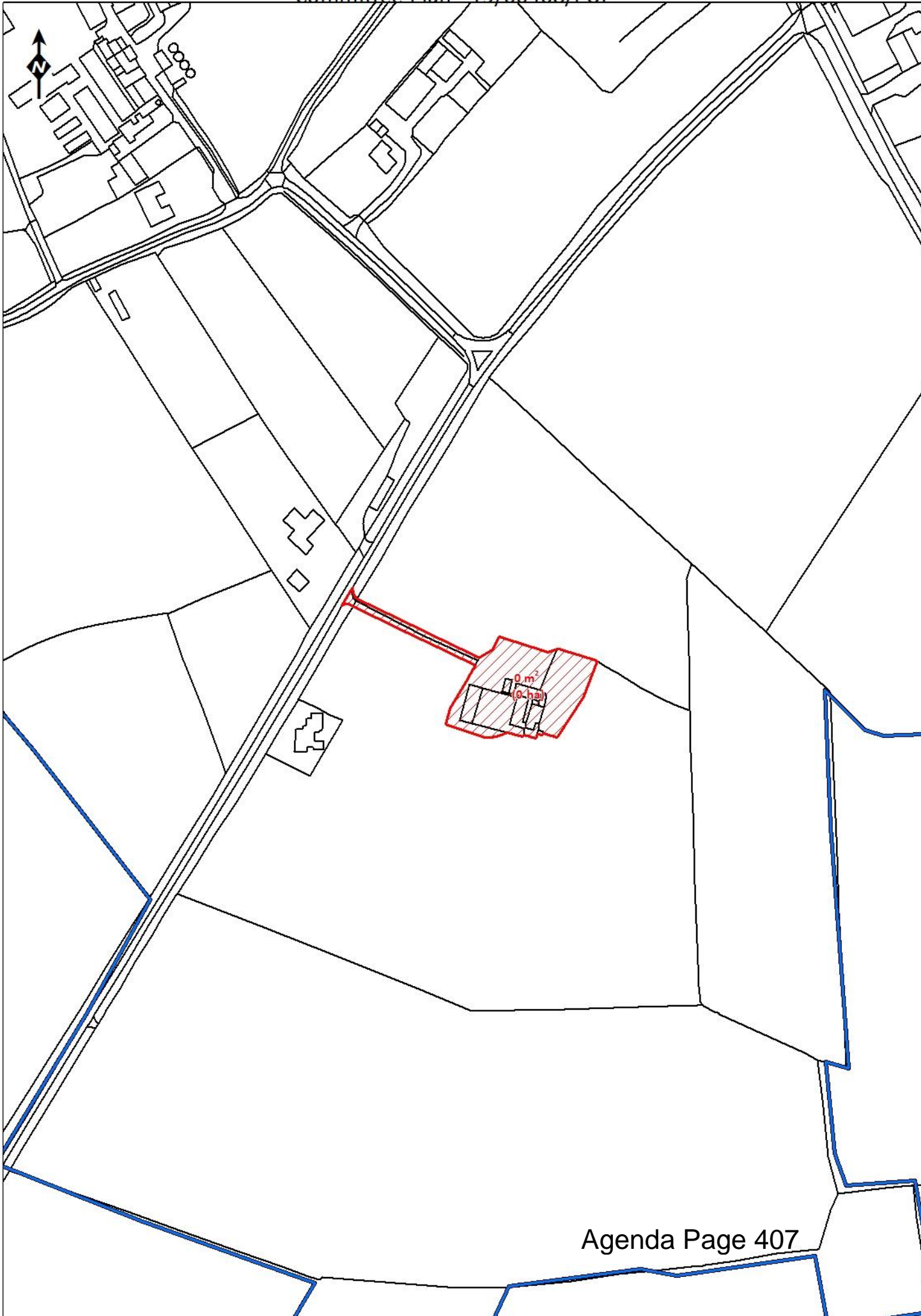
## BACKGROUND PAPERS

Application case file.

For further information, please contact 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 and Regeneration**







## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>19/00571/FUL</b>	
<b>Proposal:</b>	<b>Variation of condition 02 attached to planning permission 17/02149/FUL to amend the approved plans to allow changes to the boundary and location of the retaining wall</b>	
	<b>17/02149/FUL was for ‘Proposal for the erection of 2no. two storey semi-detached dwellings’</b>	
<b>Location:</b>	<b>Land at Former White Lion Public House, Main Street, Blidworth Nottinghamshire</b>	
<b>Applicant:</b>	<b>Quality New Builds</b>	
<b>Registered:</b>	<b>29<sup>th</sup> April 2019</b>	<b>Target Date: 24<sup>th</sup> June 2019</b>

**This application is before the Planning Committee for determination as the officer recommendation differs from the views of the Parish Council.**

### The Site

The application site is located on the southern edge of the village of Blidworth and forms part of the site which was formerly The White Lion public house. The site is located within the Conservation Area for Blidworth and lies immediately adjacent to the Nottingham-Derby Greenbelt which washes over the land to the south.

The White Lion public house has been subject to various planning applications for residential development over recent years, with development currently nearing completion to the west of the site. This building has windows which directly overlook the application site.

The site has been levelled and construction works on the residential development for 2 dwellings approved in February 2018 have been commenced.

To the east, at a higher level than the site, are 2 no. dwellings located on Will Scarlet Close. No. 12 directly faces the site whilst no. 11 Will Scarlet Close sides onto the site with windows to the front elevation facing south towards Main Street (there are no windows to its side gable elevation).

### Relevant Planning History

17/02149/FUL – Conditional permission was granted under delegated powers in February 2018 for the erection of 2no. two storey semi-detached dwellings.

19/00094/DISCON - Application for confirmation of discharge of conditions 3, 4, 5 and 13 of planning permission 17/02149/FUL – currently under consideration.

## The Proposal

Given that works have commenced on site this application is retrospective seeking to vary condition 2 of planning permission 17/02149/FUL noted above to enable a material amendment to the approved scheme in terms of a reduction in the width of the dwellings and realignment of boundary treatments. The proposal now reduces the overall width of the pair of semi detached dwellings from 15.7m to 14.6m.

All other dimensions and front elevational details remain as previously approved.

The previously approved retaining wall along the boundary with properties on Will Scarlet Close would be realigned and would be between 1.3m and 1.9m high taking account changes in land levels.

The boundary fence adjoining the site of the Former White Lion residential development would remain at 1.8m in height but would be realigned to take account of a change in ownership of a triangular piece of land along this boundary.

Each dwelling would remain to be served by 2 no. parking spaces.

The dwellings would remain to be set back a minimum distance of 14.2m from the back edge of the highway.

Revised plans have been deposited which reposition the ground and first floor windows on the rear gable projection so that they sit centrally within this elevation.

The applicant has also revised the site layout plan to now correspond with the red line site plan deposited with the original application 17/02149/FUL. The relevant notice on the owners of a triangular piece of land to the eastern boundary of the site has been served which would be separated from the dwellings and their curtilages by 1.8m high close boarded fencing.

The following plans have been deposited for consideration:-

- Revised Site Plan as proposed – drg. no 02B Mar/19 deposited 29.04.19
- Ground Floor Unit 2 (Unit 1 Handed) – dgr. no. 03C deposited 26.04.19
- First Floor Unit 2 (Unit 1 Handed) – drg. no. 04C deposited 26.04.19
- Elevations - drg. no. 05B deposited 26.04.19

## Departure/Public Advertisement Procedure

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

## **Planning Policy Framework**

### **The Development Plan**

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

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 2 – Distribution of Growth  
Spatial Policy 7 – Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 - Sustainable Design  
Core Policy 13 – Landscape Character  
Core Policy 14 – Historic Environment

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

Policy DM1 – Developments within Settlements Central to Delivering the Spatial Strategy  
Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM12 –Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014

### **Consultations**

**Blidworth Parish Council** – Objected to the proposal - voted as follows: -

0 Support 8 Object and 2 Abstentions

Councillors requested the following comments be made: -

The Council query the reason for the variation and question who owns the land.

**Nottinghamshire County Council Highway Authority** – The amendments shown on the plan now submitted, 02B, are within the site curtilage and do not affect the public highway. Therefore, the Highway Authority would not wish to raise objection.

**NSDC Conservation** – Verbally rased concern with regards to the design and appearance of the rear elevation given the position of the ground and first floor windows in the gable not being centrally aligned.

Following the submission of revised plans the following comments were received on the 23<sup>rd</sup> April 2019 :

*‘The amendments to the window alignment on the rear elevations have addressed my concerns regarding the design.’*

**No other representations have been received.**

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

#### **Background**

This application has been submitted as the application site when purchased by the developer had a reduced footprint to that shown on plans approved for 2 no. dwellings on the site under 17/02149/FUL. A triangular piece of land on the eastern boundary had post decision transpired to

fall within the boundary of the adjoining site, the Former White Lion which has been converted to residential properties. This has resulted in the applicant now retrospectively seeking to reduce the width of the previously approved dwellings in order that they can be accommodated on the site and to realign the side boundary treatments.

Although the Amended Core Strategy has been adopted since the granting of the original permission and the NPPF has been updated in 2019, there have been no significant material changes to policy context relevant to the consideration of the amendment of the condition which is the subject of this application.

Therefore the main issue to consider is whether it is appropriate to allow the variation of the wording of condition 2 of the original permission.

### **Principle of Development**

This application seeks to vary condition 2 (the plan condition) of planning permission 17/02149/FUL to enable a reduction to the width of the proposed dwellings as noted above by overall circa 1.1m.

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

The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

As the principle of the development is established by the extant permission the focus of this report is on the changes to the scheme. These are discussed below.

### **Visual Impact (including Impact on the Character and Appearance of Conservation Area) Impact on Residential Amenity**

The development is located within the Conservation Area and the main defined built up settlement area of Blidworth as stated within the Allocations and Development Management DPD (ADMDDPD). The conservation area is a designated heritage asset, which is a material consideration in the planning process.

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

Paragraph 193 of the NPPF, for example, advises 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

Paragraph 194 adds '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.

Paragraph 200 advises that 'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favorably.

Policies CP14 and DM9 of the Council's LDF DPDs, reflect the NPPF and amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

In assessing the previous proposal, officers agreed with the conservation officer that the proposed dwellings would not appear unduly prominent within the streetscene given the adjoining residential development at the former White Lion Public House and the dwellings to the east which sit at a higher level. It was also considered that the design and layout sat well within the context of the site, the conservation area and the wider setting.

Being mindful that the current proposal seeks to reduce the width of the proposed dwellings in order that they sit better within the site, I am of the opinion that this reduction would be almost imperceptible and not so significant so as to result in having any greater impact on the character and appearance of the Conservation Area or its wider setting than the development originally approved in 2018. The amendments to the windows now address the initial concerns of the Conservation Officer and I agree that the fenestration details as amended are acceptable.

The realignment of the retaining wall along the boundary with Will Scarlet Close and realignment of the fencing along the boundary with the Former White Lion development is not considered to result in any significant impact on the appearance of the development within the Conservation area or the wider streetscene.

The proposed development is therefore not considered to cause undue harm to the character of the conservation area or the wider setting and is in accordance with the objective of preservation set out under sections 72, part II of the 1990 Listed Building and Conservation Areas Act, and complies with heritage policies and advice contained within the Council's LDF DPDs and the NPPF.

### **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. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Given the reduced width of each of the proposed dwellings they would now sit c0.5m further in from the side boundaries of the site with properties on Will Scarlet Close and the former White Lion residential development than previously approved.

The separation distances between the new dwellings and the adjoining neighbours on Will Scarlet Close and the former White Lion residential development would consequently increase by 0.5m, which is a positive to the scheme.

Being mindful of the relationship and the increased separation distances between the new dwellings and the adjacent properties together with the existing and proposed boundary treatments erected along the shared boundaries I am satisfied that there would be no undue impact on the residential amenity of the occupiers of these neighbouring dwellings.

The realignment of the window raises no new overlooking issues.

Taking the above considerations into account it is therefore considered that the proposal accords with Policy DM5 of the DPD.

### **Highway Safety**

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision and Policy DM4 seeks to ensure no detrimental impact upon highway safety.

The siting of the new dwellings in terms of relationship with the highway remains as previously approved, being set back a minimum of 14m from the back edge of the pavement. Similarly each property would be served by 2 no. off street parking spaces as previously approved. The Highway Authority has raised no objections.

As such the development would not result in any adverse impact upon highway safety in accordance with Spatial Policy 7 and Policies DM4 and DM5 of the DPD.

### **Assessment of conditions**

The NPPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this case as the development has begun, the time condition does not need to be re-imposed.

For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with ~~striketrough~~ text used to represent parts of the condition no longer required and **bolded** text used to indicate new wording. The conditions have been reworded where details have been provided through the discharge of conditions or revised plans. Commentary is also provided where this is considered necessary.

### **Conclusion**

It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration. It is considered that the proposed amendments would not result in any material harm upon the character and appearance of the Conservation Area, the visual amenity of the site or wider area and would not result in any material impact on the amenities of neighbouring dwellings. As such, the proposal would accord with the relevant aims of

the NPPF as well as Policies CP14 and SP7 of the Amended Core Strategy and Policies DM5 and DM9 of the DPD.

### **RECOMMENDATION**

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

~~01~~

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

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

~~02~~ **01**

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

- ~~• Amended Site Plan as Proposed drawing no. 02A deposited on the 23rd January 2018~~
- ~~• Ground Floor Unit 2 (Unit 1 Handed) drawing no. 3 deposited on the 23rd November 2017~~
- ~~• First Floor Unit 2 (Unit 1 Handed) drawing no. 4 deposited on the 23rd November 2017~~
- ~~• Elevations drawing no. 4 deposited on the 23rd November 2017~~
- Revised Site Plan as proposed – drg. no 02B Mar/19 deposited 29.04.19**
- Ground Floor Unit 2 (Unit 1 Handed) – drg. no. 03C deposited 26.04.19**
- First Floor Unit 2 (Unit 1 Handed) – drg. no. 04C deposited 26.04.19**
- Elevations - drg. no. 05B deposited 26.04.19**

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

Reason: So as to define this permission.

~~04~~ **02**

~~No development shall be commenced until samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.~~

- ~~• Facing Materials~~
- ~~• Bricks~~

- ~~Roofing tiles~~
- ~~Materials in relation to the proposed retaining wall~~

The development hereby approved shall be carried out in accordance with the following external materials approved by the Local Planning Authority in correspondence dated 23rd May 2019 under application ref. 19/00094/DISCON.

### Dwellings

**Ibstock Arden weathered red bricks ok**

**Marley Eternit: Lincoln Clay pantile in Rustic red (unweathered as verbally agreed 15.05.19)**

**Cream render**

### Retaining wall

**Stone faced concrete blocks**

Reason: In the interests of visual amenity and in preserving the character and appearance of the conservation area.

**04-03**

~~No works shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. The works shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.~~

- ~~External windows doors and their immediate surroundings, including sills and headers~~
- ~~Verges and eaves~~
- ~~Rainwater goods~~
- ~~Flues/vents~~
- ~~Any other external accretion~~

The development hereby approved shall be carried out in accordance with the following details approved by the Local Planning Authority in correspondence dated 23<sup>rd</sup> May 2019 under application ref. 19/00094/DISCON.

**Details of verges, eaves, window/door heads and cills deposited 22nd March 2019**

**Details of rainwater goods, vents and flues deposited 12th April 2019**

**Window and door details submitted 10th May 2019**

**Correspondence dated 23<sup>rd</sup> May 2019 confirming that windows to be flush fitting**

Reason: In the interests of visual amenity and in preserving the character and appearance of the conservation area.



~~05-04~~

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

- ~~• a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;~~
- ~~• existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction; and~~
- ~~• hard surfacing materials.~~

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

**The development hereby approved shall be carried out in complete accordance with the details of hard and soft landscaping approved by the Local Planning Authority in correspondence dated 23<sup>rd</sup> May 2019 under application ref. 19/00094/DISCON.**

~~06 05~~

The approved landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

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

~~07 06~~

~~Prior to the first occupation of the dwellings hereby approved the boundary fencing treatments shall be implemented in accordance with drawing 02A deposited on the 23rd January 2018 and shall then be retained in full for the lifetime of the development unless otherwise agreed in writing by the local planning authority.~~

**Prior to the first occupation of the dwellings hereby approved the boundary fencing treatments shall be implemented in accordance with drawing ref. Site Plan as proposed – drg. no 02B Mar/19 deposited 29<sup>th</sup> April 2019 and shall then be retained in full for the lifetime of the development unless otherwise agreed in writing by the local planning authority.**

Reason: In the interests of residential and visual amenity.

~~08 07~~

No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan (drawing no. 02A deposited on the 23rd January

~~2018~~ (Site Plan as proposed – drg. no 02B Mar/19 deposited 29<sup>th</sup> April 2019). The parking/turning areas shall not be used for any purpose other than parking/turning of vehicles.

Reason: In the interests of highway safety.

~~09~~ 08

No part of the development hereby permitted shall be brought into use until the visibility splays shown on ~~drawing no. 02A deposited on the 23rd January 2018~~ **the drawing ref. Site Plan as proposed – drg. no 02B Mar/19 deposited 29th April 2019** 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 0.6m in height.

No part of the development hereby permitted shall be brought into use until the visibility splays shown on drawing ref. Revised Site Plan as proposed – drg. no 02B Mar/19 deposited 29<sup>th</sup> April 2019 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 0.6m in height.

Reason: To maintain visibility splays throughout the life of the development and in the interests of general highway safety.

~~10~~ 09

The access driveway is to be constructed and surfaced in a bound material in accordance with ~~drawing 02A deposited on the 23rd January 2018~~ **the drawing ref. Site Plan as proposed – drg. no 02B Mar/19 deposited 29th April 2019** and the development shall not be occupied until the access has been completed in accordance with those plans.

Reason: In the interests of highway safety.

~~11~~ 10

~~No part of the development hereby permitted shall be brought into use until the access driveway is constructed with a gradient not exceeding 1 in 20 for a distance of 5m from the rear of the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.~~

**The development hereby approved shall be carried out in complete accordance with the access driveway gradients as indicated on the drawing ref. Site Plan as proposed - drg. no 02B Mar/19 approved under Condition 2 of this permission.**

Reason: In the interests of highway safety.

~~12~~ 11

~~No part of the development hereby permitted shall be brought into use until the access driveway is constructed with provision to prevent the unregulated discharge of surface water from the driveway to the public highway in accordance with drawing ref. Revised Site Plan as proposed – drg. no 02B Mar/19 deposited 29th April 2019. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.~~

**The development hereby approved shall be carried out in complete accordance with the drainage plans deposited on the 18<sup>th</sup> January 2019 approved by the Local Planning Authority in correspondence dated 23rd May 2019 under application ref. 19/00317/DISCON.**

Reason: To ensure surface water from the site is not deposited onto the public highway.

~~13~~ **12**

~~The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.~~

**The development hereby approved shall be carried out in complete accordance with the drainage plans deposited on the 18<sup>th</sup> January 2019 approved by the Local Planning Authority in correspondence dated 23rd May 2019 under application ref. 19/00317/DISCON.**

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

~~14~~ **13**

No first floor windows shall be inserted in the side elevations of the dwellings hereby approved unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential amenity.

~~15~~ **14**

Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015, other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A - enlargement, improvement or other alteration of a dwellinghouse

Class B - additions etc to the roof of a dwellinghouse

Class C - other alterations to the roof of a dwellinghouse

Class D - porches

Class E - buildings etc incidental to the enjoyment of a dwellinghouse

Or Schedule 2, Part 2 in respect of:

Class A - gates, fences, walls etc

Reason: In the interests of visual and residential amenity.

## **Note to Applicant**

01

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

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

02

The 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 proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

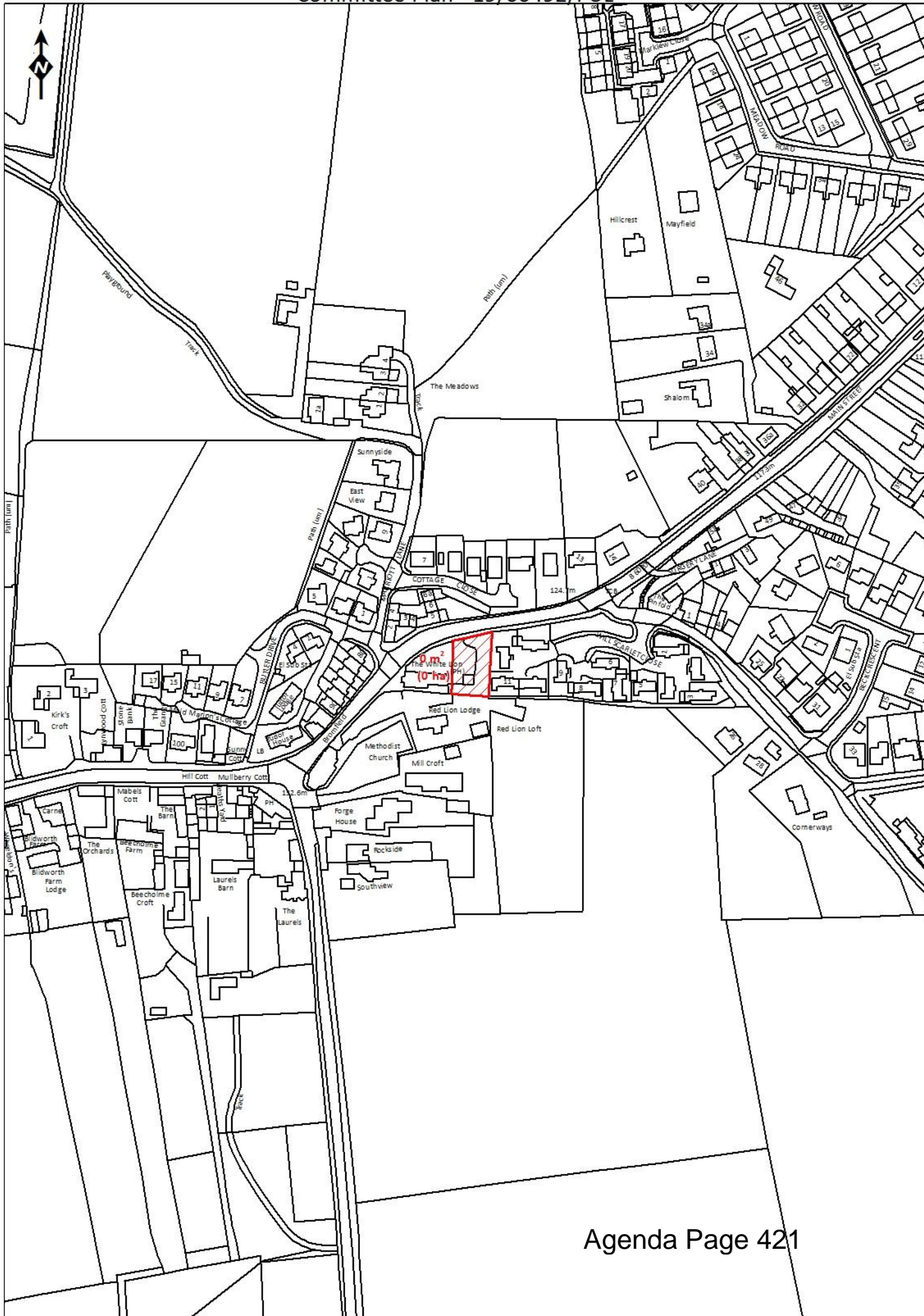
## **BACKGROUND PAPERS**

Application case file.

For further information, please contact Bev Pearson on ext 5840

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 and Regeneration**



## PLANNING COMMITTEE - 4 JUNE 2019

<b>Application No:</b>	<b>18/01414/FUL</b>	
<b>Proposal:</b>	<b>Retrospective change of use of vacant land to pub garden and permission for the placement of timber modular play equipment in pub garden and alterations to the existing access points to the public house</b>	
<b>Location:</b>	<b>Fox Inn Public House, Main Road, Kelham, NG23 5QP</b>	
<b>Applicant:</b>	<b>Mr Jonathan Pass</b>	
<b>Registered:</b>	<b>25 July 2018</b>	<b>Target Date: 19 September 2018</b>
<i>Extension of time agreed to: 07.06.2019</i>		

This application is being presented to Planning Committee at the request of the Local Ward Member, Councillor Roger Blaney, on behalf of Kelham Parish Council on the grounds of impact on neighbouring amenity, highway safety and the impact on the Conservation Area.

### Update

This application was deferred from the 2<sup>nd</sup> April 2019 Planning Committee to allow officers the opportunity of seeking amendments to reduce the scale of the proposed play equipment, its proximity to the parking on site and potential for fencing around to increase security. The applicant has agreed to remove the timber modular play equipment from the application and therefore amended plans have been received, the description of development has been changed and a 14 day public re-consultation has been undertaken, comments from which will be reported to Members on the late items schedule where necessary.

As this report was published on previous agenda's, the report that follows has been updated with all new matters relating to the latest amendments updated in bold and superseded matters having been ~~stuck-out~~ where necessary. The recommendation remains for approval.

### The Site

The Fox Inn is an attractive, historic public house within Kelham Conservation Area and in close proximity to the listed assets at Kelham Hall (in this case the most relevant being the Grade II listed gate, lodge and railing piers) to the south, as well as listed buildings on Blacksmith Lane to the east and 6 Main Street (building and railing/gate) across the highway to the west. The site also lies partially within Flood Zone 2 as defined by the EA Flood Zone Mapping, which means it is at medium risk of fluvial flood risk.

The Fox Inn is positioned in a prominent corner plot at the junction of the A617 with Ollerton Road. The A617 lies directly to the south of the pub and Ollerton Road to the west. There are a number of residential properties on Blacksmith Lane which lie directly to the north and east of the pub, many of which have rear gardens that back on to the pub site.

Boundaries to the north comprise a close boarded timber fence approx. 1.8 m in height and steel fencing and chain link fencing around the utility stations to the NE. Trees and screening vegetation are also present along the north and eastern boundaries with the residential properties.

The site accommodates the main pub building which is positioned to the SW corner of the site; there is an open sided cart shed building to the north of the main pub building that has been refurbished to provide an outdoor sheltered sitting/bar area. To the west of this cart shed the front garden area has been cleared of overgrown vegetation and resurfaced with new turf. The land to the east of the pub is the current beer garden, within this land some plastic children's play equipment has been positioned in the form of a spooky tree, old shoe and camel.

### Relevant Planning History

**04/02011/FUL & 04/02012/CAC** - Demolition of timber outbuilding, marking out of pub car park, erection of five dwellings and the laying out of a communal children's play area – Withdrawn 08.12.2004

**03/01290/FUL** - Dining area and kitchen extension, extension to front entrance lobby to improve access for disabled persons – Permitted 12.08.2003

**01/00615/ADV** – Proposed wall board – Permitted 17.07.2001

### The Proposal

For the avoidance of doubt the applicant has removed all reference to the erection of lighting poles and CCTV cameras from the application given ongoing discussions with NSDC Environmental Health and NCC Highways – the Council will be progressing matters relating to the unauthorised replacement of the lighting poles independently from the application at hand. Consultee comments that refer to the initially proposed lighting scheme have been included within this report but will not be discussed further within the appraisal as this will be subject to a separate planning application.

The documents deposited with the application are:

- Supporting Covering Letter – Revision B (30.7.18)
- Site location Plan – Job no. 517.1096.6 - PL02 Rev A (25.7.18)
- Block Plan – Job no. 517.1096.6 - ~~PL01 Rev F (15.03.19)~~ **PL01 Rev H (10.05.19)**
- ~~Proposed Play Equipment – 517.1096.6.PE01 (21.2.19)~~
- Flood Risk Assessment (24.7.18)

Retrospective planning permission is sought for the change of use of the land to the north east of the main pub building from vacant overgrown land to pub garden. ~~Planning permission is then sought for the installation of timber modular play equipment in the land above subject to the change of use to the NE of the pub building.~~

**Change of Use** – the chain link fence has been removed from the southern boundary between the land and the car park and the area has been cleared of overgrown vegetation and resurfaced with new lawn turf. Picnic tables were installed in the summer months but are not currently in situ.

**Alterations to access points to the car park** –The application seeks to formalise entrance and exit arrangements on site with entrance taken off Main Road adjacent to the pub building (proposed

to be widened by approx. 4.8m, to be retained as the main entrance at all times) and off Ollerton Road to the E, the existing Blacksmith Lane access point is proposed to be marked “exit only”. 60 no. parking spaces have been demarcated in the car park with 1 no. delivery space. A plan explicitly showing the extent of the widened accessed from Main Road has been requested by Officers and this will be including with Late Items and presented to Members at Planning Committee.

~~**Timber Modular Play Equipment** – proposed to be erected in the northern grassed area of the site adjacent to the electricity substation to the NW. The modular play equipment is c.9.8m total width, and a maximum depth of 6.7m (including slides). The maximum height of the ridge of the equipment is 4.5m however the highest portion above ground that can be stood on is 2.3m above ground. The play equipment is proposed to be positioned on a woodchip groundcover which would extend c.1m around the base of the equipment. The equipment is proposed to be positioned with the yellow slide facing northwards.~~



**Other annotations on the plan that do not require planning permission** – refurbishment of the existing cart shed to provide a sheltered outdoor sitting area; clearance of overgrown vegetation and re-turfing to the garden area to the SW of the pub building adjacent to the highway.

All existing site boundaries are proposed to be retained – to the north this comprises a close boarded timber fence approx. 1.8 m in height and steel fencing and chain link fencing around the utility stations to the NE. Trees and screening vegetation are also present along the north and eastern boundaries with the residential properties.

The description of development originally included the re-surfacing of the car park, however as detailed below in the appraisal of the application, Officers are of the view that the re-surfacing (which has already been carried out) does not require planning permission. The drainage of the car park remains as previously installed.

#### Public Advertisement Procedure

Occupiers of 17 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 newspaper.

Earliest Decision Date: ~~08.03.2019~~ **28.05.2019**

#### Planning Policy Framework

#### The Development Plan



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

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Spatial Policy 8: Protecting and Promoting Leisure and Community Facilities

Core Policy 6: Shaping our Employment Profile

Core Policy 9: Sustainable Design

Core Policy 14: Historic Environment

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

Policy DM5: Design

Policy DM9: Protecting and Enhancing the Historic Environment

Policy DM12: Sustainable Development

## **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (on-line resource)
- Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

## **Consultations**

### **Averham, Kelham, Staythorpe Parish Council –**

#### *Additional Comments on Revised Proposal 1th March 2019*

“In respect to the above application, the Averham, Kelham and Staythorpe Parish Council object to the development and raise the following points:

The AKS PC has concerns regarding the changes made to the car park from a road safety perspective.

The dropped kerbs and dropped level in the car park have been removed allowing vehicles to cut across the entrances causing a traffic hazard. The former entrance off Main Road has been reduced and the current one shunted closer to the building. It is not sufficient to facilitate two way traffic and forces users to use the entrance off Blacksmith Lane which is far more hazardous. There have been accidents recorded at this stretch road since the changes have been made. The current access is more restricted as a sandwich type advertising board is placed there and is also marked out for disabled parking. The current proposals show nothing to rectify this situation or returning it to the previous layout.

There are concerns regarding the scale at which the play equipment is shown on the drawing by comparison to the visuals. Given the height of the play equipment there are concerns that it provides a vantage point to see into the adjacent gardens and properties. Perhaps a less impactful location could be found e.g. the existing play area at the front with smaller scale play equipment being re-located to the rear to reduce the overall impact?

The application states changes to the Cart Shed will be on a like for like basis and that the existing doors to the front elevation will be refurbished but not replaced. The works undertaken on the Cart Shed have not been on a like for like basis as stated. The doors and structure to the front elevation have been totally removed along with the rest of the structure, replacing it with several

columns leaving it totally open.”

*Comments 16<sup>th</sup> August 2018*

“The AKS Parish Council object to the above application, and make the following comments:

Kelham Fox Planning Application comments:

The application makes no reference to the alterations to the existing car park entrance/exit arrangements. The main entrance off Main Road that facilitated safe access and egress to The Fox car park has been blocked off and the area marked out for car parking. Traffic has now been forced to use the entrance that joins with Blacksmith Lane which has created a serious traffic hazard.

The application states changes to the Cart Shed will be on a like for like basis and that the existing doors to the front elevation will be refurbished but not replaced. The works undertaken on the Cart Shed have not been on a like for like basis. The doors and structure to the front elevation have been totally removed leaving it totally open.

The accompanying documentation makes the statement that “engagement with local residents is being undertaken to guide development at the Fox and to ensure that the pub can be a place which adds value to the community”. Having spoken to the various residents groups and societies within the area no consultation has taken place with local residents.

Whilst there is no issue regarding the incorporation of a beer garden there are concerns regarding the proposed play equipment. The application states that it is 15m x 15m x 4 m high and is located in the new beer garden just at the rear of the existing pumping station. Given its size it negates the large majority of the area for use as a beer garden. There are also concerns that given the height as it would allow children etc. to see over the existing fences into the rear of the properties in Blacksmith Lane/Ollerton Road whose gardens back onto the beer garden.

Given the overall size of the site could an alternate location for the play equipment be found that would have less impact on the surrounding properties?

There is no mention in the application of any specialist floor surfacing that may be required for H&S purposes given the scale of the proposed play equipment. We would also query if the play area would need to be supervised?”

**NSDC Environmental Health –**

*Comments 4<sup>th</sup> September 2018*

“In respect of the planning application, the cart shed outside bar area would appear to need a revision of the premise licence were sales to take place there.

In respect of the play area/ beer garden, a finishing time of 22:00hours would seem appropriate given the proximity of residential premises.”

*Comments 14<sup>th</sup> August 2018*

“There are currently complaints about alleged intrusive lighting, noise from construction work on site and also a complaint about burning - in respect of the lighting scheme can I ask that full details are provided to ensure that light intrusion and glare does not occur.”

#### **NCC Highways –**

*Comments 18<sup>th</sup> March 2019*

“Further to comments dated 5 March 2019, a revised drawing 01/F has been received that addresses earlier concerns.

As a result no objections are raised subject to the following conditions:

1. Permission is granted subject to the implementation of the approved drawing 01/F

Reason: For the sake of clarification

2. Within a month of this permission being granted, the car parking layout shown on drawing 01/F shall be fully implemented and thereafter retained for the life of the development.

Reason: In the interests of highway safety and convenience.

3. Within 3 months of this permission, the access on to Blacksmith Lane (shown as an exit only on drawing 01/F) shall be controlled by a signage/markings scheme 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

4. No obstruction to restrict the width of the Main Road access shall be put in place without the prior written consent of the Local Planning Authority

Reason: In the interests of highway safety”

*Comments 5<sup>th</sup> March 2019*

“Further to comments dated 14 December 2018, I now refer to drawing 01/D.

Whilst this appears to show access available from Main Road, (assuming it is not blocked off by planters) its attractiveness is still diminished by the close proximity of car spaces to the main building and the access from Blacksmith Lane remaining open and largely unaltered from that which raised previous concerns.

As a result, it is recommended that, if possible, the Planning Authority use its powers in this case to seek a resolution to this safety issue i.e.

- A re-opening of the Main Road access, with car spaces reduced by 2 or 3 spaces at this point.
- The closure of the Blacksmith Lane access.”

*Comments 14<sup>th</sup> December 2018*

“I have become aware of a highway safety issue that has arisen as a consequence of the works to the car park.

The plan submitted with the application shows 3 accesses; one off Ollerton Road, one off Main Road, and one off Blacksmith Lane. Until recently the one off Blacksmith Lane was blocked off by kerbing within the site. However this kerbing has been removed and the access re-opened whilst the access off Main Road is now blocked by car parking spaces and planters. So the Blacksmith lane access now appears to have become the main entrance particularly when approaching from Newark. Because this access is so close to the junction of Blacksmith Lane and Main Road, and Blacksmith Lane is so narrow, there have been concerns raised and witnessed about cars cutting the corner when entering and leaving the site and coming into conflict with other vehicle movements.

As a result, it is recommended that, if possible, the Planning Authority use its powers in this case to seek a resolution to this safety issue. Options may include one or more of the following:

- A re-opening of the Main Road access
- The closure of the Blacksmith Lane access.
- Perhaps a condition could be applied requiring LPA approval of a car park layout, which would need to include the removal of the planters and car spaces at the Main Road access and the spaces being relocated at the Blacksmith Lane access with appropriate re-establishing of a kerb restraint.”

*Comments 4<sup>th</sup> September 2018*

“This proposal is for the change of use of vacant land to a pub garden, and includes the resurfacing of the existing car park. Additional lighting within the car park is also included within the application.

From the information submitted relating to the lighting, a lux level drawing is required demonstrating the amount of light falling onto the public highway to assess for spillage conformity levels. Could this be clarified?”

Following discussions regarding the demarcation of parking bays and access into the site NCC Highways have agreed the condition: *Within three months of the date of this permission, a scheme including a plan illustrating all surrounding uses, service access/areas, car parking, site circulation and safe access to and from the public highway for pedestrians and vehicles shall be submitted to and approved in writing by the Local Planning Authority (LPA). The approved scheme should be provided on site within three months of approval by the Local Planning Authority and retained for the lifetime of the development in accordance with the approved details.*

*Reason: For the avoidance of doubt and in the interests of pedestrian and highway safety.*

*Comments 16<sup>th</sup> August 2018*

“I notice from your website that your Environmental Health Officer has recommended that full details of the lighting scheme for this application be provided to ensure that light intrusion/glare does not occur.

As part of this, could these details also include whether there is any overspill lighting on the public

highway please.”

**NSDC Conservation Officer –**

**Comments received 21.05.2019 - Further to the revised site plan which shows the removal of the children’s play equipment within the beer garden of the Kelham Fox Public House, I can confirm that I have no objection to this revision. This will make for a more naturalistic and low impact appearance, which, while Conservation did not object to the last revisions to the proposed play equipment, is preferable to this previous scheme.**

*Comments on Revised Play Area 28<sup>th</sup> February 2019*

“Further to the submission of revised play equipment plans submitted by the Agent 21st Feb I am now happy with these revised plans.

Given the relatively significant height of the play equipment, I am content that this could only be accommodated in the context of this domestic scale at this greatly reduced footprint, and the amount of ‘breathing space’ around the equipment now balances its height. It also allows the equipment to be located away from residential properties in terms of minimising that impact. The equipment has also been carefully oriented to place the visually imposing yellow slide to the rear, reducing its visual impact from the public realm, leaving a broadly naturalistic brown colour to view. I also understand the material around the equipment is to be wood chippings so will not be imposing.

I now think this element of the proposal is acceptable, looking in scale with the status of the host building, the size of the open area and the village context. I therefore think it will preserve the character and appearance of the Conservation Area.”

*Comments 9<sup>th</sup> January 2019*

“For clarity these are my conservation comments on the second play area at the Kelham Fox PH, being the proposed larger timber structure to the north of the site.

Firstly, I must apologise that having read that the application was marked at ‘retrospective’ I had not fully appreciated that there were elements yet proposed but not installed. However, this proposed play equipment is clear within the submitted site plan so I must apologise for overlooking this item and the delay caused in only submitting my comments on this element.

In summary I am concerned by:

- The use of approximate measurements
- The excessive floor plan size
- The excessive height (depending on form)
- The use of bright yellow items over this scale
- The potential large hardstanding area required

I note the equipment sizes are given as approximate. This in itself is concerning as this is not enforceable and while if approved the play equipment could be smaller, it could also be larger. It also prevents a proper assessment of the end impact if the overall proportions are not certain. I think we need to get definite sizes submitted.

If the play equipment was actually installed at 15m by 15m this is a huge floor plan. For comparison the equipment would be the same length as the house to the north (Number 5) but squared, and is also comparable to the length of the Kelham Fox, but again squared. In footprint alone this is actually more imposing than a substantial detached house, and would fail in scale to seem to be domestic sized play equipment. Essentially the Kelham Fox is a former residence (presumably farm house) and so needs the ancillary items in its curtilage to respond to but not compete in scale with this.

I appreciate the proposed footprint fits within the rear beer garden, but will fill about a third of this open space. The open and natural nature of this beer garden at present suits the low density and semirural feeling of Kelham as a village. In assessing the scale of this proposal I do appreciate the form of the play equipment will be broken up and that this is not a solid structure, but at 15m square this will be over such a large area that the equipment will still present a large sense of bulk, failing to be ancillary in scale and failing to respond to the middle village location.

To be clear, this is not the site for a large commercial play area, like at Rufford Abbey or similar, which is set in parkland with plenty of intervening space between buildings to soften the impact. This is in the heart of the village and a residential area and needs to be scaled accordingly. In terms of a height it would be helpful to see how much of this equipment will be actually be at 4m.

However, bearing in mind 4m is just shy of the eaves height of a regular two storey house, or over twice as tall as the c1.8m close boarded fences here, this is a substantial height which cannot be 'hidden' by boundary treatment and, in combination with the proposed footprint, will add to the inappropriate and incongruous scale of this equipment in this setting.

I am also concerned by the use of the bright yellow slides, which in combination with the huge size, will give flashes of bright and incongruous colour at up to 4 high, drawing further attention to this equipment.

There seems to be a reasonable amount of hard standing proposed with this equipment, although the images are not very clear, which will presumably actually exceed 15m by 15m. In an area which is currently green this large area of hard standing will itself take away from one of the positive elements of the land at present.

I do think there is scope for play equipment in this area, but this would need to be drastically reduced (at least halved?) in size, with special attention given to its visual impact and landscaping. I think this proposed play equipment will harm the setting of the Kelham Fox, which is a positive building in the Conservation Area, by failing to respond to the domestic scale and character of this building.

Similarly, the proposed equipment is out scale for this village location, and look incongruous within the Conservation Area. The equipment will also cover a large area of green open land which contributes positively to the Conservation Area. The harm will be less than substantial to the heritage asset of Kelham Conservation Area but with no apparent public benefits.

Please do re-consult me when we have proper dimensions but I would strongly recommend the Agent looks to a significant reduction in size of this play equipment."

*Following a query from a local resident regarding the reference to the 'existing play equipment' the conservation officer has commented the following (received 31.8.18) –*

"I though this area was always a small play area. Please do an addendum to my comments which acknowledges a mistake in my comments here. However, I still have no objection to the play equipment which is located in an area which reads a pub beer garden, as such while the 'tree' is not as subtle as some play equipment it still reads as domestic scaled play equipment associated with the public house, limiting its impact. By 'domestic', in this context I am referring to it being linked to this one modest public house, and not at a scale seen in public parks or theme parks etc. Its scale seems to be visually commensurate to its use as a small beer garden associated with a long standing use. My references to scale do not take into account any neighbour concerns about overlooking from the top of it, but purely its visual impact in this context."

*Comments 24<sup>th</sup> August 2018*

"Kelham Fox is an attractive, historic public house within Kelham Conservation Area and in close proximity to the listed assets at Kelham Hall (in this case the most relevant being the Grade II listed gate, lodge and fencing), as well as listed buildings on Blacksmith Lane and surrounding roads.

I have had a look at this proposal on site and have no objection. The new play equipment is discernibly different but still located within the same enclosure and still of a domestic scale so the impact in heritage terms is little altered. The use of the land as a pub garden has kept it open and little changed in appearance. The resurfacing, again, seems to have had little visual impact. I was not aware of any adverse impact from the lighting poles but would want to make sure these are of a village scale in height and level of illumination. The former cartshed is now open fronted but I have no objection to this as it actually allows the former openings, now set back behind a historic extension, to be visible. I have no objection to the street side planters which at least provide a degree of enclosure to an area which would otherwise benefit from some roadside enclosure.

So long as the scale and level of illumination for the car parking lighting poles is suitable for this village location then I have no objection and believe it will preserve the significance of the setting of nearby listed buildings and preserve the character and appearance of the Conservation Area.

Please do not hesitate to contact me should you require any further advice."

**Trent Valley Internal Drainage Board** – "The site is within the TVIDB district. There are no Board maintained watercourses in close proximity to the site. Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the LLFRA and the LPA."

**The Environment Agency** - "Thank you for consulting us on the application above.

We have no objection to the proposal as submitted. Whilst part of the site is indeed located within Flood Zone 2, defined as having a medium probability of flooding, all development is to take place in Flood Zone 1 only."

**Comments from 17 Interested Parties have been received in objection to the application on the following grounds/raising the following concerns:**

- **Highways Safety:**
  - Kerb stones have been altered which may cause people to pull out too quickly and cause accidents.

- Rainwater is pooling on the junction to Blacksmith Lane because of highways alterations.
  - Wheelchair and pedestrian access has been compromised adjacent to the A617 as the planters and signage has narrowed the entrance.
  - Access point has been blocked up forcing people to use the narrow lanes which is dangerous for pedestrians.
  - Vehicle parking has been changed on site and not included as part of the proposal.
- **Health and Safety:**
- Hedging has been cut back exposing gaps which could be hazardous to children playing near the highway.
  - No protection from recreational activities on site such as archery and axe throwing.
  - Plastic play equipment on the site is old, broken and insecure.
  - Obstruction of the public footpath.
  - People are walking under Kelham Bridge across Blacksmiths Lane to access The Fox and this is dangerous.
  - Resurfacing of the carpark is resulting in water pooling on the A617.
- **Impact on Amenity:**
- Proposed timber play equipment is excessively large/tall and will be on a 1.5 m platform above the ground meaning children and adults will be able to look over into neighbouring gardens.
  - Security floodlighting and cameras are excessive in height and shine into bedrooms of neighbouring properties. Lights on the building itself are also directed at neighbouring properties.
  - Waste collection has altered so it is now directly opposite neighbouring properties meaning they disturb residents when being filled/emptied and they smell and are unsightly.
  - Creation of the second beer garden has an impact on neighbouring amenity through noise and puts pressure on parking facilities.
- **Other Comments:**
- The pub manager's residential area has changed into a snug but this isn't part of the proposal and has increased the pub's floorspace.
  - The former chart shed (non-residential use) has been altered considerably and has been subjected to a change of use increasing the floorspace further and has not been included within the proposal.
  - All of the proposals detrimentally impact the historic character of Kelham and the conservation area.
  - The currently play equipment is harmful to the conservation area.
  - There has been removal of trees and hedges on site and no wildlife survey.
  - Safety issue with children being unsupervised on play equipment.
- One comment noted that whilst not agreeing with some elements of the proposal they were glad to see the pub reopened.



## Comments of the Business Manager

### Principle of Development

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

Firstly it is important to note that the establishment of beer gardens at pubs requires careful consideration of the potential for amenity problems for neighbours. To establish whether planning permission is required for the creation of a beer garden the main issues to consider are a) whether the land is within the curtilage of the pub planning unit, b) whether any structures to be created to facilitate a beer garden (such as terraces, barbecues, marquees, umbrellas and children's play equipment) are development requiring permission. Provided that the land falls within the planning unit occupied by the pub, the creation of a beer garden from an area operating as a car park, bottle storage area or importantly for this application, garden area, does not require planning permission (as demonstrated in Haringay 19/7/2011 DCS No 100-073-584 where the Inspector concluded that the use of half of a pub car park as a beer garden did not constitute a change of use). However the erection of associated structures or carrying out of any works that constitute operational development does trigger the requirement for planning permission.

In this case it is contested whether this parcel of land, subject to the application for a change of use, falls to be within the curtilage of the pub planning unit. I consider that given the applicant has stated in the D&A statement and in annotations to the plans that the parcel of land has previously operated as allotments historically, and that the land has been physically separated from the pub by a fence line (since removed) and can be seen from aerial photography to have been vacant and unused for a period of c.15 years, that this land does not form part of the curtilage of the pub planning unit and as such requires planning permission for the change of use.

The site is located within the village of Kelham, approx. 5km from the sub-regional centre of Newark. The settlement hierarchy for the district is set out in Spatial Policy 1 whilst Spatial Policy 2 deals with the distribution of growth for the district. This identifies that the focus of growth will be in the Sub Regional Centre, followed by the Service Centres and Principal Villages. At the bottom of the hierarchy are 'other villages' which do not have defined built up areas in terms of village boundaries. Consequently given its location in a rural area, the site falls to be assessed against Spatial Policy 3 (Rural Areas) of the Core Strategy.

Spatial Policy 3 states that proposals for local services and facilities in the rural communities of Newark & Sherwood will be promoted and supported. The rural economy will be supported by encouraging tourism and diversification. Given the site is within the built-up core of Kelham I am satisfied that this proposal does not fall to be assessed under Policy DM8 of the Allocations and Development Management DPD (Open Countryside) which regulates development in the open countryside. I am mindful that the proposal relates to an existing public house and therefore the principle of this type of development within the site has already been established, the expansion of which is supported by Spatial Policy 3.

On this basis I consider that most relevant criterion of Spatial Policy 3 would be the impact on the character of the area. This states that development proposals should not have a detrimental impact on the character of the location or its landscape setting. This in turn is mirrored by the intentions of Policy DM5 of the DPD which confirms that the rich local distinctiveness of the District's landscape and character should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals. Due to the site's location within a Conservation Area Policies Core Policy 14 and Policy DM9 of the Council's LDF DPDs are also relevant, which amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

Core Policy 6 explains that the economy of the district will be strengthened to provide a diverse range of employment opportunities by supporting the economies of our rural communities. In addition, Spatial Policy 8 states that the enhancement of community facilities such as public houses will be encouraged.

Section 6 of the NPPF focuses on building a strong and competitive economy, para 83 states that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas (a) and the retention and development of accessible local services and community facilities such as public houses (d). Given the above, I am satisfied that the effective expansion of this employment and community facility is supported in principle by the LDF as well as national planning policy subject to the assessment of the proposal in terms of impact upon the character and appearance of the conservation area, impact on the amenity of any neighbouring properties, impact upon highways safety and flooding which will be explored in further detail below.

In addition to the above, given part of the scheme seeks to resurface the car parking provision on site and formally demarcate the parking spaces, Spatial Policy 7 of the Core Strategy aims to provide appropriate and effective parking provision, both on and off-site and aims to avoid highway improvements which harm the environment and character of the area. Subject to a detailed assessment of site specific considerations, I consider the principle of this development to be acceptable.

#### *Elements of the Scheme which do not require planning permission*

Given the number of complaints from local residents, I feel it important to explain the parts of the renovation of this premises that have been undertaken which have been concluded not to require planning permission. Firstly I note that, in the land to the east of the pub that comprises the current beer garden, the applicant has installed three plastic children's play structures (a spooky tree, old boot and camel).



Play structures within the curtilage of pubs, ranging from climbing frames to ready-made plastic play structures are often a source of dispute as to whether they are operational development. I have applied the three tests of operational development (size, permanence and physical attachment) to the children's play structures and conclude that these structures do not meet the three tests meaning that they do not represent operational development: the size of the equipment means that they could be transported easily and can be moved around the site, they are ready assembled and they are not fastened to the ground on concrete pads (by any considerable means) which lead me to consider that they are non-permanent structures. Given the weight, height and degree of permanence of these structures, and the scale of the equipment I do not consider these require planning permission. Notwithstanding this, the Council's Conservation Officer has commented on the equipment advising that they have no objection to the small scale play equipment which is located in an area which reads a pub beer garden. As such while the 'tree' is not particularly subtle play equipment it still reads as an appropriately scaled structure associated with the public house, limiting its impact. The scale of this equipment appears visually commensurate to its use as a small beer garden associated with a long standing use.

In addition the painting/repainting of the pub and timber window frames has been assessed as to not require planning permission as the pub is not a listed building. Similarly, the like-for-like repair works that have been carried out to the cart shed such as the refurbishment of the doors and timber have been concluded to not require planning permission as this also is not a listed building and has been renovated to be of a similar visual appearance which does not constitute development.

As such, for the reasons listed, the above works do not form part of this application.

In addition, Schedule 2, Part 7, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 states that development consisting of— (a) the provision of a hard surface within the curtilage of a shop or catering, financial or professional services establishment (for the purposes of Class E, "shop or catering, financial or professional services establishment" means a building used for any purpose within Classes A1 to A5 of the Schedule to the Use Classes Order); or (b) the replacement in whole or in part of such a surface is permitted development. Development is not permitted by Class E if— (a) the cumulative area of ground covered by a hard surface within the curtilage of the premises (other than hard surfaces already existing on 6th April 2010) would exceed 50 square metres; or (b) the development would be within the curtilage of a listed building.

The application site is an A4 use class and as such satisfies the first criteria, although the area proposed to be re-surfaced with tarmac is approx. 1,700m<sup>2</sup>. However, aerial photography evidences that the land proposed to be re-surfaced has been hard surfaced since before April 2010 and as such, whilst exceeding the area restriction, the replacement in whole is permitted development provided the hard surface is made of porous materials or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the undertaking. The re-surfacing of the car park does not result in a change to the quantity of parking provision on site given the area has not increased, but the site has now been demarcated with white lining for 60 no. cars and 1 delivery space.

The car park is a tarmacked area around the main pub building, providing parking for the pub – currently surface water is directed into the existing drains on the site. The applicant has advised that the previous surface required repair and as such a like-for-like resurfacing in tarmac has been carried out. The drainage scheme has not been altered and the surface material has been replaced like for like with surface water directed into the existing drains on site.

For clarity, the proposal seeks permission for the change of use of the land to the north to a beer garden. ~~erection of the timber modular play equipment on this land and the resurfacing of the car park.~~ Taking the above into consideration the only parts of this application that strictly require planning permission ~~are~~ is the change of use to a beer garden ~~and the erection of the timber modular play equipment~~, however the application includes the formalisation of access to and egress from the site as well as formal car parking layouts and these matters will be discussed further below.

### Impact on the Character of the Area

Spatial Policy 3 advises that development proposals should not have a detrimental impact upon the character of the location or its landscape setting. This in turn is mirrored by the intentions of Policy DM5 which confirms that the rich local distinctiveness of the District's landscape and character should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals. Due to the site's location within a Conservation Area Core Policy 9 advises that any development proposal must 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"* and that complements the existing built environment.

In addition, 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).

Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. Section 72 of the Planning (Listed Building and Conservation Areas Act) 1990 states, in relation to the general duty as respects conservation areas in exercise of planning functions that, *'special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area'*. 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 this statutory requirement operate as 'the first consideration for a decision maker'.

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).

The principle of changing the parcel of land to the NE of the pub to a beer garden has been discussed in the previous section in which it has been concluded that the principle is acceptable given the location. With regards, to its impact upon on the character of the area I consider that the land in question reads as part of pub site given there is no boundary between the two. Furthermore, the Conservation Officer has advised that they have no objection to this part of the proposal, stating that use of the land as a pub garden has retained a sense of openness and there is little change in appearance from the previous arrangement.

I note that to facilitate this change of use, the chain link fence has been removed from the southern boundary between the land and the car park and the area has been cleared of overgrown vegetation and resurfaced with new lawn turf. Picnic tables were also installed at the time of my first site visit (06.08.2018) but have since been removed over the winter months **(although I note from correspondence from surrounding residents that these tables may have been reinstated following periods of warm weather recently)**. The principle of using this land as a beer garden with picnic tables positioned on the land in summer months is considered to be acceptable, the land with or without the tables will read as a part of the pub unit and retains the sense of openness surrounding the building, respecting the setting of the surrounding listed assets and the character and appearance of the Conservation Area.

~~Turning now to the proposed erection of the timber modular play equipment on the land, I would highlight for clarity that in the first two sets of comments from the Conservation Officer the officer misinterpreted the plans submitted and failed to appraise the large modular play equipment that was proposed as part of this scheme. Since this the Conservation Officer has submitted additional comments covering the modular play equipment specifically which have resulted in significant revisions from what was originally proposed. The equipment has been repositioned so that it is sited to the north of the existing cart shed, adjacent to the edge of the tarmac car park area and the existing electricity substation building (rather than adjacent to the rear boundary with the neighbouring properties).~~

~~Revisions to the size and positioning of the equipment have come from discussions with the applicant in which it was originally expressed that the modular play equipment was excessive for this portion of land and scale of the business on site. The Conservation Officer raised concerns with the amount of yellow detailing that was initially proposed and requested the size/scale to be significantly reduced. The revised scheme reflects the comments of the Conservation Officer; the size has been reduced to the proportions referred to earlier in this report.~~

~~The Conservation Officer has advised that the significant height of the play equipment (following reductions in footprint) is balanced out by the amount of 'breathing space' around the equipment. The revised siting also allows the equipment to be located away from residential properties in terms of minimising impact upon these properties. The equipment has also been carefully oriented to place the visually imposing yellow slide to the rear, reducing its visual impact from the public realm, leaving a broadly naturalistic brown colour to view. The Conservation Officer has also advised that given the material around the equipment is to be wood chippings it will not be imposing. The Conservation Officer concludes that the play equipment as revised is considered to~~

~~be acceptable, looking in scale with the status of the host building, the size of the open area and the village context.~~

In summary I consider that the works in this application will not result in any detrimental impact on the setting of nearby Listed Buildings or their significance generally (in accordance with Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990. The proposal also preserves the character and appearance of the Conservation Area, in accordance with Section 72 of this Act.

Given the above, it is considered that the proposed development would not result in harm to the character and appearance of the conservation area or the setting of the adjacent listed building. As such the proposal is considered to be consistent with S66 and 72 of the Act, as well as policy and advice contained within Section 16 of the NPPF, and Core Policy 14 and Policy DM9 of the Council's LDF DPD.

### 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 high standard of amenity for all existing and future occupants of land and buildings.

Firstly, I consider the main issue with this proposal to be whether the change of use would cause unacceptable harm to nearby residents (noting that surrounding residential properties have commented in objection to this proposal as they live in close proximity to this portion of the site) ~~and whether the erection of the play equipment will result in an unacceptable amenity impact.~~

In locations surrounding businesses such as public houses, it may be concluded that some degree of noise and activity both during the day and in the evening is inevitable. It may also be considered that people who live near such a location must expect a certain level of activity close to their homes. In this instance, I note that there are residential properties to the north, north-east, east and across the highway to the west. The properties that are most likely to be affected as a result of this proposal are No. 5 Blacksmith Lane (directly north of the proposed beer garden land), No. 3 Blacksmith Lane (north east) and The Laurels to the east – I note that The Fox Inn premises have historically operated as a public house, however, recently has come under new management and has been renovated in an attempt to improve business.

I would note that the occupiers of surrounding properties have chosen to live next to a public house, but have enjoyed a low level of noise disturbance due to the smaller scale business operation. Given the pub use is established on the site, the principle of this use class is considered to be acceptable, the existence of this use means that the residents are likely to be already affected by a certain level of commotion or general disturbance and overall I consider that the extension of the beer garden into the portion of land to the NE of the pub would not unduly impact the amenity of surrounding neighbours to a degree that would not be expected by living in such close proximity to a pub or indeed to warrant the refusal of this application. The garden area is likely only to be used in fair weather and the separation distance between the two closest properties are 5-10m, the closest to the garden area no.5 Blacksmith Lane which is a large private amenity area that extends to the north as well as close to the common boundary. The use of the land as a beer garden is therefore not considered to result in an unreasonable impact on neighbouring amenity.

~~Turning now to the erection of the timber play equipment, I note that a number of residents and the Parish Council have raised concerns over the scale of the equipment and the impact that this will have on the amenity of neighbouring occupiers. Since the submission of this application the scale of the equipment has been reduced significantly and the equipment has been repositioned in response to concerns regarding overlooking from the top of the equipment. There are two electrical sub-station buildings close to the proposed play equipment, one directly to the north-east of the equipment and one to the east. The equipment has been repositioned so that it is sited to the north of the existing cart shed, adjacent to the edge of the tarmac car park area and the existing electricity substation building (rather than adjacent to the rear boundary with the neighbouring properties) to increase the separation distances.~~

~~No. 5 Blacksmith Lane is the property most likely to be affected as a result of the equipment; however I note that the common boundary would be c. 18 m from the edge of the play equipment. Whilst I acknowledge that the modular unit would be tall in overall height, the highest platform on which children could stand is 2.3 m in height. Given this, and the aforementioned separation distance, I do not consider the play equipment would result in unreasonable overlooking into neighbouring gardens. Similarly, to the east is the electricity substation which separates the play equipment and neighbouring properties, as such no overlooking would occur to the south east. By virtue of positioning the equipment would not result in any overbearing or overshadowing impact and whilst a tall structure, has been sited so as to minimise any impact of overlooking.~~

Overall I must consider whether the level of disturbance from the extension of the beer garden to the north-east would be so significant that it would result in an unreasonable impact on neighbouring amenity. Whilst I sympathise with the neighbouring residents, I am of the view that occupants of residential properties close to an existing public house cannot expect to enjoy the same degree of residential amenity as would be achievable in wholly residential areas. It can be concluded that the anticipated noise associated with the extension of this garden area is not likely to create an unacceptable level of disturbance to the existing local residents in excess to what is already experienced by virtue of this existing business. ~~In addition to this, the proposed play equipment has been repositioned so that the distance between residential properties has increased to a degree in which I consider to be acceptable from an overlooking perspective.~~ Overall the proposal is considered to be in accordance with policy DM5.

### 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.

As part of the application the existing tarmacked parking areas (north-east and east) have been resurfaced with new tarmac, the drainage remains as existing. 60 no. parking spaces have been demarcated with 1 no. delivery space. Following discussions with the applicant over highway safety concerns from local residents, the application now seeks to formalise entrance and exit arrangements on site with entrances taken off Main Road adjacent to the pub building (which is proposed to be widened by approx. 4.8m and be retained as the main entrance at all times) and off Ollerton Road to the east with the existing Blacksmith Lane access point proposed to be marked "exit only". The Highway Authority has commented on this amendment and has advised that subject to conditions they raise no objection to the proposal. For clarity and the avoidance of doubt, a revised plan showing the extent of the widened access has been requested by Officers so

**submitted so** that the LPA can ensure that the access is widened in accordance with the proposal. ~~This plan, and any revised/new recommended conditions, will be included in Late Items for Members and presented at the Committee Meeting.~~

Amendments were sought by the Highway Authority to formalise access/egress from the site in an attempt to prevent the car park area being used as a 'rat run' between Ollerton Rd and Main Road. Conditions require the proposed car parking layout to be implemented and retained in perpetuity and for a marking/signage scheme to be submitted to the LPA to control the Blacksmith Lane access as an 'exit only' route.

I acknowledge that there are concerns from residents regarding highway safety. The comments from residents refer to the kerb stones having been altered and access points having been blocked up directing people to use the Blacksmith Lane access which is dangerous – I would note that there are three existing accesses into this site, one along the western side of the site off Ollerton Road, one along the southern side off Main Road and one along the eastern side of the site off Blacksmith Lane. Whilst historically the pub has not utilised the Blacksmith Lane as an access point for customers I note that this is an existing access route into the site and as such permission is not required for the re-use of this access which was previously blocked by a triangular section of raised kerb stone (highlighted below). The removal of these kerb stones, on private land, would not require planning permission, the use of this existing access does not need additional planning permission given it is an existing access and thus the LPA has limited control over its use.



However, following discussions with the agent and the Highway Authority the applicant has amended the site plan to formalise entrance and exit points on the site such that the Blacksmith Lane access would be exit only.

Residents' comment about planters obstructing the access on to Main Road which have since been removed; all three access points are now accessible for vehicles but as discussed above the plan sets out a formal entrance and exit route which will be enforceable through the approved plans condition.

I also note that residents raise many concerns regarding highway safety which are not reflected in the Highways Officer's comments. I must give the Highway Authority's comments significant weight as the LPA's technical experts. As such, given the technical guidance from NCC Highways, the proposed site plan demarking the entry and exit point and the scope of works that have been carried out, the proposal is considered to accord with Policies SP7 and DM5.



## Flooding

I acknowledge the concerns of local residents which refer to increased flood risk and surface water from the works that have been undertaken at this site. However, I must respectfully advise that it is a matter of fact that the resurfacing of the car park would not result in an increase of surface water; undeniably this operation will not increase the amount of rainfall experienced at the site.

I do accept that in some cases the presence of hard surfacing can increase the amount of surface water run-off if surface water does not fall on to a permeable surface but in this case the amount of hard surfacing on the site is not being increased. It has instead been re-surfaced with a like-for-like material with no increase in the area surfaced and no alteration to the current drainage system in place at this site. These works will not result in an increase in risk of pluvial flooding above that which is currently experienced on this site.

## Other Matters

Comments from local residents refer to a number of other matters such as health and safety for children using the site, customers walking across Blacksmiths Lane to access the pub and alterations to the pub itself requiring planning permission.

Firstly I would highlight that any internal alterations to the fabric of this non-listed building do not require planning permission, and whilst the residents consider there to have been a change of use to parts of the pub building I would highlight that the entire building has A4 use class to be used as a public house and as such I do not consider that there has been an unlawful change of use that has taken place.

~~Secondly, with regards to the safety of people using the play equipment and of children using the play areas, to this I would highlight that given the land is privately owned, it is the responsibility of the owner or indeed the user (or their parents in the case of children) to use the equipment responsibly and the behaviour of the public is not something that can be controlled by the planning process.~~

## Conclusion

The principle of this application is considered to be acceptable given Core Policy 6 encourages the support of rural community economies and Spatial Policy 8 the enhancement of community facilities such as public houses. The NPPF focusses on the development of a strong and competitive economy and for decisions to support sustainable growth and expansion of all types of businesses in rural areas, and the retention and development of accessible local services and community facilities such as public houses. The assessment of the application has concluded that the character and appearance of the Conservation Area would be preserved, that there would be no harmful impact on the setting of adjacent listed buildings identified as a result of this scheme. The change of use of the land to a beer garden ~~and the erection of the modular play equipment~~ has been assessed as not resulting in an unacceptable impact on the amenity of surrounding properties, nor has there been a highway safety impact identified.

Given the above I am satisfied that the proposal would comply with the relevant guidance of the NPPF and the PPG as well as Core Policies 6, 9 and 14 and Spatial Policies 3, 7 and 8 of the Newark and Sherwood Amended Core Strategy DPD and Policies DM5 and DM9 of the Allocations & Development Management DPD. Sections 66 and 72 of the Planning (Listed Buildings and

Conservations Areas) Act have been appropriately applied. Accordingly, I recommend to Members that planning permission be granted.

## **RECOMMENDATION**

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

01

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

- Site location Plan – Job no. 517.1096.6 - PL02 Rev A (25.7.18)
- **Block Plans – 517.1096.6.01.H (10.5.19)**
- ~~– Proposed Play Equipment – 517.1096.6.PE01 (21.2.19)~~

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

Reason: So as to define this permission.

~~02~~

~~The development hereby permitted shall be constructed entirely of the material details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority through an application seeking a non-material amendment.~~

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

02

Within 1 month of date of this planning permission, the car parking layout and widening of the access from Main Road shown on drawing '**Block Plans**' – **517.1096.6.01.H** shall be fully implemented and thereafter retained for the life of the development.

Reason: In the interests of highway safety and convenience.

03

Within 1 month of the date of this planning permission, a signage/marketing scheme for the exit on to Blacksmith Lane (shown as an exit only on drawing '**Block Plans**' – **517.1096.6.01.H**) shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented in full within 1 month of it being agreed by the local planning authority and thereafter retained for the life of the development.

Reason: In the interests of highway safety.

## **Notes to Applicant**

01

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 given that there is no net additional increase of floorspace as a result of the development.

02

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

#### **BACKGROUND PAPERS**

##### **Application case file.**

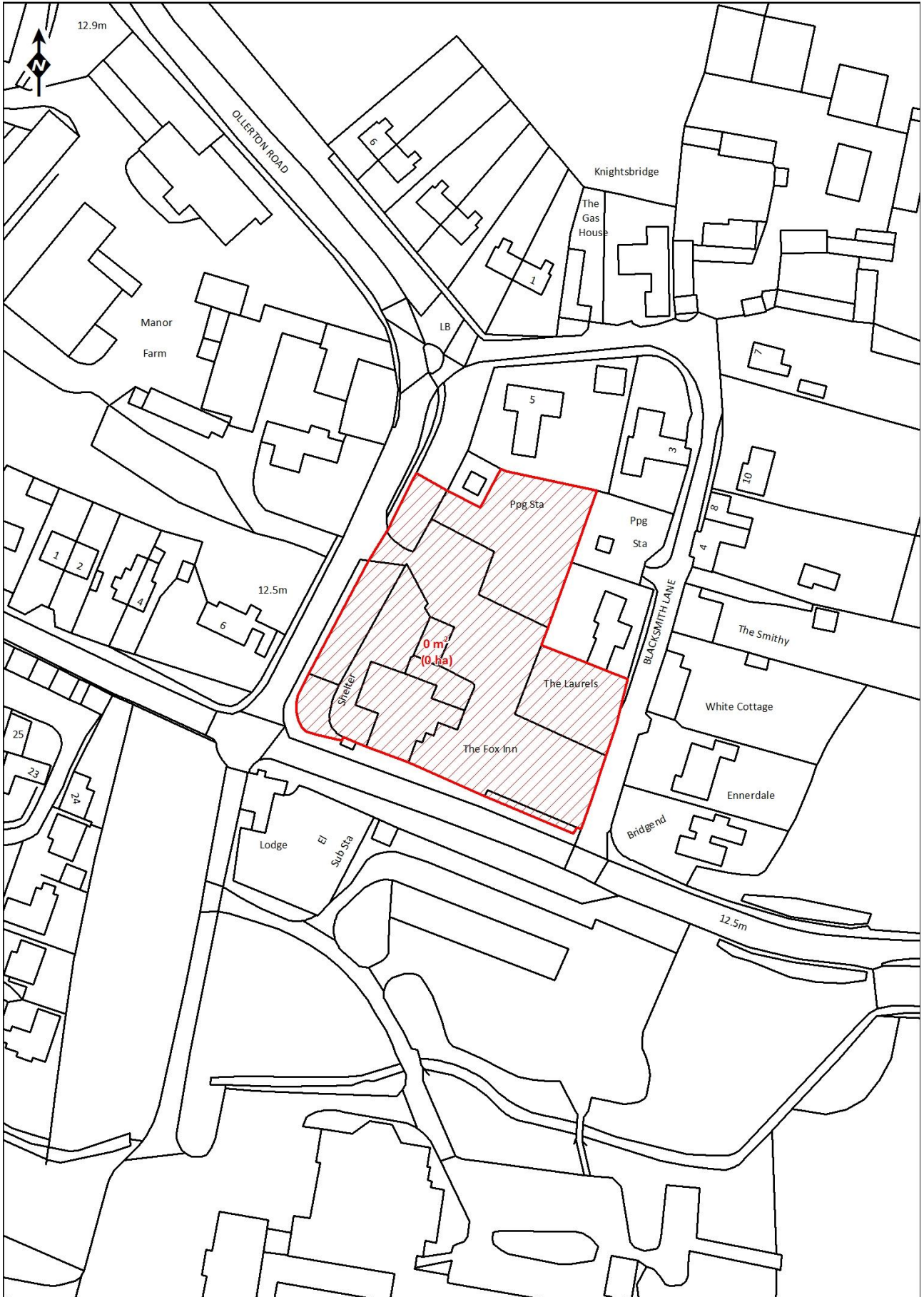
For further information, please contact Honor Whitfield on ext 5827.

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 and Regeneration**

Committee Plan - 18/01414/FUL



## PLANNING COMMITTEE – 4 JUNE 2019

### Confirmation of Tree Preservation Order - TPO N366

<b>Application No:</b>	<b>19/00001/TPO</b>
<b>Proposal:</b>	<b>TPO N366 – 12 individual trees:</b> <b>1No. Willow</b> <b>8No. Norway Spruce</b> <b>1No. Scots Pine</b> <b>2No. Western Cedar</b>
<b>Location:</b>	<b>On land at Priory Farm Nottingham Road Thurgarton</b>

### Justification for the TPO

The site comprises the former rear garden of Priory Farm which has been subject to planning permissions for the conversion of outbuildings to residential (almost completed) and the erection of 3 dwellings (not yet built). The site is located on the Main Road through the village of Thurgarton, and is surrounded by residential properties.

The trees in question are protected by virtue of their location within the designated conservation area. As such any works to these trees require the submission of a Tree Works Notification (S211 Notification).

A S211 notification was submitted on 5<sup>th</sup> December 2018 to remove a total of 17 trees from the site, including a mixture of species including Ash, Horse Chestnut, Norway Spruce, Scots Pine and Sycamore. These trees were shown to be retained in planning permissions granted for further development at the site.

Due to the number of trees proposed for removal, the Local Authority's tree officer undertook a site visit to assess the works. During the site visit, it was established that a number of trees warranted protection by Tree Preservation Order (TPO). Further discussion took place with the applicant and it was agreed with the owner to proceed with the protection of those trees.

The Local Authority has adopted a consistent approach regarding the assessment when considering whether trees should be protected by an Order, including:

1. Visibility - The extent to which the trees can be seen by the public. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public;
2. Importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:
  - size and form;
  - future potential as an amenity;
  - rarity, cultural or historic value;
  - contribution to, and relationship with, the landscape; and
  - contribution to the character or appearance of a conservation area.

Appendix 1 – Photographs provides views of the trees including within the TPO schedule.

Appendix 2 – TPO plan identifies the location and species of each of the 12 individual trees to be protected, including:

1No. Willow  
8No. Norway Spruce  
1No. Scots Pine  
2No. Western Cedar

### **Consultations**

The Local Authority served notice on 18<sup>th</sup> January 2019 inviting representations about the trees covered by the Order. A copy of the Order was made available for public inspection and site notice posted within close proximity to the site.

The following representations have been received and summarised below:

- Thurgarton Parish Council – Support
- Representations - Letters of representation were received from 1 separate address that supported the Preservation Order

### **RECOMMENDATION**

**That the Tree Preservation Order be confirmed for the following reasons:**

1. The trees on site appear to be in good health and structural condition and provide a mature setting for the locality;
2. They provide valuable screening of the site to neighbouring properties;
3. They also form a prominent feature within the site, and also provide a positive visual public amenity contribution to the local street scene, being visible from many viewpoints; and
4. It is considered that the trees could be at risk from future development.

### **BACKGROUND PAPERS**

Application case file.

For further information, please contact Susan Bush, Technical Support Officer on ext 5822.

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 and Regeneration**

Appendix 1 – Photographs

Views of Norway Spruce (t7 to T12)



View of Norway Spruce (T7), Western Cedar (T5 and T6) and Scots Pine (T4)



View of Norway Spruce (lower canopy) T2 and T3



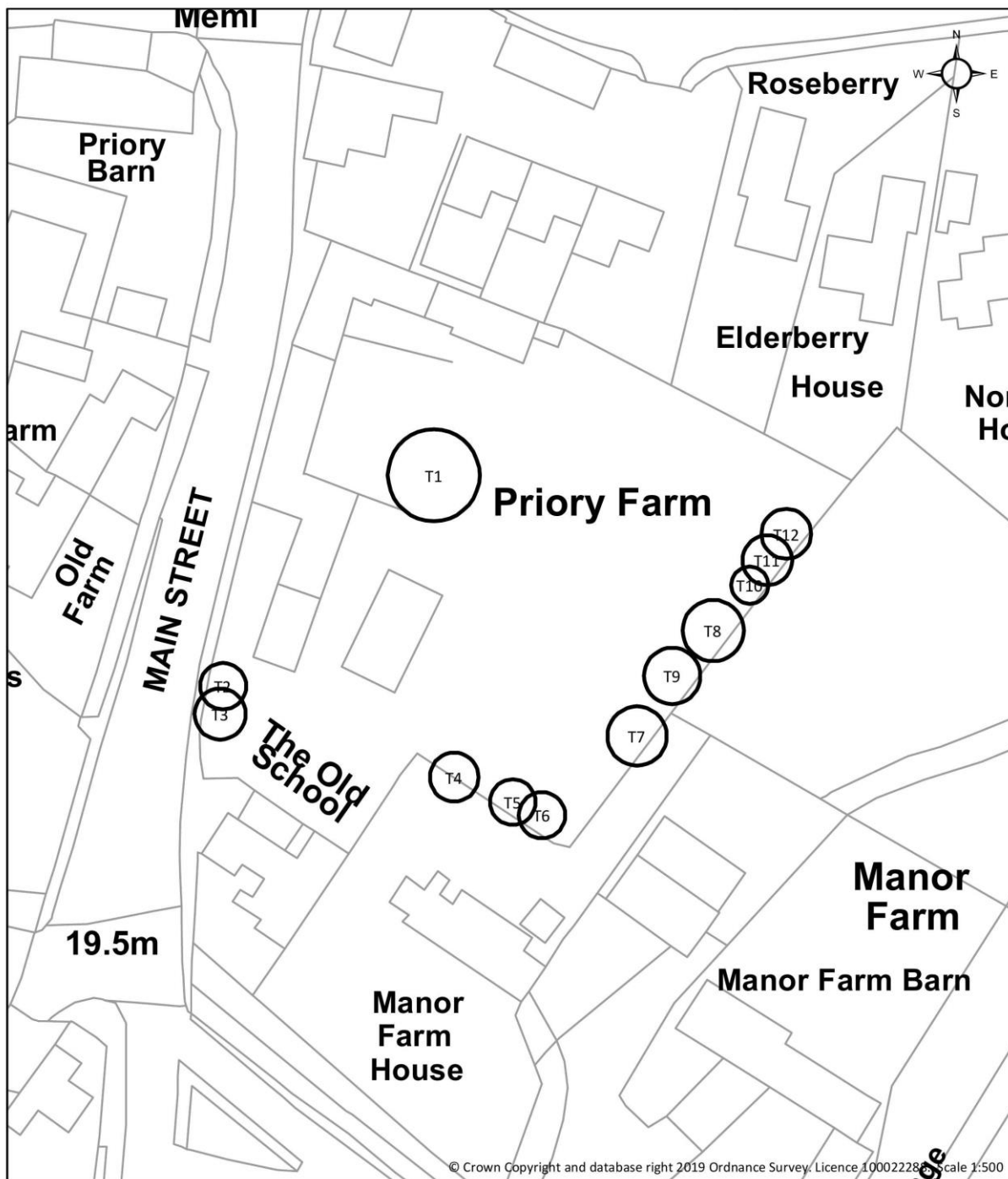
View of Willow lower canopy with fence tree root protection (T1)





Appendix 2 – TPO plan

For the avoidance of doubt, the plan is not to scale



**Tree Preservation Order No. N366**  
**Land at Priory Farm, Nottingham Road, Thurgarton, Nottinghamshire**

Schedule of protected trees

① Encircled black and specified individually on a map

- |                    |                        |                    |                     |
|--------------------|------------------------|--------------------|---------------------|
| T1 - Willow        | T4 - Scots Pine        | T7 - Norway Spruce | T10 - Norway Spruce |
| T2 - Norway Spruce | T5 - Western Red Cedar | T8 - Norway Spruce | T11 - Norway Spruce |
| T3 - Norway Spruce | T6 - Western Red Cedar | T9 - Norway Spruce | T12 - Norway Spruce |

Groups - None  
 Areas - None  
 Woodlands - None



**PLANNING COMMITTEE – 4 JUNE 2019**

**APPEALS A**

**APPEALS LODGED (received between 17.03.19 and 20.05.19)**

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 of Growth and Regeneration

<b>Appeal reference</b>	<b>Application number</b>	<b>Address</b>	<b>Proposal</b>	<b>Procedure</b>
APP/B3030/X/18/3208054	18/00406/LDC	Barfield House Greaves Lane Edingley Nottinghamshire NG22 8BH	Application for a Certificate of Lawful development for the existing use of land to the rear of Barfield House for domestic purposes including a timber stable block used for domestic storage associated with the residential occupation of Barfield House	Public Inquiry
APP/B3030/C/18/3208052	18/00039/ENFNO T	Barfield House Greaves Lane Edingley Nottinghamshire NG22 8BH	Appeal against	Public Inquiry
APP/B3030/C/18/3214581	18/00046/ENFNO T	43A Great North Road Sutton On Trent Nottinghamshire NG23 6PL	Appeal against	Written Representation
APP/B3030/C/18/3214820	18/00049/ENFNO T	Corner House Farm Hawton Lane Farndon Nottinghamshire	Appeal against	Written Representation
APP/B3030/W/18/3218853	18/01895/CPRIOR	Fern Hollow Pig Barn Fern Hollow Greaves Lane Edingley Nottinghamshire NG22 8BJ	Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to dwellinghouse (ClassC3) and for associated operational development (Amended design of previously approved application 15/01405/CPRIOR)	Written Representation
APP/B3030/W/19/3220206	18/01337/RMA	Brooklyn Lower Kirklington Road Southwell NG25 0DZ	Reserved matters application for The Erection of 3 Dwellings. Approval sought for the design, siting, scale and layout. Approved reference 17/00383/OUT	Written Representation

Appeal reference	Application number	Address	Proposal	Procedure
APP/B3030/W/19/3223635	18/01771/CPRIOR	Southwell Mushrooms Crew Lane Southwell Nottinghamshire NG25 0TX	Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to 3 dwellinghouses and for associated operational development.	Written Representation
	19/00052/FUL	68 Wolsey Road Newark On Trent Nottinghamshire NG24 2BN	Change of use of the first floor from residential to childrens nursery and retention of ground floor as a nursery	Written Representation
APP/B3030/D/19/3225439	19/00056/FUL	Kingfisher Cottage 67E Church Street Southwell Nottinghamshire NG25 0HQ	Householder application for extension to existing dwelling to form additional bedroom, en-suite, utility room, and living room	Fast Track Appeal
APP/B3030/W/19/3225450	18/01694/FUL	Moor Farm Cottage Clifton Lane Thorney Nottinghamshire NG23 7DJ	Replacement Dwelling	Written Representation
APP/B3030/W/19/3225826	19/00041/FUL	Land To The Rear Of The Stables Kirklington Road Hockerton Nottinghamshire	Erection of two 3 bed dwellings	Written Representation
APP/B3030/W/19/3226677	18/01402/FUL	9 The Paddocks Newark On Trent NG24 1SS	Part conversion of 9 The Paddocks to create an additional Chalet Bungalow within the site (resubmission of withdrawn application reference no. 18/00683/FUL)	Written Representation
APP/B3030/W/19/3227527	18/01566/FUL	Poultry Houses Adjacent Holme Hall High Street Holme NG23 7RZ	Resubmission of application 17/00099/FUL : Proposed 2no New Oak Framed Dwellings	Written Representation



**PLANNING COMMITTEE – 4 JUNE 2019**

**APPENDIX B: APPEALS DETERMINED (between 17.03.19 and 20.05.19)**

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision date</b>
18/01495/FUL	Wharf Cottage Carlton Ferry Lane Collingham Newark On Trent Nottinghamshire NG23 7LZ	Proposed new driveway to serve Wharf Cottage	ALLOW	02.04.2019
18/00010/ENFNOT	Land At Winthorpe Road Newark On Trent Nottinghamshire	Appeal against	DISMISS	29.04.2019
17/01797/FUL	The Farmstead Maplebeck Road Caunton Newark On Trent Nottinghamshire NG23 6AS	Construction of 5 no. ecological low carbon bungalows, including new car garage for existing dwelling, following demolition of existing farm buildings.	DISMISS	25.04.2019
17/02139/OUT	Field Reference Number 7919 Caunton Road Hockerton Nottinghamshire	Outline permission for 6 new homes for local people with a specific housing need; and provision of dedicated car parking for the Village Hall, areas around the Village Hall incorporating extension to building and new amenity area for the local community to use	DISMISS	27.03.2019
18/00267/FUL	24 Post Office Row Main Street Coddington Newark On Trent Nottinghamshire NG24 2PN	Retrospective Householder application for the erection of a side extension to dwelling to form conservatory	DISMISS	11.04.2019

18/00031/ENFNOT	24 Post Office Row Main Street Coddington Newark On Trent Nottinghamshire NG24 2PN	Appeal against	PARTIAL	11.04.2019
18/00737/OUT	Land To The Rear Of Mill Lane Caunton Nottinghamshire	Outline planning application for up to 5 no. dwellings	DISMISS	27.03.2019
18/00043/ENFNOT	Lurcher Farm Mansfield Road Farnsfield Nottinghamshire NG22 8HY	Appeal against	DISMISS	09.04.2019
18/00438/FUL	Land Adjacent Savile Court Bilsthorpe Road Eakring Nottinghamshire	Resubmission of 17/01925/FUL planning application for erection of 2 dwellings	DISMISS	21.03.2019
17/01451/FUL	Robin Hood View Caravan Park Middle Plantation House Belle Eau Park Bilsthorpe Nottinghamshire NG22 8TY	Application for removal/variation of condition 4 attached to planning permission 17/00147/FUL; Works to facilitate the siting of up to 15 additional caravans for holiday use.	DISMISS	17.05.2019
18/00517/FUL	Riverlyn House Main Street Fiskerton Nottinghamshire NG25 0UH	Erection of a new three bedroomed single storey dwelling in the grounds of Riverlyn House	DISMISS	14.05.2019
17/00771/FUL	Land To The Rear Of 37 And 39 Halloughton Road Southwell Nottinghamshire NG25 0LP	Erection of 1No detached dwelling with attached garage	DISMISS	02.04.2019

18/01946/FUL	Land At Grange Farm Staythorpe Road Staythorpe Nottinghamshire	Resubmission of application 18/00745/FUL. Erection of 2 bedroom single storey bungalow.	DISMISS	02.04.2019
19/00019/ENFNOT	68 Wolsey Road Newark On Trent Nottinghamshire NG24 2BN	Appeal against	APP WITHDRA WEN	18.04.2019

**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 of Growth and Regeneration





## Appeal Decision

Site visit made on 7 March 2019

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

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

**Decision date: 02 April 2019**

---

**Appeal Ref: APP/B3030/W/18/3217750**

**Wharf Cottage, Carlton Ferry Lane, Collingham, Newark NG23 7LZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Mark Grocock against the decision of Newark and Sherwood District Council.
  - The application Ref 18/01495/FUL, dated 4 August 2018, was refused by notice dated 1 October 2018.
  - The development proposed is the construction of a new driveway.
- 

### Application for Costs

1. An application for costs was made by Mr Mark Grocock against Newark and Sherwood District Council. This application is the subject of a separate decision.

### Decision

2. The appeal is allowed and planning permission granted for the construction of a new driveway at Wharf Cottage, Carlton Ferry Lane, Collingham, Newark NG23 7LZ in accordance with the terms of the application, Ref 18/01495/FUL, dated 4 August 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Revised Site Location Plan; Existing Block Plan and Proposed Block Plan.
  - 3) Prior to the commencement of development details about the existing and proposed finished ground levels shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the approved ground level shall be retained in accordance with these details.

### Main Issues

3. It is considered that the main issues are the effects of the proposed development on (a) the risk of flooding and (b) the character and appearance of the surrounding area.

## Reasons

### *Risk of Flooding*

4. The appeal site is located within Flood Zone 3b which is functional floodplain. Instead of sharing an existing access, the proposed development includes the erection of a drive to serve a dwelling and associated home office. To provide an independent access it is inevitable that the route would involve land within the floodplain.
5. The Council has assessed that the appeal scheme is residential development which would extend the domestic curtilage of the appellant's dwelling and, as such, it would fall within the most vulnerable form of development which should be resisted within Flood Zone 3b (Planning Practice Guidance paragraphs 066 Reference ID: 7-066-20140306 and 7-067-20140306 – Tables 2 and 3). However, the construction of the proposed drive would primarily be an engineering operation rather than involve a building used for a dwelling of the type referred to in the Practice Guidance as being a more vulnerable form of development within a floodplain. The proposed drive is equally not essential infrastructure of the type which is referred to in the Practice Guidance.
6. By reason of the proposed development not being readily categorised, a proportionate approach been adopted in the determination of this appeal. Consideration has, therefore, been given as to whether the appeal scheme would have the characteristics of a minor development similar to the examples referred to in the Practice Guidance (paragraph 046 Reference ID: 7-046-20140306) as being unlikely to raise significant flood risk issues subject to specific matters being addressed (paragraph 047 Reference ID: 7-047-20150415).
7. A 50mm sub base of permeable limestone is proposed as the surface of the proposed drive and reference is made to the appeal scheme not raising of the existing ground level. The assessment of this appeal as a minor development is, therefore, predicated on there being no changes to the existing ground level which might otherwise reduce, in a modest manner, the capacity of the functional floodplain. This matter can be secured by a suitable condition.
8. From what was observed, the erection of the proposed drive would not have an adverse effect on a watercourse or any flood defences. The appeal scheme would also not impede access to flood defence and management facilities. Further, by reason of the ground levels not changing, there would be no adverse implications for the floodplain associated with the cumulative impact of similar developments having a significant effect on local flood storage capacity or flood flows. For these reasons, the appeal scheme would represent a minor development in the floodplain and, as such, it is unnecessary for either the sequential or exceptions tests to be undertaken.
9. A detailed site specific flood risk assessment, of the type referred to in paragraphs 163 and 164 of the National Planning Policy Framework (the Framework), has not been undertaken for the proposed development. However, for the reasons already provided, the flood risk would not be increased elsewhere.
10. There would be no material change to the flood risk for the occupiers of the host dwelling and associated home office as a consequence of the proposed

development. The appellant has referred to the warning and emergency evacuation plan associated with the planning permission for the home office and there also being a safe refuge for the occupiers of the dwelling within the upper storey. These matters would not be altered by the appeal scheme. The circumstances of accessing or evacuating the buildings across the floodplain would be unaltered whether the existing or proposed drive is used.

11. The appellant claims that the proposed drive is needed to provide access to the host property, including a home office. It is also claimed that the appeal scheme would provide an improved access for the appellant's sports cars with low suspension and avoid the need to use an unmade by-way to access the home office. Rather than demonstrating that the proposed drive necessary form of development within the floodplain these are personal reasons for the erection of the proposed drive. However, for the reasons already provided, the appeal scheme would not increase the flood risk elsewhere and there would be no change to the risk of those occupying the buildings.
12. The Council's position about a change to residential use has been noted but based upon the evidence available it is concluded that the proposed drive should be considered as minor development in flood risk terms and it would not present increased risk of flooding to the appellant or to others. Further, it is concluded that the proposed development would comply with national planning policy concerning the risk of flooding and, as such, it would also not conflict with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy (CS) and Policy DM5 of the Allocations and Development Management (ADM) Development Plan Document. These policies echo national planning policy and guidance concerning flooding and flood risk.

#### *Character and Appearance*

13. The proposed development includes the construction of an access drive which would parallel an existing drive which serves isolated properties within a rural area. Although there are currently mineral extraction activities which might be intensified, the area around the appeal site is open and verdant countryside.
14. The types of development considered appropriate within the open countryside are referred to in ADM Policy DM8. The Council claim that the proposed drive is part of a residential development in the open countryside. However, the policy refers to new and replacement dwellings and is silent concerning access to dwellings.
15. The Planning Officer's report identifies that the site falls within the Trent Washlands Policy Carlton Holme River Meadowlands Landscape Character Area (LCA) This LCA has a flat topography with extensive areas of intensively farmed arable fields with few detracting features other than the loss of some historic field patterns to farmland. The policy action is to conserve the area, including the conservation of existing field patterns.
16. The existing and proposed drives would be separated by a field boundary which is principally defined by vegetation. The 2 drives would connect to provide a single access point from the road. A small part of this field boundary would be removed to create the connection and some fruit trees within the field would be removed. However, although some vegetation would be removed, the majority of the existing field boundaries around the proposed access would be retained rather than lost.

17. By reason of the choice of materials, visually the drive would have the character and appearance of a typical farm track or other access to a rural property within the countryside. Further, unlike a building, the proposed drive would not project above the existing ground level encroaching into the openness of the countryside. Overall, the appeal scheme would conserve, rather than harm, the landscape character of the surrounding countryside's open and verdant character and appearance.
18. On this issue it is concluded that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would not conflict with CS Core Strategy Policies 9 and 13 and ADM Policy DM5. Amongst other matters these policies refer to development respecting and complementing the landscape character of an area, retaining local distinctiveness and protecting and enhancing the natural environment.

*Other Matters*

19. The existence of a public right of way (PROW) has been noted but there are no specific objections from the Ramblers Association. The proposed development would not unacceptably interfere with the PROW's use.
20. The appellant and the Council have referred to several other schemes within the surrounding area where there is a difference about their relevance to this appeal. However, this appeal has been determined on its own planning circumstances.

**Conditions**

21. The Council has suggested several conditions in the event this appeal succeeds which have been assessed against the test in the Framework and the Practice Guidance. A condition specifying the relevant drawings is necessary as this provides certainty. For the reason already given, a condition is necessary concerning the level of the proposed development to ensure that the existing ground level is retained in the future.

**Conclusion**

22. For the reasons given, it is concluded that this appeal should be allowed.

*D J Barnes*

INSPECTOR