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**Monday, 28 October 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, 5 November 2019 at 4.00 pm**

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

**You are hereby requested to attend the above Meeting to be held at the time/place  
and on the date mentioned above for the purpose of transacting the  
business on the Agenda as overleaf.**

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



## AGENDA

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1. Apologies for Absence	
2. Declarations of Interest by Members and Officers	
3. Declaration of any Intentions to Record the Meeting	
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12. 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 Part 1 of Schedule 12A of the Act.	
13. Springfield Bungalow, Nottingham Road, Southwell - Legal Advice Regarding Planning Appeal	199 - 201

### NOTES:-

A Briefing Meeting will be held in Room F1, Castle House at 2.00 pm on the day of the meeting between the Business Manager – Growth & Regeneration, the Chairman and Vice-Chairman of the Committee to consider late representations received after the Agenda was published.

## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 8 October 2019 at 4.00 pm.

PRESENT: Councillor R Blaney (Chairman)  
Councillor I Walker (Vice-Chairman)

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 and  
Councillor Mrs Y Woodhead

ALSO IN ATTENDANCE: Councillor R Jackson and Councillor Mrs S E Saddington

APOLOGIES FOR ABSENCE: There were none.

### 97 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillors Mrs L Dales and I Walker declared personal interests as they were Council's appointed representatives on the Trent Valley Drainage Board.

Councillors M Skinner and L Goff declared personal interests in Agenda Item No. 13 – Site of Robin Hood Hotel, 1-3 Lombard Street, Newark (19/01575/S19LBC), as the item had been considered by Newark Town Council; the Members confirmed they would keep an open mind.

Councillor T Smith declared a personal interest in Agenda Item No. 9 – Garage Units Off Lansbury Road, Bilsthorpe (19/01526/FUL), as family lived in close proximity.

The Director – Growth and Regeneration declared a prejudicial interest in Agenda Item No. 16 & 17 – The Buttermarket, between 27 and 28 Middle Gate, Newark (19/01410/FUL & 19/01411/LBC), as he was the applicant on behalf of the Council.

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

The Chairman advised that the proceedings were being recorded by the Council and being broadcast live on social media.

### 99 MINUTES OF THE MEETING HELD ON 10 SEPTEMBER 2019

AGREED that the minutes of the meeting held on 10 September 2019 be approved as a correct record and signed by the Chairman.



100 MANOR COTTAGE, BECK STREET, THURGARTON 19/01095/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought retrospective planning permission for the removal of a garden shed and seating structure and the erection of a single storey summerhouse and a single storey outdoor bar.

Councillor R Jackson, local Ward Member for Dover Beck spoke in favour of the application. He commented that the applicant had sought planning advice from the Council and was told that he did not need planning permission for the summer house or bar as he was replacing two existing structures. The applicant was subsequently undertaking tree work and invited the Council Officer to look at the tree work, at that stage the Council Officer informed the planning business unit of the new structures that had been erected. The applicant had full support from Thurgarton Parish Council.

Members considered the application and a Member commented that the applicant was enquiring about the demolition for a garage and a two storey extension and it was for that reason the Council Officer came to view the property. There was also no objection to the bar, however the bar and summer house had been included in one application. Another Member commented that she was supportive of the conservation team and was annoyed regarding retrospective applications. However wooden summer houses do not last that long and the hedge would grow taller and hide the summer house from street view. As such, it was not considered that the proposal would result in an adverse impact upon the character and appearance of the Conservation Area.

AGREED (with 10 votes For, 3 votes Against and 1 Abstention) that contrary to Officer recommendation full planning permission be approved.

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>
R. Blaney	Against
L. Brazier	For
M. Brock	For
M. Brown	For
L. Dales	For
M. Dobson	For
L. Goff	For
R. Holloway	For
J. Lee	Absent
P. Rainbow	For
M. Skinner	Abstention
T. Smith	For
I. Walker	Against
K. Walker	For
Y. Woodhead	Against

101 KELHAM HALL LTD, KELHAM HALL, MAIN ROAD, KELHAM (19/01307/S73M) (MAJOR)

The Committee considered the report of the Business Manager – Planning Development, which sought to vary condition 2 attached to planning permission 17/01021/FULM to amend the approved plans as it was the intention to alter the proposed scheme to incorporate additional hotel bedroom suites and other minor changes.

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

Members considered the application and felt that the hotel would be good for tourism and the local economy. A Member commented that the increase in bedrooms from 70 may spoil this luxury hotel in agreement with the comments received by the Parish Council.

AGREED (with 13 votes For and 1 vote Against) that planning permission be approved subject to the conditions and reasons contained within the report and the schedule of communication.

102 MANOR FARM, MOOR LANE, EAST STOKE (19/01418/FUL)

The Committee considered the report of the Business Manager – Planning Development following a site inspection, which sought full planning permission for the erection of a two bed bungalow.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Conservation Officer. The application represents the resubmission of an application that was previously refused by Planning Committee and subsequently dismissed at appeal. The revised proposed was considered by Officers to overcome the previous reasons for refusing the application and would now preserve the character and appearance of the Conservation Area subject to conditions.

Members considered the application and some Members considered the proposal acceptable, other Members commented upon the close proximity of the gables and window to the neighbouring property and felt that car parking was very tight.

AGREED (with 11 votes For and 3 votes Against) that full planning permission be approved subject to the conditions contained within the report.

103 ASHLEIGH, GREAT NORTH ROAD, SOUTH MUSKHAM, NEWARK (19/00782/FUL)

The Committee considered the report of the Business Manager – Planning Development following a site inspection, which sought planning permission for the erection of three dwellings with associated off road parking and private gardens.

Councillor Mrs S E Saddington local Ward Member for Muskham spoke against the application on the grounds of highways safety as the entrance was only a small distance away from a traffic island with five roads leading off it. Three dwellings were considered too many and it was felt that the proposal had been carefully designed to

allow access to the land at the back for future development. The Parish Council had objected on the grounds of no local need for the proposed properties. The development was in flood zone 2, Trent Valley Internal Drainage Board had commented regarding the surface water run-off. It was commented that when an accident occurred on the A1, the Great North Road was heavily congested. The report also included out of date information as it incorrectly stated that North Muskham had a Post Office and shop. The issue of flooding was raised as South Muskham had flooded in the past and whilst the dwellings may be built higher as the site was in flood zone 2, the impact of these properties made neighbouring properties more vulnerable.

Members considered the application and commented on the poor visibility when exiting the site. The hedgerow to the side of the properties and close proximity of the properties would make them very dark which Members considered harmful to health. The design of the two houses and the layout was not in keeping with the character of the area.

AGREED (with 6 votes For, 5 votes Against and 3 Abstentions) that contrary to Officer recommendation planning permission be refused on the grounds of design, layout and proximity to neighbouring properties.

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>
R. Blaney	Against
L. Brazier	For
M. Brock	Abstention
M. Brown	For
L. Dales	Against
M. Dobson	For
L. Goff	For
R. Holloway	For
J. Lee	Absent
P. Rainbow	Abstention
M. Skinner	Abstention
T. Smith	Against
I. Walker	Against
K. Walker	Against
Y. Woodhead	For

104 GARAGE UNITS OFF LANSBURY ROAD, BILSTHORPE (19/01526/FUL)

The Committee considered the report of the Business Manager – Planning Development following a site inspection, which sought full planning permission for the demolition of the existing garage court and development of one two bed dwelling.

Councillor T Smith declared a personal interest in the item and left the meeting.

Members considered the application and the local Ward Member commented that the Parish Council and residents of Lansbury Road were against this. The removal of the garages would cause problems for parking on Lansbury Road as the driveways to some houses only accommodated one vehicle with the majority of properties having two vehicles. The turning circle was important, unless you reversed down the road. Members felt that whilst a bungalow would be useful this was not the correct position for one bungalow which would create parking issues for the current residents due to the removal of twelve garages and a congested road.

It was commented that the design of the proposal did not fit with the area being for a bungalow in the corner of the site and that the site should not have been considered for development as it is too constrained.

Councillor L Goff was not present for entire item and did not take part in the vote.

AGREED (unanimously) that contrary to Officer recommendation planning permission be refused on the grounds of the design and layout of a constrained and tight site.

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

Councillor	Vote
R. Blaney	For
L. Brazier	For
M. Brock	For
M. Brown	For
L. Dales	For
M. Dobson	For
L. Goff	Did not take part in the vote
R. Holloway	For
J. Lee	For
P. Rainbow	For
M. Skinner	For
T. Smith	Not Present
I. Walker	For
K. Walker	For
Y. Woodhead	For

105 HORSTEAD, STATION ROAD, BLEASBY (19/01288/FUL)

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the demolition of the existing dwelling and the construction of a new dwelling.

Members considered the application and it was commented that this property had been run down for many years and the proposed works would be an improvement in appearance for neighbouring properties. It was noted that the existing property is prominent in the street scene. Concern was raised regarding the additional garage which was outside the land identified by the red line in the plan. The note from the

Internal Drainage Board was also raised which emphasised the water course and the proposed garage would therefore require consent. It was suggested that a condition be added to withdraw the permitted development rights and the Internal Drainage Boards comments be included as a note to the applicant that consent was required.

A vote was taken and lost to defer the item for a site visit, with 5 votes For and 9 votes Against.

AGREED (with 11 votes For and 3 votes Against) that full planning permission be granted, subject to the conditions contained within the report, the additional condition to remove permitted development rights and the note to the applicant that consent was required from the Internal Drainage Board regarding the water course.

106 RENAISSANCE, KIRKBY HOUSE, 29A ALBERT STREET, NEWARK (19/01225/FUL)

The application was withdrawn from the agenda.

107 2 BRACKNER LANE, BILSTHORPE (19/01287/FUL)

The Committee considered the report of the Business Manager – Planning Development following a site inspection, which sought planning permission for the demolition of all existing buildings on the site and the erection of a two storey three bed dwelling and an attached flat roof garage.

Members considered the application and the local Ward Member commented that the applicant had worked hard to amend the design of the property. The materials used would be cladding which reflected the materials used in the industrial estate and therefore would be in keeping and did not have a negative impact. It was commented that Bilsthorpe did need to develop and grow. Other Members commented that the front of the building would face the side of the neighbouring bungalow which was considered not acceptable. It was also commented that the surrounding residential buildings were rural brick and not metal cladding; the building was therefore not in keeping with the residential buildings in close proximity. The property was also in the open countryside and whilst the height of the property had been lowered, the footprint was larger than the existing dwelling. It was considered that the Council's policy in the open countryside should be adhered to.

A vote was taken to approve the application and lost with 4 votes For, 9 votes Against and 1 Abstention.

Councillor J Lee entered the meeting during the debate and therefore did not take part in the vote.

AGREED (with 9 votes For, 4 votes Against and 1 Abstention) that planning permission be refused for the reasons contained within the report.

108 SITE OF ROBIN HOOD HOTEL, 1 - 3 LOMBARD STREET, NEWARK (19/01575/S19LBC)

The Committee considered the report of the Business Manager – Planning Development, which sought to vary conditions 2, 3, 4, 5, 6, 7, 8 and 9 to allow alterations to façade of retail Unit 3, minor internal alterations and update historic fabric to be retained in relation to planning permission 18/01021/LBC; Partial demolition of the former Robin Hood Hotel with retention of the façade, eastern gable and parts of the roof and internal fabric and integration with three No. units for flexible retail (Class A1), financial and professional services (Class A2), café/restaurant (Class A3) and leisure (Class D2) uses.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the following: Nottinghamshire Wildlife Trust; Newark Town Council; Historic England; and Heritage Lincolnshire.

Members considered the application acceptable.

Councillor M Brown left during the presentation and did not take part in the vote.

AGREED (unanimously) that delegated authority be given to issue the decision subject to the conditions and reasons contained within the report, following the expiry of the consultation period provided that no new material considerations are brought to light.

109 LAND ADJACENT 8 HARRISONS WAY, NEWARK (19/01118/FUL)

The Committee considered the report of the Business Manager – Planning Development, which sought full planning permission for the erection of a one bed bungalow.

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

Members considered the application and felt that the constrained site overlooked by 2-storey semi terraces meant that the proposed bungalow is poorly designed and not in keeping with the neighbouring properties with resultant amenity impacts and asked for this to be included as an additional reason for refusal.

AGREED (unanimously) that full planning permission be refused for the reasons contained within the report, with an additional reason relating to the design not being in keeping with neighbouring properties.

110 9 OLD HALL GARDENS, CODDINGTON, NEWARK (19/01315/FUL)

The Committee considered the report of the Business Manager – Planning Development following a site inspection, which sought planning permission for a proposed garage extension and room over with external alterations.

Councillor D Armstrong, Coddington Parish Council spoke against the application in accordance with the views of Coddington Parish Council, as contained within the report.

Members considered the application, the local Ward Member commented that the proposal was not in keeping with the area and the design was overbearing on the neighbours. Other Members commented that whilst this was a very large property on a relatively small plot, the property could not be seen from the entrance to Old Hall Gardens and would not have an impact on light or amenity to the neighbouring property.

A vote was taken and lost for refusal with 6 votes For, 7 votes Against and 2 Abstentions.

A Member suggested that as the committee may be minded to approve the application a condition be placed on the garage to remain a garage, that permitted development rights be removed and that construction deliveries be after 9am. The Director – Growth and Regeneration confirmed that the removal of permitted development rights and an additional condition regarding the garage was acceptable; the condition for deliveries given that this was a domestic dwelling was unreasonable.

AGREED (with 8 votes For, 6 votes Against and 1 Abstention) that full planning permission be approved subject to the conditions contained within the report, the removal of permitted development rights and the additional condition for the garage to only be used as a garage.

111 THE BUTTERMARKET, BETWEEN 27 AND 28 MIDDLE GATE, NEWARK (19/01410/FUL)

The Committee considered the report of the Business Manager – Planning Development, which sought the alterations and conversion of units 4, 9, 10 and 11 to form a single unit; blocking up of window and door on Chain Lane; Re-design of shopfront on Middlegate. Change of allowable uses within the building to incorporate use A1, A2, A3, B1, D1 and D2.

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

Members considered the application acceptable.

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

112 THE BUTTERMARKET, BETWEEN 27 AND 28 MIDDLE GATE, NEWARK (19/01411/LBC)

The Committee considered the report of the Business Manager – Planning Development, which sought alterations and conversion of units 4, 9, 10 and 11 into a single unit including demolition of internal partitions and centralising of incoming services along with all required strip out; new opening into mall area; new floor levels within units; tanking and damp proofing works to basement and creation of extract ducting through the building; block up window and door to Chain Lane and re-design of shopfront to Middlegate.

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

Members considered the application acceptable.

AGREED (unanimously) that Listed Building Consent be granted subject to the conditions contained within the report.

113 BLIDWORTH COMMUNITY LEISURE CENTRE, BLIDWORTH (19/01489/FUL)

The application was withdrawn from the agenda.

114 7 ALLENBY ROAD, SOUTHWELL (19/01648/FUL)

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of a single storey side extension, installation of dropped kerb and erect new pedestrian gate to side.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from Southwell Town Council, which had agreed unanimously to no objection to this application.

Members considered the application acceptable.

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

115 MILESTONE, SARACENS HEAD HOTEL, MARKET PLACE, SOUTHWELL (14/00152/LBC)

The Committee considered the report of the Business Manager – Planning Development, which sought to demolish disintegrated Milestone at Saracens Head Hotel and replace with a replica.

Members considered the application acceptable.

AGREED (unanimously) that Members confirmed that they were minded to approve the application subject to referral to the Secretary of State and subject to the conditions contained within the report.

116 APPEALS LODGED

AGREED that the report be noted.

117 APPEALS DETERMINED

AGREED that the report be noted.



118 EXCLUSION OF THE PRESS AND PUBLIC

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

Meeting closed at 6.18 pm.

Chairman

## PLANNING COMMITTEE – 5 NOVEMBER 2019

<b>Application No:</b>	<b>19/01615/RMA</b>	
<b>Proposal:</b>	<b>Reserved matters application for erection of 3 No. dwellings seeking approval of appearance, landscaping, layout and scale (Outline Application 17/00383/OUT)</b>	
<b>Location:</b>	<b>Brooklyn, Lower Kirklington Road, Southwell</b>	
<b>Applicant:</b>	<b>Mr Peter Burrows, Twyford Estates Ltd</b>	
<b>Agent:</b>	<b>Mr Matt Hubbard, The Planning Hub</b>	
<b>Registered:</b>	<b>5<sup>th</sup> September 2019</b>	<b>Target Date: 31<sup>st</sup> October 2019</b>
	<b>Extension of time agreed until 6<sup>th</sup> November 2019</b>	
	<b>Link to application: <a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage</a></b>	

**This application is before the Planning Committee for determination as Cllrs Malcolm Brock and Peter Harris have called this application before committee given previous Member involvement and the Town Council concerns which differ from the officer recommendation as well as the concern that the dwellings are still large.**

### The Site

The site comprises a modern chalet style bungalow (Brooklyn, the host property) set well back from Lower Kirklington Road and its extensive mature garden. The site is bound largely by mature hedgerows and there are a number of trees within the site, forming a wild orchard setting. The land rises gradually from the road and falls away again towards the south of the site.

Vehicular access to Brooklyn is currently taken from the eastern side of the frontage on Lower Kirklington Road which leads to a gravel driveway and plenty of off-street parking for the existing dwelling. Brooklyn has some outbuildings attached to its western side and there is a pergola/covered structure adjacent to its eastern side.

There is a dyke to the south of the southern site boundary. The site lies in flood zone 1 and is not identified as an area prone to surface water drainage issues on the Environment Agency maps.

There is a mix of housing styles and types in the vicinity of the site, including both single and two storey development. Franklyn to the south-east is a property similar in design and style to Brooklyn whereas the new two storey dwelling constructed adjacent to Benaigh is contemporary in design and scale.

## Relevant Planning History

**17/00383/OUT** – Outline permission was sought for the erection of 3 dwellings with just the means of access open for consideration. All other matters were reserved. It was recommended for approval by officers but refused by the Planning Committee on 9<sup>th</sup> May 2017 for the following summarized reasons:

- That the site was green field and brown field sites should be developed first where we can demonstrate a 5YHLS
- Loss of green character, removal of trees, loss of ecological habitat and piecemeal approach would have detrimental impact upon the character and appearance of this part of Southwell
- Proposal for 3 units with substantial plots would not deliver the smaller house types that Southwell requires as identified by Policy SoHN1

**APP/B3030/W/17/3179351** – This refusal was subject to an appeal which was allowed on 17<sup>th</sup> January 2018 subject to 13 conditions.

**18/01337/RMA** – ‘Reserved matters application for the erection of 3 dwellings. Approval sought for the design, siting, scale and layout. Approved reference 17/00383/OUT.’ Refused as recommended by the Planning Committee in November 2018 for the following summarized reason:

- Proposal does not represent an appropriate mix of dwellings to meet the identified local need for the Southwell Area given that the proposed units are more akin to 5 and 6 bedroom dwellings given their significant sizes and that there is an upstairs study in all three plots capable of being used as a bedroom. As such these plots are unlikely to cater for the most needed types of houses, rather they are the least needed type of accommodation in the locality and do not offer an appropriate mix to meet the identified need. The proposal is therefore contrary to the Development Plan.

**APP/B3030/W/19/3220206** - An appeal was lodged against this decision, which was **dismissed** on 9<sup>th</sup> July 2019. The main issue was identified as housing mix. The inspector agreed with the Council that to all intents and purposes the appellant had advanced a scheme for 2 x 5 bed and 1 x 6 bed dwellings which were the least needed size and consequently it failed to provide dwellings of a size that are most needed in the area. This forms an **Appendix** to this report.

**19/00084/RMA** - Reserved matters application for the erection of 3 dwellings. (Resubmission). Recommended on balance for approval but refused by Planning Committee, March 2019 for the following summarised reason:

- The dwellings proposed are considered to be of such a size and scale (in that they are all substantial dwellings) that could too easily be utilised and/or converted to larger units than their purported 2 x 4 bedrooms and 1 x 5 bedroom dwelling status, that they would not meet the identified housing need for the Southwell area. These dwellings are unlikely to cater for the most needed types of houses and do not offer an appropriate mix to meet the identified need.

## The Proposal

Reserved matters approval is sought for 3 dwellings on this site where outline permission has been granted upon appeal. Matters to be considered are the appearance, landscaping, layout and scale.

All 3 dwellings are two storey and detached and set out in a linear arrangement of development in depth served off a private access drive from Lower Kirklington Road.

### **Plot 1**

At ground floor an open plan kitchen, sitting and dining room, utility, separate lounge, snug, cloakroom, porch and hall are proposed whilst at first floor 3 bedrooms (1 with dressing room and en-suite, the other 2 with access to 'Jack and Jill' en-suite) are proposed. A double garage is proposed which is attached to the dwelling via the single storey utility link.

### **Plot 2**

At ground floor an open plan kitchen, sitting and dining room, utility, separate lounge, snug, cloakroom, store and hall are proposed whilst at first floor 4 bedrooms (1 with dressing room and en-suite, 1 with just en-suite) bathroom are proposed. A double garage is proposed which is attached to the dwelling via the single storey utility link.

### **Plot 3**

At ground floor an open plan kitchen, sitting and dining room, separate lounge, snug/media room, home office, cloakroom, utility and hall are proposed whilst at first floor 4 bedrooms (1 with dressing room and en-suite, 1 with just en-suite) and a bathroom are proposed. A double garage is attached to the dwellings.

The application is accompanied by the following plans:

- Drawing No. 692-04 (Site Layout and Location Plan Scheme Design)
- Drawing No. 692-01 (Plot 1 Scheme Design)
- Drawing No. 692-02 Rev A (Plot 2 Scheme Design)
- Drawing No. 692-03 (Plot 3 Scheme Design)
- Drawing No. 692-05 (Site Access Showing Visibility Splays)
- Planning Statement, by The Planning Hub

## Departure/Public Advertisement Procedure

Occupiers of 19 properties have been individually notified by letter. A site notice has also been displayed near to the site giving an overall expiry date of 7<sup>th</sup> October 2019.

## Planning Policy Framework

### The Development Plan

### **Neighbourhood Plan**

Policy SD1 – Delivering Sustainable Development  
Policy E1 – Flood Risk Assessments and Mitigation  
Policy E2 – Flood Resilient Design  
Policy E3 – Green Infrastructure and Biodiversity  
Policy DH1 – Sense of Place  
Policy DH2 – Public Realm  
Policy SS4 – SO/HO/4 – Land east of Kirklington Road

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 6 – Infrastructure for Growth  
Spatial Policy 7 - Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 -Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character

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

Policy So/Ho/4 – Southwell – Housing Site 4  
Policy So/HN/1 – Southwell Housing Need  
Policy So/PV – Southwell Protected Views  
Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM2 – Development on Allocated Sites  
Policy DM4 - Renewable and Low Carbon Energy Generation  
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
- Publication Core Strategy
- Appeal Decision APP/B3030/W/17/3179351

### **Consultations**

#### **Southwell Town Council – Object:**

“Southwell Town Council considered application 19/01615/RMA Brooklyn Lower Kirklington Road and agreed unanimously to object to this application for the following reasons:

The houses are marginally smaller but there are still no plans for the treatment of the surface water.

The previous comments still apply, as below:

The conditions of appeal must be applied in particular the treatment of foul and surface must be submitted and approved in writing.

Policy E1 Flood Risk Assessments and Mitigation and Policy E2 Flood Resilience Design- The data used in the Flood Risk assessment is out of date.

There are no plans for the treatment of surface water and these must be submitted in writing and permission should not be granted without this, it should be remembered that this location can negatively impact on flooding downstream.

In the original application (17/00383/OUT), there was an unjustified assumption that ground drainage was suitable despite the fact that no percolation tests had been carried out. These are essential for proving the case for ground drainage.

The designs increase the Massing edge of the town.

The view of the planning inspectorate should be observed regarding the information required”

**NCC Highways Authority** – 26.09.2019: ‘The details submitted on drawings 692-04 and 692-05 are sufficient to discharge the highway-related condition 5 of planning permission 17/00383/OUT.’ They then recommend a note to application which has been repeated verbatim in informative no.2.

**Southwell Civic Society** – No response received.

**NSDC Tree Officer** – “Proposed soft landscaping comprise of only a limited mix of 3 species with no details of size at planting. Recommend increased biodiversity and minimum size of 12-14cm girth containerised root stock. Tree protection/support mechanisms should be defined. No species are defined beyond hawthorn in the hedgerow plantings. Again biodiversity should be increased and size/density of planting and protection measures defined.”

**NCC Lead Flood Authority** - The above application makes reference to housing style and size only as part of an application that already has outline permission and as such we have no further comments to make.

**STW** – No response but commented on the previous application (31/07/2018) the following:

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

#### Suggested Informative

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

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

**Trent Valley Internal Drainage Board** – make general comments.

Two representations have been received from local residents/interested parties summarized as follows:

- Concern at the proposal to remove and cut down to 2.4m the existing substantial natural screen on and close to the existing boundary of this land with Avondale Lane. The proposal will remove existing natural screening and make it very open with the new houses being very visible above (and initially through) the new hedge and the whole area opened up, less private and more urbanised. I would like to see a condition that requires the existing natural screening to be retained at a height and density that would provide more suitable and better screening than is currently proposed to minimise the impact of this new development on the fringe of the town and the countryside.
- Concern that these mature trees and hedge may be lost. Not only would that have a considerable adverse impact on the visual aspect of the area, it would also have an impact on the wild life, in particular the bird population. There does not appear to be any reason to destroy this habitat and I would have thought that leaving it place would enhance the aspect of the new properties. I would therefore request that the planning consent stipulates that the boundary trees and hedge be retained.

### **Comments of Business Manager**

#### Introduction

The site history section sets out that this site has a history of refusals where the committee has been decision maker.

In summary, outline permission for 3 detached dwellings was allowed on appeal and since that time, two reserved matters have been submitted and refused on the grounds that the size of the units being proposed would not meet the housing needs for the area. An appeal against the first of these refused reserved matters applications was recently dismissed with the Inspector agreeing that whilst we wouldn't be able to secure smaller two bedroom units, the 2 x 5 bedroom and 1 x 6 bedroom units proposed would not provide an appropriate mix to meet the needs either. This scheme therefore represents a third attempt to achieve reserved matters approval for the site.

The report that follows is largely a repeat of matters previously considered by this Committee with relevant updates where necessary given the scheme in other respects remains similar to its predecessors.

The appeal decision and previous refusals have limited the scope of issues upon which the Council can reasonably take issue with. In my view the key issue for Members is the housing need and mix which is the only remaining issue between parties, unless of course new issues arising from the amended scheme can be identified. I have found no such new issues. However I would flag the neighbour concerns regarding the southern boundary hedge which I have addressed in the trees and ecology section.

## Principle of Development

Outline planning permission has already been granted for the erection of 3 dwellings with just the means of access having been considered. As such the principle for housing at this quantum is already established through an extant permission and this is not a matter that can be revisited by this reserved matters application.

However as other matters (scale, appearance, layout and landscaping) were reserved, the Council is entitled to assess these against the Development Plan, which is the starting point for decision making along with any other relevant material planning considerations, including the previous appeal decision on this site. I therefore make an assessment of the relevant issues below.

## Housing Need and Mix

Members will recall that this matter was the main issue in dispute when the previous two reserved matters application were considered and subsequently refused by Committee in November 2018 and the in March 2019.

Core Policy 3 of the adopted Development Plan states that the LPA will seek to secure new housing which adequately addresses the local housing need of the district, namely family housing of 3 bedrooms or more, smaller houses of two bedrooms or less and housing for the elderly and disabled population. It goes on to say that the 'District Council will seek to secure an appropriate mix of housing to reflect local housing need' and that 'Such a mix will be dependent on the local circumstances of the site, the viability of the development and any localised housing need information'.

In addition to CP3 of the Core Strategy, Policy SO/HN/1 of the Allocations and Development Management DPD sets out that within Southwell, subject to local circumstance and the viability of the development, the majority of new housing on allocated and windfall sites shall be one or two bedroom units in line with the identified housing need.

I have carefully considered the appeal decision which allowed the outline scheme and I acknowledge that the Policy SO/HN/1 was considered by the Inspector to be somewhat outdated being based on 2011 evidence. However I also note that housing mix is a reserved matter (given that layout and appearance were reserved) and it is right and proper that this matter is assessed as part of the reserved matters submission. The applicant's advisors previously disputed this albeit the most recent appeal decision from July 2019 makes clear (at paragraph 11) that it is completely appropriate to consider mix as a reserved matter.

It is clear to me from the 2 appeal decisions relating to this site, which are material to your decision, that the Council is not going to achieve smaller two bedroom dwellings on this site. Indeed paragraph 8 of the July appeal decision states:

*"...As such he [the appeal inspector granting outline consent] that, on this site, one and two bedroom dwellings were not appropriate and a proposal for dwellings of three or more bedrooms did not conflict with the more recent Policy CP3 of the Core Strategy. I concur with this view and accept the principle of dwellings with three or more bedrooms at this site."*

Bearing all this in mind, I once again draw upon the most up to date evidence of the housing need in Southwell which is contained within the Housing Needs Survey Sub Area Report 2014 by DCA.



This provides that in the Southwell Sub Area (where this site falls) the most needed type of accommodation are 2 beds (37.9%) followed by 4 beds (33%) followed by 3 beds (16.3%) followed by 1 beds (10.1%) and finally five or more beds (2.7%). It confirms that *'In the market sector the main size of property required by both existing and concealed households moving is two bedrooms.'*

Turning now to this revised scheme, it is worthwhile setting out how this differs from the previously refused (and dismissed at appeal) reserved matters application (RMA).

- Plot 1 – Previously this proposed a large 4 bedroom dwelling including 2 en-suites, dressing room and study. The Inspector agreed this was tantamount to a 5 bedroom dwelling in size. This scheme proposes a genuine **3 bedroom dwelling** with double garage.

### Dismissed Scheme

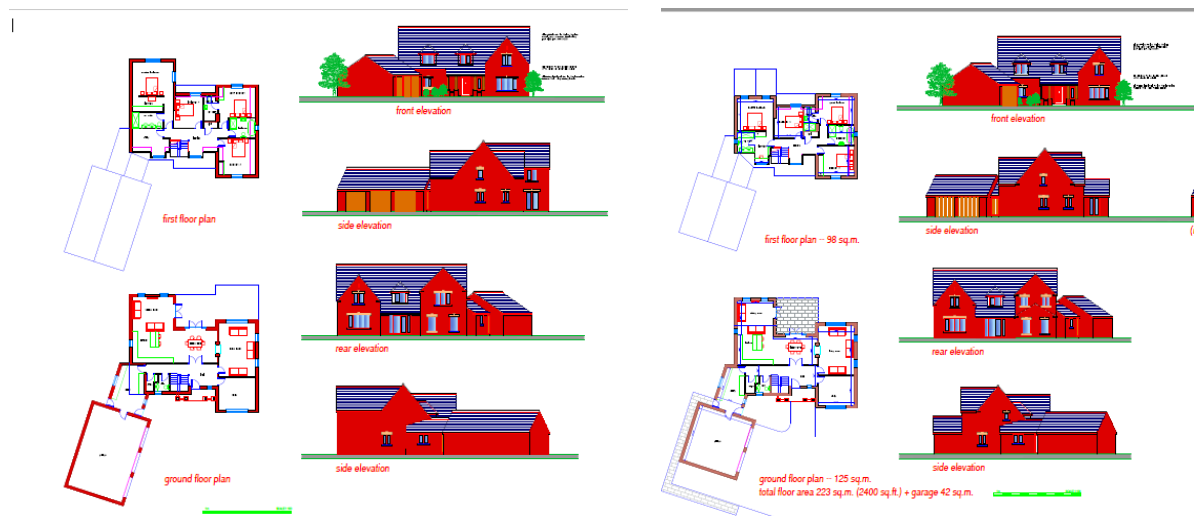
### Current Scheme



- Plot 2 – Previously was the same as plot 1. This proposal is for a large **4 bedroom dwelling** with en-suites; the main change being the reduction from triple to a double garage.

### Dismissed Scheme

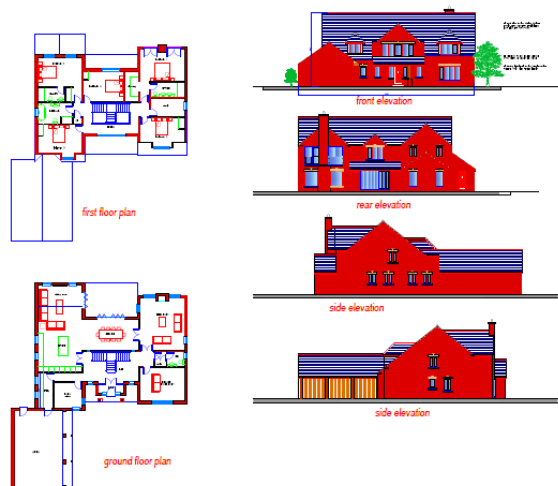
### Current Scheme



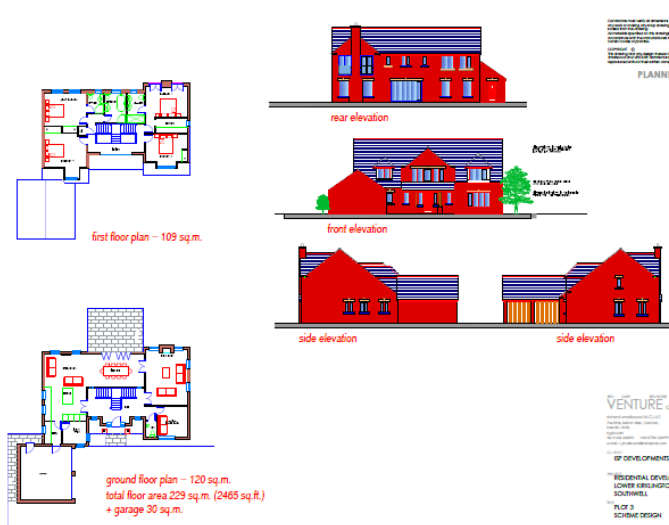
- Plot 3 – Previously this proposed a large property with 5 bedrooms (2 en-suites) bathroom, study as well as generous living accommodation and a triple garage. The Inspector agreed

that this was tantamount to a 6 bedroom dwelling. This proposal **reduces the bedrooms to 4**, losing 1 of the en-suites and the reduction in garage size from triple to double.

### Dismissed Scheme



### Current Scheme



I am of the firm view that it isn't possible to insist on smaller houses on the site. The scheme advanced is 2 x 4 bedroom dwellings; the second most required type in the district and 1 x 3 bedroom dwelling, which is the third most needed type. I am satisfied that the internal layout is such that these are likely to be marketed as what they purport to be and that these rooms would be difficult to subdivide further to create additional bedrooms. Therefore I consider that the mix is now acceptable and the best it could be in the circumstances. In making this assessment I, like the Inspector (see paragraph 9 of the appeal decision- Appendix) have based my assessment on the number of bedrooms (as opposed to floorspace) as the main issue. However for completeness the overall floorspace has also been reduced which the table below seeks to illustrate.

Plots	18/01337/RMA Refused/Dismissed at Appeal	19/00084/RMA Refused	Current Scheme
Plot 1	297m <sup>2</sup>	240.9m <sup>2</sup>	231m <sup>2</sup>
Plot 2	317m <sup>2</sup>	243.9m <sup>2</sup>	265m <sup>2</sup>
Plot 3	363m <sup>2</sup>	315.8m <sup>2</sup>	259m <sup>2</sup>
Overall floorspace (approximate)	977m <sup>2</sup>	800.6m <sup>2</sup>	<b>755m<sup>2</sup></b>

Given the specific circumstances that have led to this recommendation, I suggest that permitted development rights are removed such that the dwellings are not increased in size further (thus significantly affecting the housing need and mix) without a further grant of planning permission.

I do not consider that this sets a precedent for other sites in Southwell given the particular circumstances of this case.

## Design and Appearance

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. The Southwell Neighbourhood Plan (SNP) also reflects this. The NPPF, as revised, states that a high standard of design is a key aspect of sustainable development and that new development should be visually attractive as a result of good architecture and appropriate landscaping.

The application is set behind the host dwelling known as Brooklyn with Plot 1 being a considerable distance from the back edge of the footpath and the other plots being even further back into the site. As a result of their set back and context these units will not be readily visible from the public realm. This type of development in depth is evident on the adjacent site (Avondale Lane) and as far as I can see is the only way in which the site could be developed for 3 units but in any case I consider that it would not be alien to the character, appearance or grain of the area. The design and appearance of the 3 dwellings is acceptable and they accord with the identified policies in this regard. The facing materials are noted on the drawings and I find that the materials are acceptable for the context which are sufficient to satisfy Condition 6 of the outline consent.

## Impact on Residential Amenity

Impact on amenity is a long standing consideration of the planning process and relates both to the impact on existing development as well as the available amenity provision for the proposed occupiers. Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. In addition consideration should be given to the potential for crime and anti-social behaviour. The NPPF seeks to secure a high standard of amenity for all existing and future occupants of land and buildings.

There are existing dwellings to the east (Brooklyn – the host dwelling) and to the east of the application site; (north to south) Franklyn, 2 Avondale Lane, a currently unnamed property and Benaiah. Having assessed the impact of the dwellings upon the existing dwellings I find that there would be no adverse impact that would lead to a loss of unacceptable loss of privacy through overlooking, overshadowing or overbearing. Where there are windows at first floor level facing the neighbouring site, these serve non habitable rooms to avoid overlooking (a matter to be conditioned) and the applicant has been careful to align the dwellings to avoid overbearing and overshadowing impacts. I am therefore satisfied that the scheme accords with DM5 of the Development Plan.

## Highway Impacts

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

Condition 5 of the outline consent granted on appeal states:

*Notwithstanding condition 4 (the plan condition), details submitted pursuant to the application for approval of reserved matters consent shall include the following which the development shall be carried out in accordance with:*

- i) Minimum access of 4.8m for the first 10metres behind the public highway boundary (with an additional 0.5m if bounded by a wall, fence or hedge; 1m if bounded on both sides).*
- ii) A dropped curb crossing of the existing footway;*
- iii) Visibility splays in accordance with the County Council's current Highway Design Guide. (It is noted that splays of 2.4mx65m to the south-east and 2.4m x 140m to the north east are submitted as being available and if achieved these are acceptable).*

NCC advise that the drawings submitted satisfy this condition. On this basis there is no highway safety issues associated with the scheme.

Each of the dwellings propose a double garage and parking in front of these such that there would be adequate off-street parking provision provided for the units.

### Tree and Ecology Impacts

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

The application site boundaries comprise mature vegetation which currently offers a robust level of screening to neighbours as well as offering benefits through retaining trees and habitat. As with the previous schemes, the block plan shows that 3 trees would need to be removed to accommodate Plot 1, 2 trees would be removed to accommodate Plot 2 and 7 trees would be lost to make way for Plot 3. For the access a number of smaller trees would need to be removed.

The Tree Survey submitted as part of the outline application identifies that most of the trees within the site are of a C (low quality and value but could be retained) and U (trees considered to have no landscape value but with no overriding need for removal) grade. Only two trees were identified as B graded trees, being a Sycamore near the site frontage which appears to be retained and an Ash tree to the southern part of the site. B graded trees are considered desirable to retain and of a moderate quality and value.

The Ash tree (T16) appears to be one of the 7 lost to accommodate Plot 3, which is categorized as of reasonable quality with a good life expectancy and was suggested as being retained if possible in the Tree Survey. As I previously concluded, the loss of this tree is therefore regrettable, especially in the context that a smaller unit here may have avoided the loss of this tree. However I am also mindful that the tree would grow and dominate this part of the site such that in the longer term, there may have been pressure to remove this in any event such that I again conclude that this should not be a barrier to development in itself.

The Tree Survey does not include the hedgerow or vegetation to the eastern boundary but I note that it is shown as being retained. The garages of the plots are slightly further away now from the boundary hedge and I am satisfied that the distance is likely to be adequate to ensure that vegetation remains along these boundaries.

Condition 7 of the outline consent requires details of the hard and soft landscaping to be submitted before development can commence. Details are shown on the layout plan. The previous

scheme showed 2 species of tree which was increased to 3 upon request and more space was given for growth. This was considered acceptable previously, subject to a condition that dealt with the tree size and root stock being containerized and between 12-14cm in girth. I note that the tree officer has requested more biodiversity for the hedgerow to the southern boundary. As this is essentially gapping up an existing hedge with an appropriate species I do not consider that this is necessary as the existing hedge is already diverse and in my view the submission is sufficient to part discharge Condition 7 of the outline consent.

I note the concerns of the two neighbours regarding the possible loss of the southern hedgerow. This is shown to be retained on the plans which states that the existing hedge is to be layered down to 2.4m in height for its full length and gapped up to achieve full hedge. Condition 7 of the outline consent requires that measures to protect retained hedgerows need to be provided and no specific details with regards the density or species to be utilized within the hedge have been provided. This would need to be submitted as an application to discharge outstanding elements of Condition 7 of the outline permission and no further condition is required in my view. I note that there is concern that the hedge would be reduced to 2.4m in height. In my view this height is appropriate for a sensible and good management of the hedge whilst retaining a good level of screening.

In terms of ecological impacts, these were assessed at outline stage and measures to mitigate any harm to bats and breeding birds were subject to conditions at outline stage as well as enhancement measures. I am therefore satisfied that there would be no unacceptable harm to the ecological value of the site.

### Flood Risk Impacts

Policy E2 of the SNP states that development proposals requiring a flood risk assessment must be designed to avoid increasing the risk of flooding both on and off site. The proposed development is located in Flood Zone 1 in accordance with Environment Agency mapping and the type of development does not necessitate the need for a Flood Risk Assessment. In addition the site is not considered to be at high risk of surface water flooding. I note that Condition 9 of the appeal decision requires that a scheme for foul and surface water disposal needs to be submitted before development can be commenced. This is therefore a matter for a discharge of condition application to consider rather than the reserved matters application.

### Conclusions

The principle of developing 3 dwellings on this site is established through the extant outline permission. I am satisfied that the scheme is acceptable in terms of residential, amenity and ecology. It is regrettable that one of the better trees is to be removed to make way for Plot 3 but overall I consider that this should not form a reason for refusal, particularly as it did not previously. In terms of the impact upon the highway, information to satisfy the planning condition imposed by the Inspector has been provided and the Highways Authority raise no objection. Measures to retain, gap up and protect the southern boundary hedgerow are already in place in the form of Condition 7 of the outline consent.

Taking into account the previous appeal decisions, I do not consider that the Council is able to secure any 2 bedroom dwellings on the site. A mix that better reflects the housing needs of Southwell has been offered comprising 2 x 4 bedroom units (the second most needed type) and 1 x 3 bedroom dwelling which is the third most required type of accommodation. Whilst these

dwellings remain on the large size, I am satisfied that the internal configuration of the house types is such that these dwellings will be offered to the market as what they purport to be and thus meet the identified need. I therefore conclude that this mix is now acceptable in this particular case, taking into account the specific appeal decision which is material to your decision making.

## **RECOMMENDATION**

**That reserved matters approval is approved subject to the conditions set out below:**

### Approve

01

The development hereby permitted shall not be carried out except in accordance with the following approved plans, reference(s)

- Drawing No. 692-04 (Site Layout and Location Plan Scheme Design)
- Drawing No. 692-01 (Plot 1 Scheme Design)
- Drawing No. 692-02 Rev A (Plot 2 Scheme Design)
- Drawing No. 692-03 (Plot 3 Scheme Design)
- Drawing No. 692-05 (Site Access Showing Visibility Splays)

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

Reason: So as to define this approval.

02

The proposed trees to be planted as shown on drawing number Drawing No. 692-04 (Site Layout and Location Plan Scheme Design) shall be containerised specimens of between 12-14cm in girth unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt, to avoid the applicant from having to apply for a discharge of condition application and to ensure that Condition 7 of outline consent 17/00383/OUT is fully discharged.

03

The first floor windows on the southern elevation of Plots 1 and 2 (serving en-suites) shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

04

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

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

Class C: Any other alteration to the roof of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse.

Unless consent has firstly be granted in the form of a separate planning permission.

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) given the substantial scale of the dwellings approved and that these were approved in order to meet an identified housing need/mix.

#### Notes to Applicant

01

It should be noted that the conditions imposed on the outline permission (our reference 17/0383/OUT) remain relevant and where necessary must be discharged before development can commence on site.

02

The development makes it necessary to construct, alter or improve a vehicular crossing over a footway/verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Agent, Via East Midlands to arrange for these works to be carried out. Email: [licences@viaem.co.uk](mailto:licences@viaem.co.uk) Tel. 0300 500 8080 and further information at:

<https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities>

03

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

04

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

05

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

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

#### BACKGROUND PAPERS

Application case file.

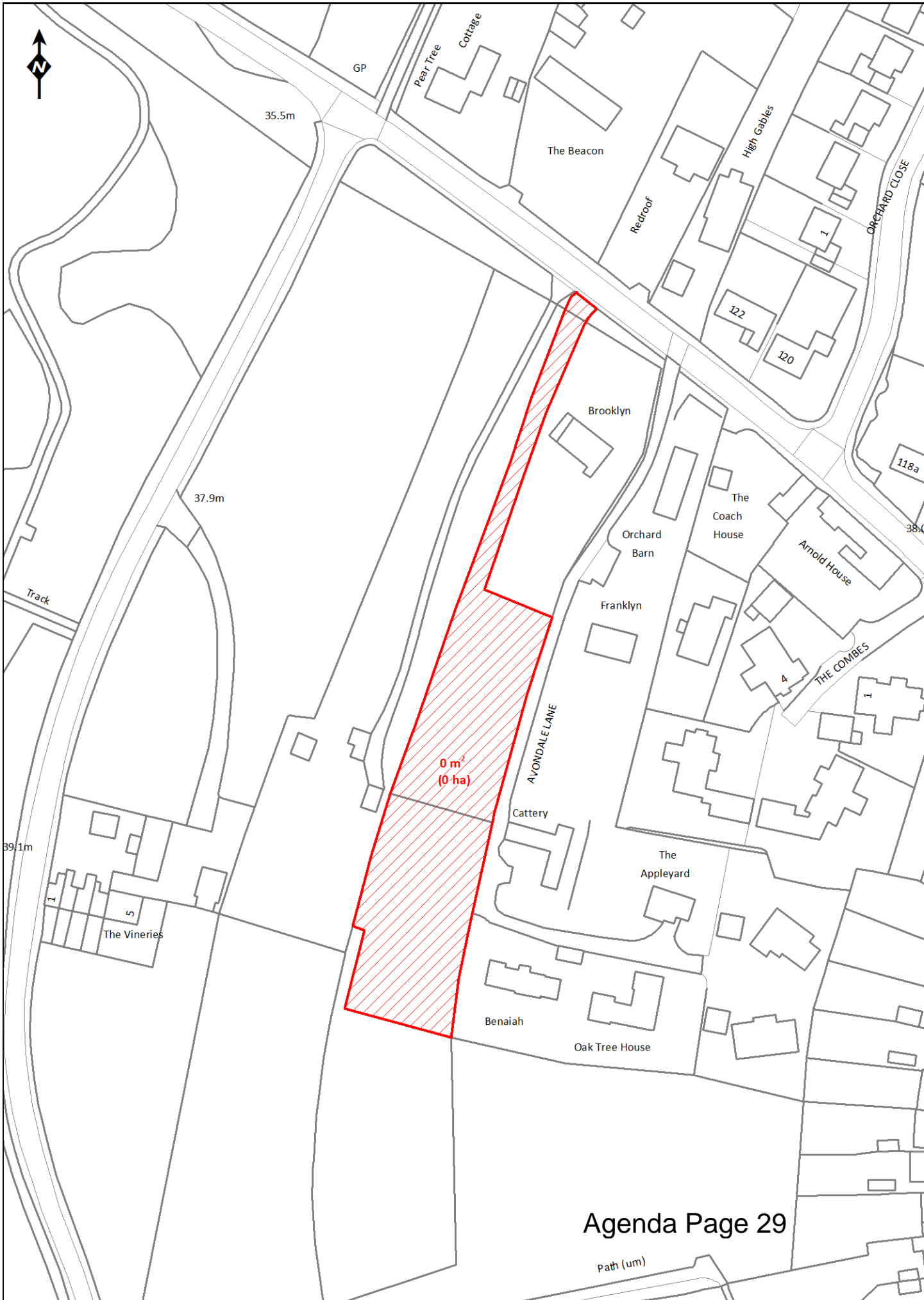
For further information, please contact Clare Walker on ext 5834.

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

**Lisa Hughes**  
**Business Manager – Planning Development**



Committee Plan - 19/01615/RMA





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## Appeal Decision

Site visit made on 20 May 2019

by **E Symmons BSc (Hons), MSc**

an Inspector appointed by the Secretary of State

Decision date: 09 July 2019

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### Appeal Ref: **APP/B3030/W/19/3220206**

### **Brooklyn, Lower Kirklington Road, Southwell NG25 0DZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant subject to conditions of consent, agreement or approval to details required by a condition of planning permission.
  - The appeal is made by Mr Peter Burrows (Twyford Estates Ltd) against the decision of Newark & Sherwood District Council.
  - The application ref 18/01337/RMA, dated 13 July 2018, sought approval of details pursuant to condition No 1 of appeal ref APP/B3030/W/17/3179351, granted on 17 January 2018.
  - The application was refused by notice dated 7 November 2018.
  - The development proposed is the erection of three dwellings.
  - The details for which approval is sought are: appearance; landscaping; layout and scale.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The original planning application was in the name of ISP Developments Ltd however, the appeal is in the name of Twyford Estates Ltd. The original applicant has authorised Twyford Estates Ltd to continue on their behalf and this has been reflected within the banner heading.
3. The Council references Policy HE1 the Southwell Neighbourhood Plan 2016 however, also state that this policy only applies to developments of 11 or more dwellings. As such I have given this policy no further consideration within this appeal.
4. Since the refusal of these reserved matters the Council has adopted the Plan Review Amended Core Strategy<sup>1</sup> (Amended Core Strategy). Core Policy 3 of the Amended Core Strategy reflects the same policy context as the superseded Newark and Sherwood Core Strategy 2011 (Core Strategy) Policy CP3. I therefore do not consider that this has prejudiced the appellant's case.

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<sup>1</sup> Plan Review. Review of the Newark and Sherwood Local Development Framework Core Strategy and Allocations. Adopted March 2019.

## **Background and Main Issue**

5. This proposal was granted outline planning permission following an appeal reference APP/B3030/W/17/3179351. The main issues within that appeal were whether the location complied with the development plan, whether the appropriate housing need was being delivered and the proposal's effect upon the character and appearance of the area. The appeal was allowed and outline planning permission granted with matters of appearance, landscaping, layout and scale reserved. The subsequent application for the reserved matters was refused as the Council consider the size of the proposed dwellings. with respect to the number of bedrooms, inappropriate to achieve the desired housing mix. The main issue in this appeal is therefore the effect of allowing the reserved matters on the housing mix of the area.

## **Reasons**

6. Accessed from Lower Kirklington Road, the appeal site consists of a detached bungalow with a large rear garden. The garden is bounded by mature hedging and there are trees throughout the site. The three consented dwellings would be situated in the rear part of this garden, accessed by a newly constructed road running along the north west edge of the host property.
7. The Inspector who allowed the proposal subject to reserved matters commented fully upon housing need in the District and in Southwell. He acknowledged the dual District wide need for houses with two or less and three or more bedrooms. Within Southwell itself, he referenced Policy So/HN/1 of the Newark and Sherwood Allocations and Development Management Development Plan Document 2013 (DPD) which also favours one or two bedroom units. As the properties were three bedroom plus, he therefore concluded that the development would conflict with Policy So/HN/1 of the DPD. However, the Inspector considered this policy was based upon figures of some age and this conflict was outweighed by more recent housing need data contained within the Housing Market Needs Sub Area Report 2014 (Sub Area Report).
8. The Sub Area Report identifies a greater need within Southwell for properties with three or more bedrooms. As such he concluded that, on this site, one and two bedroom dwellings were not appropriate and a proposal for dwellings of three or more bedrooms did not conflict with the more recent Policy CP3 of the Core Strategy. I concur with this view and accept the principle of dwellings with three or more bedrooms on this site.
9. The dwellings on Plots 1 and 2 have been annotated as having four bedrooms and Plot 3, five bedrooms. All three dwellings would also have an upstairs study and there is disagreement between the parties as to whether these could function as an extra bedroom. There is also disagreement regarding the floor area of the proposed dwellings however, I have limited my assessment to the number of bedrooms as this is the main issue in this appeal.
10. I have considered the size of the studies and the general layout of the proposed dwellings. The plans initially submitted with the reserved matters were revised following advice from the Council on the acceptable number of

bedrooms. For Plots 1 and 2, initial plans (580-02 and 580-01 both Rev C) showed five upstairs bedrooms and a downstairs study. This was altered in revised plan (Rev E) to show four bedrooms plus a study upstairs and the downstairs study replaced by a snug. Plot 3, initial plan (580-03 Rev E) showed six upstairs bedrooms with a downstairs study. This was altered (Rev-G) to show five bedrooms and a study upstairs with a further office downstairs plus a snug. On all three plots, the upstairs study appears to be large enough to function as a bedroom. Although this use may not be the intention of the appellant, it would be difficult to prevent future occupiers using the additional upstairs room as a bedroom. I therefore conclude that the proposed dwellings are to all intents two five bedroom and one six bedroom dwellings.

11. The appellant contends that the conditions imposed on the allowed appeal did not include any limitation upon the number of bedrooms. Additionally, the term 'scale' which is included within the reserved matters, does not relate to housing mix. However, I disagree with this assessment. Paragraph 023 of the National Planning Practice Guidance<sup>2</sup> (NPPG) states that scale relates both to the 'overall size and mass of individual buildings ... and to the scale of their parts'. If scale refers to the size of the proposed dwellings, and its parts, I consider this relates to the internal size and layout and so the number of bedrooms. As such I consider the housing mix to be relevant to the scale of the development.
12. The appellant draws my attention to the original officer report for the planning application with a recommendation to committee to grant. This refers to the site's potential for three, four or five bedroom dwellings. The proposals however, include one potentially six bedroom dwelling which appears to exceed the expectations of the officers when making this recommendation.
13. The appellant draws my attention to Paragraph 60 of the Framework which suggests departure from the local housing needs assessment in exceptional circumstances. The appellant contends that as outline planning permission has been consented and there are other large dwellings in the vicinity, these are exceptional circumstances. However, I do not consider that these factors amount to exceptional circumstances and therefore give this no weight. The appellant also considers that a development of this size should not be required to deliver dwellings to correspond with the housing need. No justification is given for this view and I give this argument little weight.
14. The Sub Area Report demonstrates need within the housing mix for 33% four bedroom houses, 16.3% three bedroom and 2.7% five plus bedroom. Within their reasoning the appellant amalgamates housing types concluding that 52% of new housing should have three or more bedrooms and that 35.7% should have four plus bedrooms. Although these figures are correct, they do not reflect the specific need with regard to five and six bedroom dwellings which is 2.7%. I therefore conclude that the effect of allowing the reserved matters on the housing mix of the area would be to provide dwellings of the least required size and fail to provide dwellings of a size

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<sup>2</sup> Reference ID: 26-023-20140306 Revision date: 06 03 2014

that are most needed in the district. This would conflict with Core Policy 3 of the Amended Core Strategy.

### **Other Matters**

15. I have considered the other reserved matters with regard to appearance and layout which I consider acceptable and this view is shared by the Council. I also note the comments of the Tree Officer with regard to the lack of soft landscaping details. Condition 7 of the consented scheme requires further information regarding hard and soft landscaping and includes a requirement for details of protection for retained landscaping. I believe this would allow these matters to be fully resolved at a later stage.
16. Third party representations have expressed concern regarding the suitability of the site for development due to its ecological value and the potential effect of additional housing on the character and appearance of the area. However, the principle of three dwellings on this site has already been established and is not before me.
17. I note the appellant's concerns regarding the way in which the planning application was handled by the Council. However, these are not matters for this appeal, which I have determined on its planning merits.

### **Conclusion**

18. This development would add to the housing supply in the area and the appeal site, as a windfall site, provides an opportunity to deliver this housing. However, the scale of the development conflicts with the delivery of an appropriate housing mix within the area.
19. For the reasons discussed above, and considering other matters raised, I dismiss the appeal.

*E Symmons*

INSPECTOR

## PLANNING COMMITTEE – 5 NOVEMBER 2019

<b>Application No:</b>	<b>19/00584/FULM</b>
<b>Proposal:</b>	<b>Proposed development of 52 residential units including associated infrastructure (resubmission of 17/00865/FULM)</b>
<b>Location:</b>	<b>Field Reference Number 0790, Top Street, Rainworth, Nottinghamshire</b>
<b>Applicant:</b>	<b>Chevin Homes Ltd – Mr D Stack, D &amp; J Parker &amp; P I King</b>
<b>Agent:</b>	<b>Chris Calvert – Pegasus Group</b>
<b>Registered:</b>	<b>22.03.2019</b> <b>Target Date: 21.06.2019</b>
	<b>Extension of time agreed in principle</b>
<b>Link to Application Documents:</b>	<b><a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a></b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation because the recommendation is contrary to the response received from the Parish Council.**

### The Site

The site is a 1.35 hectare roughly rectangular parcel of land situated on the northern side of Rainworth, within the defined urban boundary. The site measures approximately 200m long by an average of 75m wide but is wider to the west and tapers to the east. The northern boundary is defined by the main A617 dual carriage way (the Rainworth by-pass), the southern boundary is defined by existing residential development in Top Street and dwellings fronting Kirklington Road served by a private rear access (known as Garden Avenue) and informal parking/garaging facilities on its northern side.

To the east of the site is a recently built residential development (known as Davidsons development around Hayfields – this development has a children’s play area immediately adjoining the east boundary of this application site) and there are allotments to the west of the site. Existing boundaries are defined by post and rail fencing to the north and predominantly hedge and tree planting to the other boundaries. The sole vehicular access to the site is via Top Street which runs from Kirklington Road to the site and which currently forms a dead end. Top Street has 11 existing residential properties on either side, approx. 7 of which have off-street parking provision within their residential curtilage. The rest rely on existing on-street parking.

The main body of the site was previously undulating, grassed scrubland, sloping down from east to west with a gradual fall of approx. 11m. While in recent years there have been informal footpaths that traverse the site, construction of the approved scheme is now underway. The existing housing to the south of the site (Top Street and Kirklington Road) forming part of the layout of the original colliery village is locally listed. The site is also within the Impact Risk Zones of the Rainworth Heath

SSSI (Site of Special Scientific Interest) which is also a nature reserve (approx 0.5km to the north-west of the site) and Rainworth Lakes SSSI (approx. 0.8km to the south-west of the site). Closer to the site on its western side are two Sites of Interest in Nature Conservation (SINC). The site is within Flood Zone 1 according to the Environment Agency flood maps.

Rainworth is a Service Centre within the defined settlement hierarchy and has a range of facilities and acts as a focus for service provision for a large population and rural hinterland. The site is allocated for new housing development under Policy RA/HO/1 of the Allocations and Development Management DPD.

### Relevant Planning History

**17/00865/FULM:** Proposed development of 52 residential units including associated infrastructure – *permitted 07.11.2017; development has already commenced on the site.*

**18/02357/NMA:** Application for non-material amendment to planning permission 17/00865/FULM to allow removal of detached garages to plots 18, 19, 26 and 27, amendment to house types on plots 2,17,21 and 24 and to relocate front elevation 225mm forward and flush with adjacent attached house type - Proposed development of 52 residential units including associated infrastructure – *approved 17.01.2019*

### The Proposal

Full planning permission is sought for 52 dwellings and associated infrastructure. As approved in the original scheme and amended via a non-material amendment, this comprises:

- 18x two-bed houses (including 8x two-bed bungalows)
- 29x three-bed houses
- 5x four-bed houses.

The proposal provides a mix of detached, semi-detached and terraced houses which are all to be two-storey, but also includes eight bungalows. The development comprises 18x two-bed units, 29x three-bed houses and 5x four-bed houses. The eight two-bed bungalows are situated in the north-east corner of the site. The ridge heights of the dwellings vary between 7.6 and 8.1m in height with eaves levels consistently at 4.8m. The maximum ridge height of the proposed bungalows would be 5.7 metres. Although the external appearance of the houses may be described as traditional in terms of their overall mass, form, and principally being constructed from red brick, the choice of other materials creates a more contemporary appearance. Features include grey brick detailing around doorways; horizontal, composite timber cladding between ground floor and first floor windows and in 'feature' patches wrapping around the principal and side elevations at first floor level; black UPVC rainwater goods; and smooth grey roof tiles.

There are two main public open space areas within the development, one measuring approximately 320sq m and the other 765sq m, the latter of which acts as an extension to the play area on the adjacent recent housing development to the east and is joined to it by a footpath link. There is also a smaller informal open area just to the east of the junction with Top Street. There is an access link to the allotments to the west and a footpath link to the north-west corner of the site which joins the footpath that runs along the northern boundary of the site. There is a proposed planted buffer to the western and northern boundaries as well as along the majority of the southern boundary. There is already existing hedge and tree planting along the eastern boundary.

The northern boundary adjacent to the A617 also includes an acoustic reduction scheme, the detail of which is to be agreed.

The sole vehicular access to the site is proposed from Top Street. The submitted Transport Statement outlines how the carriageway of Top Street would be widened to a minimum of 5.5m and the footway widened to 2m along the eastern side of the road, within the highway boundary. The internal roadways provide a circular loop on the western side and a cul-de sac on the eastern sides. An internal roadway runs along the southern boundary of the site and potentially allowing for future access to the narrow strip of land to the rear of the houses fronting Kirklington Road, which is within the defined allocation site but has not been included within the red line of this application. The development is served by a combination of on-site and courtyard parking (2 spaces per 2/3 bed units and 3 spaces per 4 bed unit) as well as providing for 11 parking spaces in the south-east corner of the site for use by the occupiers of Top Street. There are 10 visitor spaces provided in the south-west corner of the site.

In a change to the existing approved scheme, as detailed above, this application is seeking to provide 100% affordable housing, compared to no affordable housing provision in planning application ref. 17/00865/FULM. The proposed development would be carried out by Dukeries Homes with Nottingham Community Housing Association (NCHA) as the Registered Provider for the affordable housing.

NCHA is aware of the strong local demand for affordable housing and view this site as ideal for a range of rented/rent to buy and low cost home ownership tenures in a range of house types from 2/3/4 bed houses and 2-bed bungalows. Discussions with NSDC agreed the mix and tenure, while suitable funding has been agreed with Homes England to deliver a high quality affordable rent and sale sustainable community. The tenure mix has been identified as 25x units for affordable rent; 8x units for rent to buy (shared ownership); and 19x units for shared ownership.

The application is accompanied by the following supporting documents:

- Design & Access Statement,
- Revised Planning Statement,
- Landscape Plan
- Ecology Report,
- Topographical Survey,
- Flood Risk Assessment and up-dated Flood Risk Assessment Rev A received 25 July 2017,
- Geo-Environmental Report,
- Heritage Desk Based Assessment,
- Transport Statement, and
- Viability Report.

#### Departure/Public Advertisement Procedure

Occupiers of 55 properties were 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 6 Infrastructure for Growth
- Spatial Policy 7 Sustainable Transport
- Spatial Policy 9 Site Allocations
- 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
- MFAP1 Mansfield Fringe Area

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

- Policy Ra/Ho/1 Rainworth - Housing Site 1
- 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 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

National Planning Practice Guidance PPG

Newark and Sherwood Affordable Housing SPD (July 2013)

Newark and Sherwood Developer Contributions and Planning Obligations SPD (December 2013)

## **Consultations**

**Rainworth Parish Council:** *Maintain their objection to original application, with additional comments (Received 15.04.2019):*

Strongly object to the application. Objections/observations to the proposals are as follows:

- Over intensification of the site;
- The residents of Top Street rely on off-street parking outside their properties; this very small street cannot cope with the onslaught of the amount of traffic that will use this small road if the development proceeds;
- The DPD 5 year land allocation is already meeting its target; further development in Rainworth would exceed the Core Strategy target of 425 dwellings by 2026 by 77 extra dwellings already in 2017;
- Rainworth does not need another large development, 3 large developments been built in the last 5 years;
- The proposal will put more strain on already over-subscribed schools and doctors surgeries. Rainworth residents already have a monumental task in getting a doctor's

appointment at present, a further new development in Rainworth will only exasperate this problem even further;

- There are minimal employment opportunities in Rainworth. Rainworth does not have sufficient employment prospects to meet the need of local residents seeking employment at present and no potential employment projects from businesses have been brought to the attention of the Council that would support further development in Rainworth;
- Object to the pathway which leads to the existing play area (due to Rainworth Parish Council taking over maintenance of the children's play space on the completed adjoining site. The Parish Council do not wish the proposed 765 sqm open space to be linked by a footpath as they do not capacity to take on any further open space provision.
- To protect the privacy of the residents living on Hayfields to keep each development as individual areas of open space and play provision, the surrounding fence must be kept intact to ensure that there is no thoroughfare which may lead to anti-social behavior.

**Natural England:** Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

**Severn Trent Water:** *No comments issued further to those on the current approved scheme.*

**The Environment Agency:** *No comments issued further to those on the current approved scheme*

**NCC Highway Authority:**

This proposal is for residential development and is a resubmission of application 17/00865/FULM, however, the whole of the site is now being considered as 100% affordable housing.

As part of application 17/00865/FULM, a condition was recommended to ensure that improvement works to Top Street, subject to a suitable Section 278 agreement, were carried out prior to works commencing on site. These improvement works have not yet commenced, however, construction of the dwellings within the application site is currently ongoing, despite the details relating to Condition 7 of the planning permission not yet having been agreed with the Highway Authority.

Similarly, other pre commencement conditions have also been disregarded, however, in order to be consistent I have worded the conditions below in a similar manner to those of 17/00865/FULM. As Planning Authority you may consider whether this is the correct approach.

As such, the following conditions are recommended for this proposal:

1. No part of the development hereby permitted shall take place until details of the access within the site, from Top Street, 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 and diversion of utilities services, and any proposed structural works, visibility splays, within the development as shown for indicative purposes on drawing no. 334-PE-XX-00-DR-A-

0001 Rev. P01. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.

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

2. No development shall commence unless or until the improvements to Top Street, i.e. carriageway widening to 5.5m, widening of the existing footpath on the eastern side of Top Street to provide a 2m width, and the minor improvements to the existing junction with Kirklington Road, are carried out in accordance with details to be first submitted to and agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety.

3. No development shall commence on any part of the application site unless or until a suitable access within the site has been provided from Top Street as shown for indicative purposes on drawing no. 334-PE-XX-00-DR0A-0001 Rev. P01.

Reason: In the interests of highway safety.

#### Notes to applicant

##### *Section 38 Agreement (Highways Act 1980)*

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.

- a) 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.
- b) 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 (and District Council) in writing before any work commences on site.

##### *Section 278 Agreement (Highways Act 1980)*

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 80 40015 for details.

**NCC Rights of Way:** I have checked the Definitive Map for the area and can confirm that there are no recorded Public Rights of Way that cross the site marked in red on the Site Layout Plan.

The Rights of Way Team have no objection to the development. However strong evidence of use on site suggests that there are routes on the ground that are very well used. In not accommodating public access on this particular route the applicants face the potential risk of a claim for public rights to be acquired through usage. A claim could be triggered if public use is obstructed and it can be subsequently demonstrated by user evidence that the route has been used by members of the public for a minimum uninterrupted period of 20 years, in the belief that the use is public (without force, secrecy or with the landowner's permission). This could result in the route being legally recorded on the Definitive Map subsequent to development work commencing or being completed, which would require the claimed route, or a reasonable alternative (subject to an appropriate diversion order), to be made publicly available. In order to mitigate this risk, the applicants are advised to seek to formally divert or extinguish all routes across the proposed development site, under the provisions of Section 257 of the Town and Country Planning Act 1990. This would enable the applicants to formally dedicate the routes that they wish to accommodate on the site for public access and to formally extinguish any routes that they wish to retain as private accesses.

The Rights of Way team acknowledges that the applicant has accommodated footpath links from the site which will help to accommodate the locally desired access. The applicant will need to consider the future status of the footpath links and make sure they are constructed to the correct standard for the desired status– e.g. are they intended to be part of the adopted highway? or the applicant will need to make provision for the ongoing maintenance of any footpath links

**NCC Lead Local Flood Authority:** *Comments received 01.04.2019:*

No objections subject to the following:

No construction should start until:

1. A sustainable approach to maintenance of soakaways and SUDS features is agreed by the LPA. The current proposal for maintenance of the shared soakaways is unacceptable and must be reconsidered. Consideration should be given to the use of a management company or similar to provide a long term sustainable approach to maintenance of the SUDS features.
2. The detailed design for the surface water proposals is approved by the LPA.
3. Evidence to show no properties are put at risk of flooding from exceedance flow paths (necessary due to the sloping nature of the site) is provided.

**LCC Archaeology:** *No archaeological input required (04/04/2019)*

**NCC (Policy):**

*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.'*

### 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.

### Ecology

In support of the application, a Preliminary Ecological Appraisal conducted by Ramm Sanderson Ecology Ltd. has been submitted, dated March 2017 along with a subsequent Addendum dated June 2017. These include an Extended Phase 1 Habitat Survey and a Reptile Survey.

The Preliminary Ecological Appraisal indicates that the site is dominated by poor semi-improved grassland, with areas of dense and scattered scrub along with a number of hedgerows and scattered broadleaved trees.

There are no existing buildings on the site. Overall, the site is of limited nature conservation value, however it does lie within the Impact Risk Zone for the Rainworth Heath SSSI and within 5km of the Sherwood Forest potential SPA. As such, Natural England should be consulted.

In terms of protected species:

\_ No bat survey of the site was conducted due to the retention of the majority of trees and hedgerows on site. One mature tree onsite was identified as having low bat roost potential. However, it is not clear from the plan ('Site Plan Layout') which areas of hedgerows and scrub are being retained, so NCC request clarification of this, prior to the determination of the application (see also below).

\_ The Preliminary Ecological Appraisal suggests a number of measures which could be included to mitigate against any impacts upon bat species. These are detailed in section 6.3.3.ix. NCC request the inclusion of such measures be secured through a **condition**.

\_ No bird survey of the site was conducted. Due to the implied removal of sections of hedgerow and scrub from the site, we request a standard **condition** controlling vegetation clearance during the bird nesting season (which runs from March to August inclusive).

\_ Due to the site being within 5km of the Sherwood Forest potential SPA, the site was assessed for Woodlark and Nightjar potential. It was deemed 'highly unlikely' that these species would use the area.

\_ The reptile survey addendum found no evidence of reptiles on site. However, the addendum recommends a precautionary approach to site clearance. As such, NCC request a **condition** specifying a precautionary approach to site clearance, as detailed under the Evaluation section, page 4. of the Addendum.

\_ No badger survey was conducted of the site. However, due to the desktop survey finding records of Badgers within the search area, they recommend a precautionary approach to site works as detailed in section 6.3.5. xiv. NCC request this be secured through a **condition**.

\_ The Preliminary Ecological Appraisal specifies that no evidence of any Schedule 9 species were found on site (section 5.4.8.). However, the species list documented in Appendix 2, includes *Heracleum mantegazzianum* (Giant Hogweed). NCC therefore request clarification as to whether Giant Hogweed was present on site.

The proposals submitted do not include a landscaping plan for the development. NCC welcome the inclusion of two Public Open Space Areas within the development. NCC request a **condition** providing further details of the landscaping plan, in particular:

\_ A more detailed plan highlighting the hedgerows and scattered trees which are proposed to be retained and those which are to be removed.

\_ Measures to protect retained trees and hedgerows during construction.

\_ A planting plan, labelling the proposed trees with the intended species. In particular, we recommend that only native trees are planted within the Public Open Spaces and around the site boundaries (especially along the southern boundary).

\_ The use of a flowering lawn mixture (such as N14F or EL1) within the POS areas.

\_ A more detailed outline of the intended species proportions for use within any areas of hedgerow planting. The species used should be in keeping with the Sherwood Landscape Character Area.

<http://cms.nottinghamshire.gov.uk/home/environment/landimprovements/landscapecharacter.htm>

\_ The Preliminary Ecological Appraisal details possible species for inclusion in a planting plan in Section 6.4.i. However, horse chestnut (*Aesculus hippocastanum*) and whitebeam (*Sorbus aria*) should NOT be included in any planting scheme for the site. Suitable species for the area can be found following the above link.

\_ Details of establishment methods.

NCC would also request the inclusion of integrated bat and bird boxes within the development, as suggested in section 6.4.iii of the Preliminary Ecological Appraisal, and request that this is **conditioned**.

### 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 Planning Obligations Officer:** The following sets out the Planning Obligations that are being sought by Nottinghamshire County Council to mitigate the impact of the above development. Further information about the County Councils approach to planning obligations can be found in its Planning Obligations Strategy which can be viewed at:

<https://www.nottinghamshire.gov.uk/planning-and-environment/general-planning/planning-obligations-strategy>

If the Council has any queries regarding this request please contact Andrew Norton, the County Councils Developer Contributions Practitioner on 0115 993 9309 or email:

[andrew.norton@nottscc.gov.uk](mailto:andrew.norton@nottscc.gov.uk)

### NCC Education

#### Primary

The development is located in the Rainworth Primary Planning Area and would generate 11 places. As can be seen in the table below, based on the current projections, there is insufficient capacity to accommodate these pupils. As a result, the County Council would seek a contribution of £150,216 (11 places x £13,656 per place). The County Council currently intends to use this contribution to expand provision at Python Hill Primary School.

School	Planning Area	Net Capacity	Average 5 Year Projection	Housing	Local Plan Housing 5 yrs	Local Plan Housing 6-10 years	Local Plan Housing 10+ years	Surplus or Insufficient Places
Heathlands Primary School and Nursery	Rainworth	188	128	2	17	23	0	20
Blickworth Oaks Primary and Nursery School	Rainworth	315	341	7	15	18	9	-65
Lake View Primary and Nursery School	Rainworth	210	178	34	0	0	0	-2
Python Hill Primary School	Rainworth	338	307	11	0	0	1	15
	Total:	1047	954	54	32	41	11	-33

Table 1: Rainworth Primary Planning Area: School Capacity (11/04/2019). Source: NCC

#### Secondary

The provision of secondary education places will be delivered utilising the District Councils Community Infrastructure Levy. As developer contributions are being 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.

### NSDC Planning Policy

*National Planning Policy*



The NPPF confirms that the 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.

*Development Plan Documents:*

**Amended 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 10 'Climate Change'  
Core Policy 12 'Biodiversity & Green Infrastructure'  
MFAP1 – Mansfield Fringe Area

**Allocations & Development Management DPD**

Policy Ra/Ho/1 'Rainworth Housing Site 1'  
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 DM5 'Design'  
Policy DM7 'Biodiversity and Green Infrastructure'  
Policy DM12 'Presumption in Favour of Sustainable Development

*Commentary*

This application is a resubmission of application 17/00865/FULM which was approved for 52 dwellings. This permission has been commenced and the principle of residential development on this allocated site is acceptable.

This application differs from the original purely in terms of the tenure of the housing. The original application was accompanied by a viability assessment which indicated that no affordable housing provision could be supported and the permission was granted with an accompanying Section 106 Agreement which secured a contribution towards necessary education provision in accordance with Policy DM3 Developer Contributions and Planning Obligations. The current application is also accompanied by a Viability Assessment which concludes that as the development is now for 100% affordable provision, no other contributions can be accommodated without rendering the site unviable.

The County Council calculate that this development would generate 11 primary places and are seeking education contributions accordingly. Evidence is provided that based on current projections there is insufficient capacity to accommodate these pupils.

The main issue in this application is therefore the balance to be struck between the provision of affordable housing and the contribution towards education provision which is required to make the development acceptable.

In order to be in conformity with the Development Plan the allocated site should provide for 30% of the dwellings as affordable units in accordance with Core Policy 1 Affordable Housing Provision and any necessary infrastructure which is required to support the development in accordance with DM3 Developer Contributions and Planning Obligations. Any Viability work should be independently tested.

Whilst the provision of 100% affordable dwellings is to be welcomed, this should not be at the expense of necessary infrastructure provision. There is already a deficit of primary places in the Rainworth catchment and this development would exacerbate that situation. As the only change between this current application and the extant permission relates to the tenure of the housing, consideration should be given to amending the proposal to incorporate a level of market housing which could improve the sites viability.

**NSDC Environmental Health:** From the defra noise mapping, part of the site appears to sit within the 60-64.9dB and 55-59.9 dB Lden noise contours. As such we would need a detailed noise assessment to ensure that noise exposure is not excessive both inside and outside the proposed dwellings.

**NSDC Community Projects Manager:** *No comments issued further to those on the current approved scheme*

**NSDC Parks and Amenities:** *No comments issued further to those on the current approved scheme*

**NSDC Access and Equalities Officer:** – An application for Building Regulations approval would be required and the developer should give proper attention to Approved Document M of the Buildings Regulations.

**NSDC Strategic Housing:**

Summary	
Qualifying Thresholds for Rainworth	10 units and above. Proposal sets out 52 dwellings. 30% affordable housing required.
No of affordable housing units	15 as per policy. However, the scheme is now submitted as a 100% affordable housing proposal. I note from the application that a viability assessment has been submitted stating that the scheme will be unable to provide any S106 contribution. In my view, whilst the affordable housing need is significant, the loss of an education provision would have a detrimental effect on the school, given that over 30 of the units are intended for family occupation. Therefore weight to an application that does not meet the Council's policy requirements in this respect should be considered carefully.
Type of units i.e. an	There is demand for smaller 1 and 2 bedroom homes, particularly ground floor accommodation for older

appropriate mix of house/flat/bungalow	people. The proposed mix includes a significant amount of family housing and the Council's housing register information (see below) supports the proposal.																								
Tenure Mix	The proposed tenure mix is acceptable and provides shared owners, a tenure that is currently absent from the housing offer in Rainworth.																								
Housing Need - Register	<p>The Council has the following applicants registered for a property with a preferred area as Rainworth:</p> <table border="1"> <thead> <tr> <th>Property Type</th> <th>Number of Applicants</th> </tr> </thead> <tbody> <tr> <td>1 bedroom general needs</td> <td>81</td> </tr> <tr> <td>2 bedroom general needs</td> <td>81</td> </tr> <tr> <td>3 bedroom general needs</td> <td>72</td> </tr> <tr> <td>4 bedroom general needs</td> <td>35</td> </tr> <tr> <td>Supported Housing</td> <td>117</td> </tr> </tbody> </table> <p>Average bids for the following properties during the last 12 months:</p> <table border="1"> <thead> <tr> <th>Properties types</th> <th>Average bids</th> </tr> </thead> <tbody> <tr> <td>1 bedroom bungalow – general needs</td> <td>13</td> </tr> <tr> <td>2 bedroom flat – general needs</td> <td>8</td> </tr> <tr> <td>3 bedroom house – general needs</td> <td>26</td> </tr> <tr> <td>1 bedroom bungalow – supported housing</td> <td>4</td> </tr> <tr> <td>2 bedroom bungalow – supported housing</td> <td>19</td> </tr> </tbody> </table>	Property Type	Number of Applicants	1 bedroom general needs	81	2 bedroom general needs	81	3 bedroom general needs	72	4 bedroom general needs	35	Supported Housing	117	Properties types	Average bids	1 bedroom bungalow – general needs	13	2 bedroom flat – general needs	8	3 bedroom house – general needs	26	1 bedroom bungalow – supported housing	4	2 bedroom bungalow – supported housing	19
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Occupancy and Nominations	The Council will seek 100% nomination rights on the first lets of all affordable homes, potentially dropping to 75% for subsequent re-lets																								
Local Connection Criteria/ Cascade	To apply local connection to Rainworth followed by Blidworth, Rainworth, Farnsfield and Bilsthorpe and then to the rest of the district																								
Ownership and management	The Council expects developers to work with Registered providers for the purposes of delivering and managing the affordable housing																								

### Housing Need Summary

The District Council commissioned David Couttie Associates (DCA) to undertake a housing market and needs assessment (2014). (The Council is currently in the process of tendering for a new district wide survey). As part of the study a sub area report was provided that looked at need at a localised level. Rainworth is part of the Mansfield Fringe Sub area and provides evidence of housing need for:

- Property type: The survey states that there is demand for 83 flats/maisonettes, the highest level of need and for 44 semi-detached houses, the second highest demand for any type of property.
- Property size: 1 and 2 bedrooms account for total need for affordable housing, totalling 333 homes. 83 households require 1 bedroom and 250 households require 2 bedrooms. These numbers account for both existing and concealed households. However, the Council's housing register demonstrates there is a high demand across all types of property and in also demand for 3 bedroom family homes in this location and therefore the proposal accords with evidenced housing need.
- The adopted Local Development Framework (LDF) Core Strategy identified that there is a clear strategic need for affordable housing and the Council therefore considers that developing new affordable housing will deliver council priorities in terms of housing need. There is a breadth of evidence to support need for smaller affordable homes in this location.

### **Independent Viability Consultant:**

This Viability Appraisal Report has been produced on the instruction of Newark and Sherwood District Council to review the financial viability appraisal submitted by HEB Surveyors on behalf of Dukeries Homes Ltd.

The site has been the subject of two recent planning applications the first being approved in March 2018 (ref: 17/00865/FULM) which proposed 52 dwellings and associated works. Affordable housing was exempted from the approved application in accordance with a viability assessment submitted in support of the application, but was subject to a section 106 agreement which set out a contribution of £137,460 towards education provision.

The second application submitted on the site is the current pending application 19/00584/FULM. This application is a resubmission of application 17/00865/FULM as varied by a non-material amendment. The approved layout plan under application 17/00865/FULM is the same as the layout plan submitted under application 19/00584/FULM. However, the applicant is now proposing that 100% of the proposed dwellings are completed as affordable housing being pre sold to Nottingham Community Housing Association (NCHA) compared to none in the original approved scheme. The application is supported by a Viability Assessment produced by HEB Chartered Surveyors, dated 19 March 2019, which considers the viability of the scheme in light of the 100% affordable and the required planning obligations being the Education Contribution.

A market value scheme with no affordable or S106 contributions using a residual land value reflecting the approved permission would deliver a development profit of 20% meeting planning guidance and industry standard expectations.

If the Education contribution is introduced using the market values and all other development costs outlined above this would reduce the residual profit to 18% of GDV and therefore still be regarded as viable.

We have then appraised the proposed scheme where all of the units are to be sold to NCHA for the fixed sum of £7,053,600 inclusive of £770,000 for the site (a point we have received confirmation on from the Applicant). The reduction in the GDV impacts directly on the appraisal and reduces the profit to approximately 4% of GDV (compared to 6.6% in the submitted viability)

which does not achieve the level of profit generally expected and published in viability practice and policy guidance to be considered viable. This is without any Education contribution.

If in the above appraisal the S106 Education contribution (now revised to £150,216) is included this would further reduce the profit to 2% of GDV and again would not represent a viable scheme.

A summary of the above appraised scenarios is given below, and detailed appraisal summaries are included in Appendix B.

Sensitivity	MV		NCHA	
	With S106	No S106	With S106	No S106
GDV	£ 8,940,000	£ 8,940,000	£ 7,016,311	£ 7,016,311
TOTAL COSTS	£ 7,302,429	£ 7,131,419	£ 6,861,725	£ 6,710,695
RESIDUAL PROFIT	18% £ 1,637,571	20% £ 1,808,581	2% £ 154,586	4% £ 305,616

Table 2: Independent Viability Assessment Summary Table. Source: Independent Viability Assessment, RLB, Sep 2019

Notwithstanding the above references to normal profit requirements to prove viability the Applicant in their submission recognises that a reduced profit would be acceptable to the Developer to proceed in this particular case by virtue of the forward sale of all the units reducing their risk compared to a market value scheme.

In reviewing the outcomes and comparing the discounted values against open market values for the various house types based on the appraised values (with the higher price point value of the 2 bed semis) and leaving all other NCHA values as proposed it would take 4 Nr 2 bed semi-detached units to be sold at full market value to provide sufficient additional value to meet the Education contribution. This can be demonstrated as follows:

Values		MV	NCHA	Cost	To meet S106
Units	Nr				
2B semi	10	£ 155,000	£ 109,360	£ 45,640	4
3B semi	29	£ 180,000	£ 146,000	£ 34,000	
4B Det	5	£ 210,000	£ 174,000	£ 36,000	
2B bungalow	8	£ 140,000	£ 107,000	£ 33,000	
	52				
S106		£ 150,216			8% 4 MV
					92% 48 NCHA

Table 3: Market values of dwellings proposed on site. Source: Independent Viability Assessment, RLB, Sep 2019

Whilst it can be seen above that the proposed scheme for 100% affordable units is unviable with the Education contribution included it is also unviable if the contribution is excluded, therefore the contribution itself is not changing the viability of the scheme from one which is viable without the

contribution to one which isn't when it is included. We submit therefore that it could be regarded that the case for relief from the education contribution is not made on the grounds of viability.

**Neighbours/interested parties:** Seven letters of objection have been received. The main issues raised include:

- Frustration at loss of their view and of access across the field to the bypass;
- An extra 52 homes will cause a strain on already over stretched local infrastructure, including doctors and schools;
- Pedestrian road safety concerns raised in light of increased traffic coming in and out of Top Street;
- Noise levels on Top Street increasing as a result of increased traffic;
- Concern about car parking arrangements on Top Street and the dedicated parking spaces to be provided on the site itself – how will these be protected for residents to use?
- Top Street and Python Hill are already extremely busy at the beginning and end of the school day. Increased traffic will make the situation worse.

### **Comments of the Business Manager, Planning Development**

#### **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 Local Development Framework (LDF) Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District, with the intention directing new residential development to the most sustainable locations, which are well served in terms of infrastructure and services. Spatial Policies 1 (Settlement Hierarchy) and 2 (Spatial Distribution of Growth) respectively identify Rainworth as a Service Centre with a growth strategy focused on regeneration of the community, delivering 10% of the Service Centre housing growth target, which comprises 30% of the District's overall housing target.

The National Planning Policy Framework (NPPF) promotes a presumption in favour of sustainable development, recognising 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 Framework and sees sustainable development as a golden thread running through both plan making and decision taking. This principle is reiterated in the District Council's development plan, in Policy DM12 of the Allocations and Development Management DPD.

The LDF Allocations & Development Management DPD (adopted in July 2013) identifies this site as a residential development allocation (Rainworth Housing Site 1: Policy Ra/Ho/1), providing around 54 dwellings. The DPD confirms the site as one of the two sites allocated for housing development in Rainworth. Policy Ra/Ho/1 sets out a detailed approach for the bringing forward of the site, stating that development on the site will be subject to the following:

- Preparation of an appropriate Transport Assessment as part of any planning application to identify the impact of the development on the highway network and the provision of appropriate mitigating measures;
- The provision of off-street car parking for existing residents of Top Street as part of the design and layout of any planning application to address the issue of on street parking in this location;
- The incorporation of footpaths within the layout of development that link to other areas of Rainworth and the adjoining allotments;
- Provision of suitable screening between the residential development and the allotments as part of the design and layout of any planning application;
- Developer funded improvements to ensure sufficient capacity within the public foul sewer system and wastewater treatment works to meet the needs of the development;
- The investigation of the potential impact arising from the legacy of former coal mining activities within Rainworth and the implementation of any necessary mitigation measures; and
- The investigation of potential archaeology on the site and any necessary post-determination mitigation measures secure by condition on any planning consent.

LDF Policy DM1 refers to proposals being supported for housing within the Service Centres that are appropriate to the size and location of the settlement, its status in the settlement hierarchy and in accordance with the Core Strategy and other relevant Development Plan Documents. Policy DM2 refers to development within allocated sites being supported for the intended use, provided that they comply with the relevant Core and Development Management policies relating to site specific issues.

On the basis of the site being allocated for residential development and having an extant permission (17/00865/FULM), the principle of development is accepted. However, it is still important that the detail of the proposal satisfies the relevant aspects of the development plan, addressing the requirements of the allocation policy being of particular importance in this respect. It is noted that the application site does not cover the whole of the allocation area as set out in the Allocations & Development Management DPD, with a small strip of land to the south of the application site is excluded from the red line plan. However, this land is also understood to be in NCHA ownership.

### Housing Mix, Type and Density

LDF Core Policy 3 indicates that developments on allocated housing sites should achieve at least 30 dwellings per hectare (dph) and 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. Core Policy 3 'Housing Mix, Type and Density' sets out, subject to individual site circumstances, an expectation for a minimum density of 30dph for housing sites. Whilst an appropriate mix of housing types reflecting local housing need is also sought, again subject to site circumstances, viability and localised housing need information.

Core Policy 1 states that on allocated housing sites, the District Council will require the provision of Affordable Housing, as defined in national planning policy, which is provided to eligible households whose needs are not met by the market. The District Council will seek to secure 30% of new housing development on qualifying sites as Affordable Housing, but in doing so will consider the nature of the housing need in the local housing market; the cost of developing the site; and the impact of this on the viability of any proposed scheme. In this regard the NPPF (para.64) 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.

*Mix and Type*

The following housing mix is indicated:

Type	Tenure	No. of units
2 bed houses	Affordable rent	9
2 bed houses	Rent to buy - shared ownership	1
3 bed houses	Affordable rent	12
3 bed houses	Rent to buy - shared ownership	7
3 bed houses	Shared ownership	10
4 bed houses	Shared ownership	5
2 bed bungalows	Shared ownership	4
2 bed bungalows	Affordable rent	4

Table 4: Housing mix and tenure breakdown

Ordinarily on a development site of 52 units the 30% affordable housing requirement would be expected to deliver 15 units on site. In this instance, the application proposes 100% of the site as affordable housing, with a split of affordable types comprising 48% as affordable rent and 52% as affordable home ownership methods (37% shared ownership and 15% rent to buy). Comments received from NSDC Strategic Housing suggest that evidenced housing need correlates with the proposal, acknowledging that the affordable housing need in Rainworth is significant. The Council’s housing register demonstrates high demand across all types of property, including three bedroom family homes in this location. With the existing permission on this site as a prime example, land values and competing infrastructure demands can often dictate that affordable housing is not viable, meaning that this development would undoubtedly make a significant contribution to the District’s supply of affordable homes.

*Density*

The proposed layout of the current submitted application replicates that which was approved under planning application 17/00865/FULM and the subsequent non-material amendment 18/02357/NMA. As such, for the purposes of this report I consider that this matter satisfactorily complies with policy and does not require further consideration by the Committee.

Impact on Visual Amenity (including the Character of the Area)

Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable



design that both protects and enhances the natural environment, supported by Policy DM5 which 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. Additionally, Policy Ra/Ho/1 requires the provision of suitable screening between the residential development and the allotments as part of the design and layout of any planning application.

The site lies on the northern outskirts of the village on land which has small undulations and slopes down from east to west. While the development would inevitably change the landscape and the character of the surrounding area by virtue of the fact that a predominantly greenfield site would become a housing site, the layout of the site corresponds with that which was approved under the original permission, therefore is determined to be in accordance with the above policy requirements. Although it is acknowledged that there appears to be limited green infrastructure within the application development itself, all the boundaries of the site show much greater planting which will assist in reinforcing the existing field boundaries and provide an appropriate soft edge to the development.

The Newark and Sherwood Landscape Character Assessment SPD (2013) describes the site as lying within the Sherwood County character area and *Blidworth and Rainworth Wooded Estatelands* SH18 policy zone. The landscape condition for this policy zone has been described as moderate, with moderate sensitivity; giving an overall landscape strategy for this area of *conserve and create*. There are two specific landscape actions for the Blidworth and Rainworth Wooded Estatelands applicable to this application: 1) To conserve and reinforce field boundary and road hedgerows where these have become degraded or lost; and 2) To create opportunities for restoring areas of heath land where appropriate. Based on the information submitted with the application it is concluded that reinforcing the vegetation planting around the perimeters of the site would reinforce the field boundary and road hedgerows.

The applicable actions for the built environment include conserving the integrity and rural character of the landscape by concentrating new developments around the existing urban fringe of Blidworth and Rainworth; creating small scale woodland/tree planting to soften new development; and conserve the existing field pattern by locating new small scale development within the existing field boundaries. Again, in this context, the built development proposed in this application largely adheres to these landscape policy zone actions.

The submitted details state that the new housing would be mostly 2-storey houses and a small number of bungalows. This corresponds with the predominant house types in the surrounding area, therefore is considered appropriate to the character of the area. It is apparent that the somewhat contemporary appearance of the proposed dwellings provides a contrast to more traditional styles seen elsewhere in Rainworth, however, it is notable amongst new-build properties that more modern materials and design features are of increasing prevalence. Subsequently, acknowledging that the proposal broadly respects existing local character, it aligns with the NPPF's objective (para. 127) of establishing a 'sense of place' through the building types and materials to create attractive, welcoming and distinctive places to live. Although permission should be refused for development of poor design, the NPPF (para. 130) is clear 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.

In design and visual amenity terms therefore, I consider that whilst the proposed development is of relatively high density, due to limited access and topography, the development will not be

visually prominent due to the proposed boundary treatment reinforcing the edges of the site to provide an appropriate landscaped setting in accordance with the aims of Policy Ra/Ho/1, Core Policy 9 and DM5.

### Impact on Highway Safety

Policy Ra/Ho/1 requires an assessment and identification of the impact of development on the highway network with mitigation measures being provided where necessary.

As per comments on the previous application, the Highways Authority raises no objection to all 52 dwellings being served off Top Street through the existing housing development and the extent of road to be adopted, along with widening of the carriageway and footway in Top Street to be controlled through a condition. I am therefore satisfied that the proposed access arrangements would meet the requirements of Policy Ra/Ho/1 in being suitable to serve the level of development and would not result in any unacceptable adverse impact upon highway safety in accordance with Spatial Policy 7 of the Core Strategy.

### Rights of Way

Comments provided by the NCC Rights of Way team indicate that there is strong evidence suggesting there are well used routes across the site. This is supported by a brief reference to 'access to the bypass' in one of the local resident's comments. While NCC notes that no formal rights of way are recorded on the Definitive Map for the area, in not accommodating public access on this particular route the applicants could potentially risk a claim for public rights to be acquired through usage. In addition it is noted that the Parish Council explicitly object to the proposed open space to the southeast of the site being connected to the play area on the adjoining site on grounds of maintenance concerns.

It is noted from the previous application that no comments were raised by the Rights of Way team. In light of this and there being no formal claims for rights of way being submitted at this stage, it would appear unreasonable to insist upon mitigation measures being introduced to the scheme as submitted.

While the Parish Council's objection to the site's connection to the play area on the neighbouring site is noted, this was based on concerns about maintenance of the site. However, NCHA has since confirmed that they will maintain the public open space on site. This will be conditioned accordingly. In addition, connectivity of non-vehicular routes is a critical component of reducing car-dependency, increasing local accessibility and delivering and sustaining high quality green infrastructure. As such, the proposed connection to the neighbouring site is considered to be in accordance with Spatial Policy 7 (Sustainable Transport) and Core Policy 12 (Biodiversity and Green Infrastructure) and is therefore supported.

### Drainage

It is acknowledged that drainage features in relation to surface water management are proposed through soak aways within the road network and therefore would be adopted and maintained by NCC through a section 38 agreement. I am advised that having pursued this through the discharge of conditions on 17/00865/FULM, a commuted sum is being prepared. NCHA have also confirmed that they will be responsible for the future management and maintenance of SUDS features on the site.

## Other Matters

For matters relating to:

- Residential Amenity;
- Ecology;
- Archaeology;
- Flooding; and
- Contaminated Land and Coal Mining,

with no change to the scheme approved under 17/00865/FULM and 18/02357/NMA I have no further comments to add to those of the committee report and delegated officer report.

## Developer Contributions

Spatial Policy 6: Infrastructure for Growth and Policy DM3: Developer Contributions and Planning Obligations, underpinned by the Developer Contributions and Planning Obligations Supplementary Planning Document, set out the Council's approach for delivering the infrastructure necessary to support growth. The SPD details 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.

A Viability Report has been submitted as part of the application stating that in delivering a 100% affordable housing scheme the burden of any Section 106 contributions would substantially hinder the financial viability of this development and prevent delivery.

The main areas for which developer contributions should be sought are considered below:

### *Community Facilities*

The SPD sets out that a development of 52 dwellings would equate to a community facilities contribution of £61,425 plus indexation (£1,181.25 per dwelling). The community facility contribution could be used to support community facility infrastructure improvements. However, the application does not propose any contribution towards off site community facilities due to the viability of the development overall. In this respect, as per advice from the Council's Viability Officer on the previous application, I am satisfied that the case presented remains a fair assessment of the site and the market circumstances.

### *Libraries*

The Developer Contributions SPD sets out that residential developments of 10 dwellings or more may trigger the need for a contribution towards libraries based on need. However, in respect of libraries, Nottinghamshire County Council is not seeking a developer contribution through this application.

### *Open Space*

As the proposal remains in line with that which was agreed under planning application 17/00865/FULM, whilst the contributions towards children's play space fall short of being policy compliant, the level of other open space provision is considered acceptable. With the site remaining in the ownership of the applicant (NCHA), they themselves will maintain the 1.085m<sup>2</sup> of on-site open space provision.

### *Education*

The NPPF (para.94) 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.

Furthermore, NPPG (007 Reference ID: 23b-007-20190315) indicates that Government provides funding to local authorities for the provision of new school places, based on forecast shortfalls in school capacity. There is also a central programme for the delivery of new free schools. Funding is reduced however to take account of developer contributions, to avoid double funding of new school places. Government funding and delivery programmes do not replace the requirement for developer contributions in principle. Plan makers and local authorities for education should therefore agree the most appropriate developer funding mechanisms for education, assessing the extent to which developments should be required to mitigate their direct impacts.

At the local level the Council's adopted Developer Contributions and Planning Obligations SPD (2013) states that provision of education infrastructure is an integral part of new residential development and is an important element in achieving sustainable communities. It may be a requirement of any development to make an appropriate contribution towards enhancing existing education facilities where there is insufficient capacity to support the development. It should be noted that the CIL will be used to help fund secondary education whilst the primary education needs of new development will continue to be addressed through S106 contributions. Contributions may be required for every pupil place required in excess of the projected capacity, so if the County Council calculate that spare places will exist in the catchment primary school by the time the development can reasonably be expected to generate new demand for places, their requirement will be adjusted accordingly.

In this instance, the County Council calculate that a development of 52 dwellings would generate 11 primary places and are therefore seeking education contributions accordingly. Evidence is provided that based on current projections there is insufficient capacity to accommodate these pupils. Although there is capacity in Python Hill Primary which is the closest school to the development site it should not be assumed that children from households residing on the new estate would attend this school. In line with the updated cost of primary education places set out in NCC's revised planning obligations strategy this represents an increase of £12,756, from £137,460 to £150,216 for the Rainworth Primary Planning Area.

The main issue in this application is therefore the balance to be struck between the provision of affordable housing and the contribution towards education provision. Whilst the provision of 100% affordable dwellings is to be welcomed, ideally this should not be at the expense of necessary infrastructure provision. Given that over 30 of the proposed housing units are intended

for family occupation the lack of contributions towards education is perceived to have a detrimental impact on education provision in the community.

### *Affordable Housing*

LDF Core Policy 1, along with the Council’s Affordable Housing SPD and Developer Contributions and Planning Obligations SPD seek to secure the provision of 30% on site affordable housing where the thresholds are met. As a wholly affordable housing scheme, in spite of not being completely aligned with the 60% social rented/affordable rented/40% affordable home ownership products split specified in Core Policy 1, the proposal would make a significant contribution to the affordable housing need identified in Rainworth and the District as a whole.

To some extent, being more akin to a ‘design and build contract’, the current proposal does not represent a normal development as a reduced level of risk (where the whole development is effectively pre-sold). This means that the developer is prepared to accept a reduced profit level, which in this instance is reflected in the applicant’s viability appraisal suggesting that 6.5% profit represents a reasonable commercial return. Consequently, including an education contribution at a revised figure of £150,216 reduces the profit to around 4.4%, which is below the usual expected return rate for this type of development. The independent viability appraisal confirms that if built out for the private market the scheme could withstand the education payment, but as a 100% Affordable scheme it cannot. In contrast to the applicant’s appraisal, however, the independent viability appraisal identifies a difference in the profit level, concluding at 4% (which in a scheme of this nature would typically be regarded as unviable). As such, irrespective of whether a 4% or a 6.5% profit on the scheme is accepted, it is clear that the education contribution stipulated by the County Council would render the scheme unviable.

While it is noted that the independent appraisal suggests that it is not necessarily on viability grounds that relief from the education contribution is sought and considers the potential of selling a small number of units on site at market value to fund the education contribution, NCHA has made clear its commitment to delivering a fully affordable scheme, having aligned the proposal with the Local Authority’s housing strategy and obtaining Board approval and Homes England support. In response to the above assertion NCHA has indicated that a variation to the proposed offer (i.e. inclusion of some private sale units) is not considered appropriate and would potentially hinder the drawdown of Homes England funding.

### *Summary Developer Contributions*

A summary of the policy compliant developer contributions/S.106 requirements and the anticipated level of contributions that could be accommodated within the available funds for the development to remain viable are set out below:

<b>Developer Contribution Requirement</b>	<b>Expected based on SPD for a scheme of 10 dwellings</b>	<b>Proposed contribution offer as a result of development viability</b>
<b>Affordable Housing</b>	<b>30% on site provision</b>	<b>100% affordable housing</b>
<b>Open Space / Children's Play</b>	On site provision of children’s play space of 18 sq m per	No on-site provision of children’s play space and no commuted sum

<b>Area</b>	<p>dwelling (1,008 sq m required) or off-site commuted sum of £903.22 per dwelling which equals £50,580.</p> <p>On site provision of amenity green space of 14.4sq m per dwelling (806.4sq m required).</p> <p>Maintenance of on-site site amenity green space (£275.47 per dwelling)</p> <p>Natural and Semi-natural Green Space – all residents should live within 300m of an area of between 0.2ha and 1ha in size.</p>	<p>towards off-site provision.</p> <p>On site physical provision of 1,085 sqm of amenity green space and Natural and Semi-natural green space.</p> <p>NCHA will maintain the on-site provision.</p>
<b>Education</b>	<b>£137,460</b> (equivalent of 12 primary school places)	<b>£0</b>
<b>Community Facilities</b>	£1,181.25 per dwelling = <b>£66,150</b>	<b>£0</b>
<b>Libraries</b>	<p>New library accommodation – £202.10 per dwelling</p> <p>New stock only - £45.96 per dwelling</p>	<b>£0</b> (The County Council has not requested a contribution.)
<b>TOTAL</b>		<b>Amenity green space and natural and semi-natural green space.</b>

Table 5: Developer contributions summary

The proposed contributions are limited to 1,085sqm on-site green amenity space and Natural and Semi-natural Green Space.

The Viability Report identifies a number of abnormal costs that relate to provision of an electricity substation, regrading of the levels on site and the need for retaining walls and gabion walls required in order to create an acceptable site topography necessary to achieve highway and disabled access gradients. As a result, in addition to the site being developed as a wholly affordable housing scheme and therefore not achieving full market values for the properties, no further contributions are considered viable.

In any event the viability appraisal has been independently assessed. The outcome of this report suggests that the scheme is unviable, compared to the marginal viability shown in the appraisal submitted with the application. While I therefore do not challenge the viability conclusions, the proposal falls short of the policy requirement to secure the required level of contributions towards

education, children's play space and community facilities. This is a negative of the scheme and needs to be weighed in the planning balance.

### Planning Balance and Conclusion

As a Local Development Framework housing allocation with an extant permission, the principle of development on this site is accepted and the presumption in favour of sustainable development within the NPPF and reflected in Policy DM12 is also acknowledged. In terms of decision making this presumption means approving developments that accord with the development plan without delay. The substantive matter for consideration under this application is therefore the level of compliance achieved with the policy requirements of Policy Ra/Ho/1 and the other development plan policies.

The Core Strategy settlement hierarchy (Spatial Policy 1) recognises Rainworth as a Service Centre because of the range of services and facilities it sustains, making it self-sufficient for daily needs. Nonetheless, as part of the Mansfield Fringe Area, the strategic objectives focus upon securing new employment opportunities and regeneration of vacant land and the provision of new housing. Evidently the extant permission on this site was deemed to make a valuable contribution to these objectives, despite the apparent lack of affordable housing. Conversely, the current proposal would provide substantial on-site affordable housing provision, yet would fall short of other policy requirements; namely primary education, community facilities and children's play space, as required by the Developer Contributions and Planning Obligations SPD. As such, the prevailing characteristic of this site which is effectively illustrated in both this application and 17/00865/FULM is that a compromise is required to support the delivery of this site.

Strictly speaking, in order for the current proposal to be in conformity with the Development Plan it should provide 30% of the dwellings as affordable units and any necessary infrastructure which is required to support the development in accordance with Core Policy 1 and Policy DM3 respectively. Although the education contribution sought by NCC in this instance would support provision of more school places within the catchment (some of the need for which would be generated by this development), it should be recognised that this contribution in itself would not resolve the overall shortage of available school places within the catchment. On the other hand, however, the development would provide a significant contribution of the types of affordable housing that are required and are not currently available in this area of identified need.

In considering the merits of this application, I am also mindful that the policies for housing development underpin the overarching vision and objectives of the LDF, which is to deliver 'balanced' communities. The committee must therefore also consider the desirability of clustering a concentration of affordable housing in one location versus acceptance of the fact that even as a primarily market housing scheme it is demonstrably unviable to deliver any affordable housing on site in this location.

Noting that the construction of the site is well underway, with many of the conditions on the earlier application discharged, taking into account the other infrastructure requirements (site levelling) and the overall site viability, on balance, I consider it reasonable to accept that there is no scope to provide further contributions. Although not ideal, insistence upon a contribution towards primary education would inhibit the delivery of an otherwise sustainable housing development.

Based on the site layout plan submitted with the application it is considered that the highways, flood risk, drainage, archaeology and design impacts of the proposal are acceptable subject to planning conditions.

On balance, considering the challenges affecting delivery of this site, it is considered that subject to conditions the proposal complies with the requirements of Policy Ra/Ho/1. In line with Policy DM12 and the NPPF it should be regarded as sustainable development it is recommended that full planning permission be approved.

### **RECOMMENDATION**

**That full planning permission is granted subject to the conditions shown below**

#### **Conditions**

01

The development hereby permitted shall not begin later than 3 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:

1695-01 A – Revised Landscape Plan

VED578 10 Rev 5 – Revised Site Plan (Received 27/09/2019)

VED578 01 Rev 1 – Revised Plot Type 2a – Hawksmoor 2-bed terrace (Received 27/09/2019)

VED578 02 Rev 1 – Revised Plot Type 2BB – Wesseden 2-bed bungalow (Received 27/09/2019)

VED578 03 Rev 1 – Revised Plot Type 3A/3C – Brackenfield/Filburn 3-bed semi (Received 27/09/2019)

VED578 04 Rev 1 – Revised Plot Type 3B – Errwood-Corner Block Variation 3-bed semi (Received 27/09/2019)

VED578 05 Rev 2 – Revised Plot Type 4A – Fernlee 4-bed detached (Received 27/09/2019)

VED578 06 – Revised Plot Type 3d – Greenfield 3-bed terrace (Received 27/09/2019)

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

The proposed finished floor levels for all dwellings shall be in accordance with the details set out in plan 'Detailed Landscape Proposals c-1695-01' (Received 16 May 2019), submitted as part of 19/00927/DISCON 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).

04

The materials to be used in the construction of the external surfaces of the dwellings 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

05

Within 1 calendar month of the date of this permission, drainage plans for the disposal of foul sewage shall be 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 and to minimise the risk of pollution in accordance with the requirements of Policy Ra/HO/1 and Core Policy 9.

06

Notwithstanding the details submitted for the maintenance of the shared soakaways, which are not hereby approved, within 1 calendar month of the date of this planning permission, a sustainable approach to the maintenance of soakaways and SUDS features together with a detailed design for the surface water proposals, which shall include evidence to show no properties are put at risk of flooding from exceedance flow paths, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full accordance with the approved details prior to any occupation of the site and retained for the lifetime of the development.

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 in accordance with the requirements of Policy Ra/HO/1 and Core Policy 9.

07

None of the dwellings hereby permitted shall be occupied until details of the access within the site, from Top Street, have been completed on in accordance with the following plans:-

- General Arrangement (Drawing No: SC122/200E/P Rev E);
- Road & Sewer Sections (Drawing No: SC122/201C/P Rev C);
- Pavement Details (Drawing No: SC122/202/P);
- Drainage Details (Drawing No: SC122/203/P);
- Typical Manhole Soakaway Detail (Drawing No: SC122/213/P);
- Typical Manhole Soakaway Detail (Drawing No: SC122/215/P).

And until details of street lighting have been submitted and approved in writing by the Local Planning Authority of street lighting, which shall be implemented in full prior to any occupation of the dwellings hereby approved.

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

08

None of the dwellings hereby permitted shall be occupied until the improvements to Top Street, i.e. carriageway widening to 5.5m, widening of the existing footpath on the eastern side of Top Street to provide a 2m width, and the minor improvements to the existing junction with Kirklington Road, are carried out in full in accordance with the following plans:-

- S278 Works General Arrangement (Drawing No: SC122/100/P);
- S278 Works Site Clearance & Pavement Layout (Drawing No: SC122/101/P);
- S278 Works Levels with Drainage and Contours (Drawing No: SC122/102/P);
- S278 Works – Pavement Details (Drawing No: SC122/103/P);
- Section along proposed channel alignment (Drawing No: SC122/104/P).

Reason: To ensure the development is constructed to adoptable standards, in the interests of highway safety and convenience in accordance with Spatial policy 7 and Policy Ra/HO/1 of the DPD.

09

None of the dwellings hereby permitted shall be occupied until details of the provision of the four car parking spaces within the public open space as shown on Site Plan – as proposed (Drawing No: VED578 10 Rev 5) have been submitted to and approved by the Local Planning Authority in writing. The car parking spaces shall be provided in accordance with the details approved prior to occupation of any dwellings.

Reason: To ensure the development is constructed to adoptable standards, in the interests of highway safety and convenience in accordance with Spatial policy 7 and Policy Ra/HO/1 of the DPD.

010

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).

011

The development shall be implemented in accordance with the details set out in the 'Construction Health & Safety Plan & Construction Method Statement' (Received 16/05/2019) (with additional

information received 12/09/2019) and the report 'Dust, Noise and Nuisance at Top Street, Rainworth (Received 16/05/2019) and shall be adhered to throughout the construction period.

Reason: In the interests of residential amenity.

012

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

Reason: In the interests of residential amenity.

013

None of the dwellings hereby permitted shall be occupied until the acoustic screen as set out in the email '19/00584/FULM Proposed development (resubmission of 17/00865/FULM) | Field Reference Number 0790 Top Street Rainworth Nottinghamshire' (dated 02/10/2019) is fully installed along the northern boundary of the site and retained thereafter for the lifetime of the development.

Reason: In the interests of residential amenity.

014

None of the dwellings hereby permitted shall be occupied until details of all external lighting to serve the development hereby approved has been submitted to and approved by the local planning authority in writing. This should follow the guidelines set out in Bats and Lighting in the UK (BCT, 2009). The approved lighting shall be installed prior to the occupation of any of the dwellings hereby approved and retained as approved thereafter for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of biodiversity on the site.

015

The precautionary approach to ecology during construction works as outlined in paragraph 1.15 of the Preliminary Ecological Appraisal by Ramm Sanderson dated March 2017 submitted in support of this application shall be adhered to in that:

Prior to construction a pre-commencement check should be made by an ecologist to confirm that no new badger setts have become established within 30m of the site

During construction open trenches should be closed overnight or if left open include a sloping end or ramp to allow any badgers or other animal that may fall in to escape; and

Any pipes over 200mm in diameter should be capped off at night to prevent animals entering.

Reason: In the interests of protecting ecology of the site.

016

No dwellings hereby approved shall be occupied until the 4 bat boxes, 4 bird boxes and 4 hedgehog boxes as shown on plan VED578 10 Rev 5 – Revised Site Plan (Received 27/09/2019) have been installed in accordance with the agreed details prior to occupation 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.

017

All hard and soft landscape works as shown on 1695-01 A – Revised Landscape Plan shall be carried out in accordance with the approved implementation and phasing plan. The works shall be carried out before any part of the development is occupied or in accordance with a programme agreed with the local planning authority in writing.

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

018

The approved boundary treatment shown on ‘VED578 10 Rev 5 – Revised Site Plan’ for each individual plot on site shall be implemented prior to the 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.

019

The development hereby approved shall be provided in accordance with the definition of affordable housing in Annex 2: Glossary of National Planning Policy Framework or any future guidance that replaces it. The affordable housing provision shall comprise the following split:

Type	Tenure	No. of units
2 bed houses	Affordable rent	9
2 bed houses	Rent to buy - shared ownership	1
3 bed houses	Affordable rent	12
3 bed houses	Rent to buy - shared ownership	7
3 bed houses	Shared ownership	10
4 bed houses	Shared ownership	5

2 bed bungalows	Shared ownership	4
2 bed bungalows	Affordable rent	4

The affordable housing provision shall remain as such for both first and subsequent occupiers of the approved dwellings and be retained for the lifetime of the development.

Reason: To provide for an evidenced affordable housing need.

020

Prior to first occupation a scheme detailing maintenance of all external areas (including SUDS features) that are not within a defined residential curtilage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall specify the nature and frequency of the works to be undertaken and shall be maintained thereafter as agreed for the lifetime of the development.

Reason: To ensure the ongoing maintenance of public open space within the site.

### **Notes to Applicant**

01

Severn Trent Water advises 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.

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

03

### *Section 38 Agreement (Highways Act 1980)*

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.

- a) 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.

- b) 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 (and District Council) in writing before any work commences on site.

#### *Section 278 Agreement (Highways Act 1980)*

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 80 40015 for details.

04

The proposed development lies within a coal mining area. In the circumstances applicants should take account of any coal mining hazards to stability in their proposals. Developers must also seek permission from the Coal Authority before undertaking any operations that involve entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on Tel; 0845 7626848 or at [www.coal.gov.uk](http://www.coal.gov.uk).

05

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) (England) Order 2015 (as amended).

#### BACKGROUND PAPERS

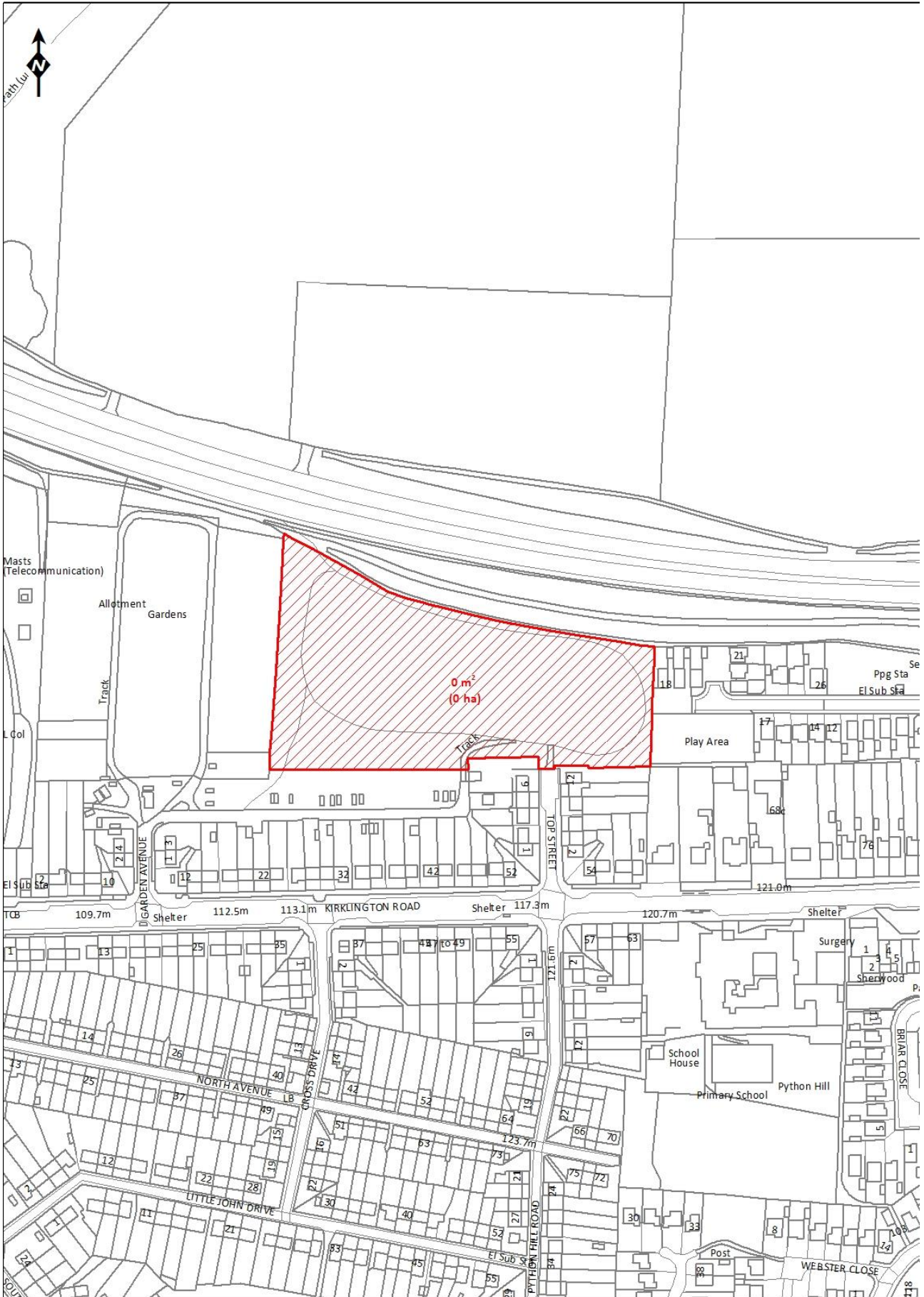
Application case file.

Committee Report for application 17/00865/FULM.

For further information, please contact Tim Dawson (ext. 5769).

All submission documents relating to this planning application can be found on the Council's website.

Lisa Hughes  
Business Manager – Planning Development





## PLANNING COMMITTEE – 5 NOVEMBER 2019

Application No:	19/00168/FUL	
Proposal:	Householder application for erection of second storey extension providing two bedrooms above an existing ground floor footprint	
Location:	Cobblers Cottage, Brickyard Lane, Farnsfield, Nottinghamshire, NG22 8JS	
Applicant:	Mrs Louise Smith	
Agent:	Franklin Ellis Architects – Mr Matthew Branton	
Registered:	31.01.2019	Target Date: 28.03.2019
	Extension of time agreed until 8 <sup>th</sup> November 2019	
Link to Application Documents:	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>	

### Introduction

Members may recall that this application was deferred by the Planning Committee in June this year. Members deferred the application in order for Planning Officers to negotiate a revised design to the scheme, possibly with a cat slide roof.

This updated report will firstly explain the progress made on this application since the June 2019 Planning Committee. The report will then summarise consultation and third party responses received since the June Planning Committee. An updated assessment of the proposal in the overall planning balance will then be made.

For the avoidance of doubt the original Committee report has been re-provided below. Any amendments to this report are in bold. There were no late items from the previous Committee relating to this application. Any amendments to recommended conditions are also in bold for clarity.

### Progress / Current Situation

Following the June 2019 Planning Committee, the Planning Officer and Conservation Officer met with both the Applicants and the Planning Agent to discuss possible amendments to the scheme. Various options were discussed. One option was a traditional cat slide roof which would necessitate scaling back the depth of the extension. Another option involved keeping one proposed rear projecting gable but reducing its depth and introducing a side cat slide roof from this one rear gable to make up the other half of the proposed extension. A third option involved keeping the two proposed rear gables but scaling back their depth.

The Applicants have submitted revised plans but these are of a different design to the options

discussed in the meeting.

The amended plans differ from the previous plans in that the height of the proposed extension has been reduced. I have approximately measured the following revised heights:-

	Eaves height (approx.)	Ridge height (approx.)
Proposal presented to June Committee	4.85 metres	6.75 metres
Current proposal	4.45 metres	6.4 metres

The design of the roof has also been amended in that there is an infilling detail between the double rear gable projections (I assume this is to achieve the desired head height).

The design of the remaining part of the roof of the existing single storey rear extension has also been amended from a traditional lean-to roof to a flat green roof (sedum or similar).

A letter has been submitted by the Applicant in support of the amended plans. This letter explains that:-

- The applicants never thought there would be any issues with extending the property as it is situated outside the conservation area.
- The applicants have invested time and money in restoring the cottage.
- There are two teenagers in the house who desperately need more space to grow, study and socialise.
- Additional relatives are likely to have to come and live with them.
- Reducing the length of the extension to half that originally proposed would not give them enough room to create two further bedrooms and a bathroom.
- With the number of occupiers living in the same house 1 bathroom would be very difficult to manage with.
- The applicants consider that they have always tried to reduce any impact that the proposed first floor extension would have on the surrounding properties, by keeping the roof ridgeline as low as possible and using roof lights and windows facing only their own rear garden. They consider that the amended plans, which show a further reduction of the roof line, minimise any impact that the extension has from the street view.

#### Consultation Responses since June 2019 Planning Committee

Farnsfield Parish Council – comments received 23.10.19

*“Object to the amended application on the grounds of loss of light to neighbouring properties.”*

NSDC Conservation Officer (verbal comments):- *The amended design waters down the traditional features in that the traditional rear lean-to to the existing single storey extension is now replaced with a flat roof and the proportions of the proposed double rear projecting gables are no longer in keeping with the host dwelling. The infilling detail between the double rear gable projections adds additional bulk to the overall proposal. Given this is to the rear and not highly visible Conservation raised no objection.*

One additional letter of representation has been received from a third party raising the

following objections:-

- There is a minimal reduction in the roof ridgeline, which has no effect on the loss of daylight and sunlight to the west facing windows of the neighbouring property;
- There has been no attempt to address the concerns and suggestions raised by the Planning Committee;
- The applicant's letter dated 6 October contains no material planning matters;
- The accompanying plan 'A-21001 DP' shows a garage of 17 sq m on the north side of the property, which is incorrect as this former garage has now been converted into living accommodation and the vehicular entrance is blocked by a breeze block wall. There is already insufficient parking provided on the site, which results in vehicles being parked on the lane and the proposal would exacerbate this further with more vehicles needing to be parked on the lane, which has no pavement, thereby causing increased risk of injury to pedestrians.

### Comments of the Business Manager

The following considerations from the previous report require re-assessing following the submission of amended plans:-

- 1) Design and Heritage Issues
- 2) Impact on Residential Amenity

#### 1) Design and Heritage Issues

The eaves and ridge height of the proposed double rear projecting gables have been marginally lowered. The roof of the existing single storey extension has been amended from a lean-to roof to a green flat roof. Both of these amended elements marginally lessen the scale of the proposal when viewed from the public highway to the front of the site (there are views of the western side elevation from part of Brickyard Lane).

The Council Conservation Officer's comments as stated above are noted. I agree with their comments. I agree that some of the proposed traditional features are now watered down (the traditional rear lean-to to the existing single storey extension is now replaced with a flat roof and the proportions of the proposed double rear projecting gables are no longer in keeping with the host dwelling. The infilling detail between the double rear gable projections adds additional bulk to the overall proposal). This is particularly when viewing the proposal from the applicant's own rear garden.

However, I am also mindful of the marginal reduction in scale to the height of the proposal, particularly the western elevation which can be viewed from parts of the public highway. I note the Applicant's supporting letter stating that reducing the depth of the extension would not give them sufficient room to create the space they desire. I also consider that given the proposal is located to the rear of the building, the loss of the proposed traditional features will not be overly prominent from public areas.

Overall, the alterations to the proposal do not affect my previous considerations and conclusion on Design and Heritage issues in relation to the original proposal, as stated in the original Planning Committee report (copied below).

#### 2) Impact on Residential Amenity

I consider that the marginal reduction in eaves and ridge height to the proposal marginally reduces the impact on the neighbouring properties in terms of massing / overshadowing or overbearing. In any case, these issues were assessed as part of the original scheme and it was concluded that the proposal would not have an unacceptable impact on neighbouring amenity.

I do not consider that the infilling detail between the double rear gable projections will impact on the occupiers of neighbouring properties as it is screened by the double gable features themselves to either side.

### Conclusion and Recommendation

The proposed amendments are marginal and as such I do not consider that they affect the acceptability of the scheme. My conclusion and recommendation remains unaltered from the previous Committee report (as set out below).

### Change to Recommendation

Condition 2 has been altered to take account of the amended plans. Condition 3 has been altered to take account of the change in materials (sedum roof to existing single storey rear extension).

Report to June 2019 Committee

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
- 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 in to 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 Councils 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 D, SITE PLANS-EXISTING & PROPOSED, received 10<sup>th</sup> October 2019**

**DP-A-21001 Rev D, FLOOR PLANS-PROPOSED, received 10<sup>th</sup> October 2019**

**DP-A-30001 Rev D, PROPOSED ELEVATIONS, received 10<sup>th</sup> October 2019**

SITE LOCATION PLAN, received 30<sup>th</sup> 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

**Green roof**

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) (England) Order 2015 (as amended).

02

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the gross internal area of new build is less than 100 square metres.

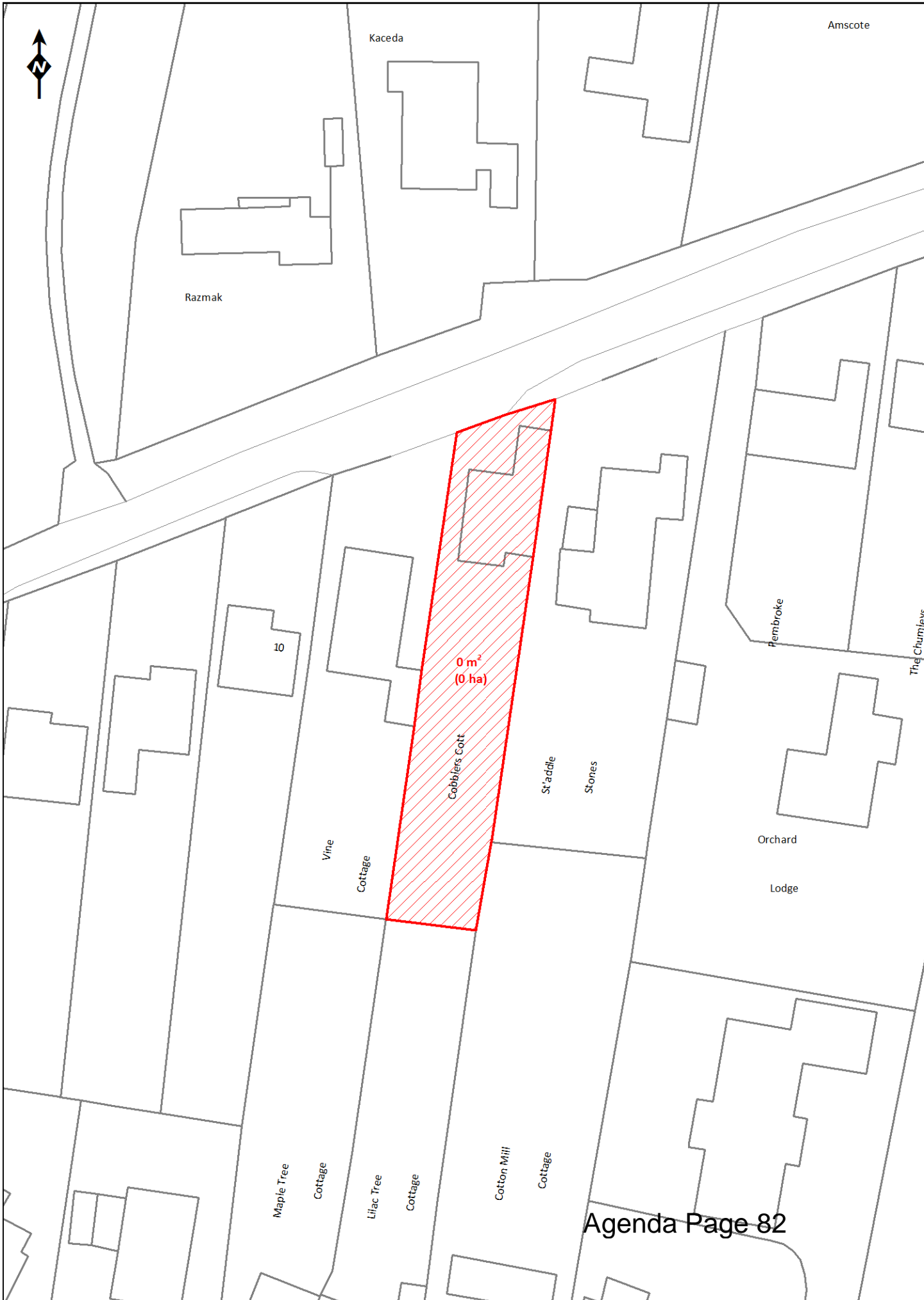
BACKGROUND PAPERS

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).

**Lisa Hughes**  
**Business Manager – Planning Development**





## PLANNING COMMITTEE – 5 NOVEMBER 2019

<b>Application No:</b>	<b>18/02279/OUTM (MAJOR)</b>	
<b>Proposal:</b>	<b>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</b>	
<b>Location:</b>	<b>Yorke Drive And Lincoln Road Playing Field, Lincoln Road, Newark On Trent</b>	
<b>Applicant:</b>	<b>Newark &amp; Sherwood District Council</b>	
<b>Agent:</b>	<b>GL Hearn – Mr Ryan McTeggart</b>	
<b>Registered:</b>	<b>12 December 2018</b> <b>Extension of time: TBC</b>	<b>Target Date: 13 March 2018</b>
<b>Link to Application Documents:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>	

### Introduction

Members may recall that this application was heard by the Planning Committee in April this year. Members agreed with Officer recommendation 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 of 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.

Following this resolution, legal advice has been sought regarding the legality of condition 4 which required the completion of a Section 106 Planning Obligation prior to development within any phase commencing. The previous Committee report is appended as Appendix 1. In addition, there were late items from the previous Committee relating to this application and as such the late items sheet for the previous Committee is attached as Appendix 2 to this report.



## Mechanism for Delivering Planning Obligations

The previous Committee report recommended a condition (condition 4 on Appendix 1) requiring that a Section 106 legal agreement be completed providing for the necessary affordable housing, open space, sports facilities, education, community facilities and transport improvements at the site. Planning obligations are usually delivered directly through the completion of a Section 106 legal agreement prior to planning permission being granted, and not through a planning condition. However, because NSDC are both the land owner and local planning authority, the legal advice states that a Section 106 legal agreement cannot be utilized. NSDC cannot enter into a planning obligation which imposes obligation upon itself as land owner enforceable by itself as Local Planning Authority. It was for this reason that condition 4 was previously recommended which duplicated the necessary elements of a S106 legal agreement. The idea being the requirements of such conditions would later form the basis of a future Section 106 legal agreement as and when the site (or elements of it) were disposed of to a third party who would then be able to enter into a legal agreement with the Local Planning Authority.

NSDC as the applicant, has sought Counsel advice regarding whether planning permission can be granted without the imposition of the condition relating to the provision of affordable housing. Specifically, Counsel advice has been sought as to whether the local planning authority can attach weight to the fact that affordable housing will be provided in any event simply because NSDC is the applicant and also future land owner (and / or the developer).

Counsel has advised that the local planning authority can attach weight to the fact that NSDC is the applicant and also future land owner (and / or developer). As such, the LPA is entitled to work on the assumption that a public authority (including itself) will act responsibly in the public interest (with obvious reputational damage if it did not).

If it were to be the case that planning permission was granted without conditions imposed to secure affordable housing provision (and the other obligations), it would seem that Homes England would rationally treat the provision of such Affordable Housing as an 'additionality' and not a requirement and therefore the scheme would qualify for Homes England funding. Furthermore, whilst the advice related to the affordable housing element, its wider construction applies to each of the obligations listed within condition 4.

In addition, following the decision of Planning Committee, information has been provided detailing the noise mitigation required under (c) above has been implemented. This requirement can therefore be removed from the recommendation.

## Conclusion

It is considered that Counsel advice is clear in relation to the lawfulness of NSDC entering into a Planning Obligation with itself. It is therefore recommended that condition 4 on the appended Committee report (Appendix 1) is omitted. In addition, the noise mitigation at Daloon has been implemented.

Lastly, Policy has not changed in the intervening period and no other matters are raised which are considered to warrant a decision different to that previously reached.

## **RECOMMENDATION**

**That outline planning permission is granted subject to:**

- (a) the conditions set out within Appendix 1 with the omission of condition 4; and**
- (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 of the implications of the results, mitigating them appropriately and adding ecology related conditions should they be required.**

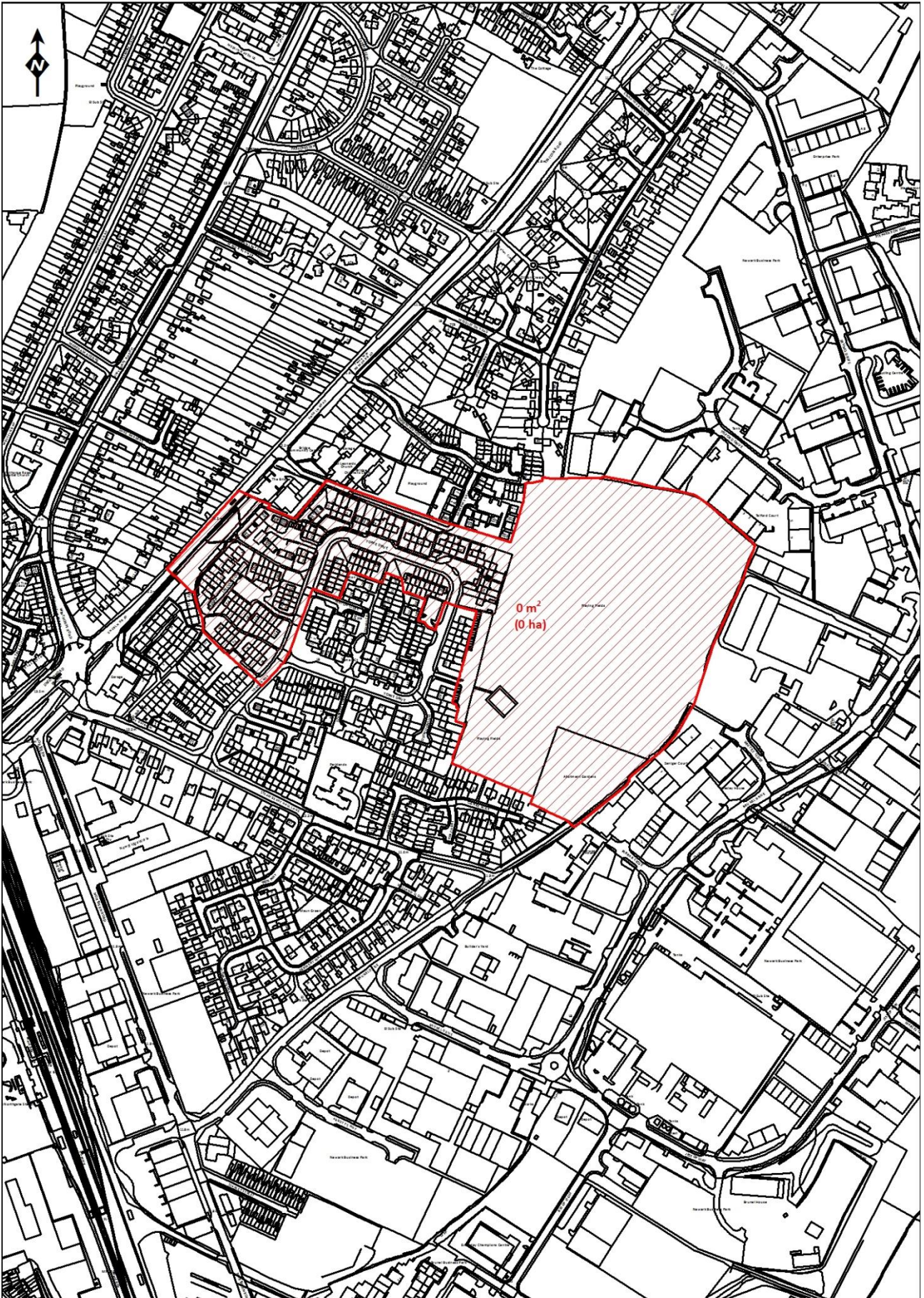
## **BACKGROUND PAPERS**

Application case file.

For further information, please contact Helen Marriott on extension 5793

Lisa Hughes  
Business Manager – Planning Development







**PLANNING COMMITTEE – 2 APRIL 2019**

<b>Application No:</b>	<b>18/02279/OUTM (MAJOR)</b>	
<b>Proposal:</b>	<b>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</b>	
<b>Location:</b>	<b>Yorke Drive And Lincoln Road Playing Field, Lincoln Road, Newark On Trent</b>	
<b>Applicant:</b>	<b>Newark &amp; Sherwood District Council</b>	
<b>Registered:</b>	<b>12 December 2018</b>	<b>Target Date: 13 March 2018</b> <b>Extension of time: TBC</b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation due to Newark and Sherwood District Council being the Applicant.**

**The Site**

The 11.5Ha site relates to an existing housing estate containing 355 homes and adjacent playing fields located within the urban area of Newark approximately 1km north east of the town centre. The existing homes consist of a range of house types including flats, terraces, bungalows and semi-detached, some of which were previously maisonettes that were converted as part of the ‘Tops-Off’ programme. The majority of the site has a 1960’s estate layout with many the majority of dwellings overclad with insulated render more recently. The existing dwellings are predominantly 2 storey although there are some 3 storey maisonette and flat blocks. The estate is mostly comprised of social rented properties, although there are also a number of owner occupiers.

The site is adjoined by Brunel Drive/Northern Road industrial estates to the North West, east and south. To the north east corner of the site is a Co-Op Store along with Bridge Community Centre, St Leonard’s Church and Lincoln Road Play Area (LEAP). Lincoln Road forms the west boundary of the site, part of it is defined by a line of trees/hedgerow. Parts of Yorke Drive and Clarks Lane forms the south boundary of the site and is predominantly residential in area with a small local shop serving the Yorke Drive estate located adjacent to the south boundary if the site. Other than the industrial estate buildings (which are equivalent to the height of 2-3 storey residential buildings), the adjoining area predominately comprises 2 storey dwellings, although there are some three-storey apartments to the north of the site.

The playing fields are 7.43ha in size and comprise 9 pitches (three 11v11, three 7v7, one 9v9 and two 5v5) in addition to a sports pavilion and car park. Beyond football, the playing fields are most commonly used for dog walking and on occasion, local community events. The southern part of the existing area of open space is a former allotment area. A mature hedgerow is located around the boundary of the existing fields adjacent to the industrial estate. A Public Right of Way is located around the existing field and through the existing estate onto Lincoln Road.

The estate has a single vehicular access from Lincoln Road (to the south west corner of the site). A number of public right of ways pass through the site including east to west from Lincoln Road along the north side of the site to the playing fields and north to south from Middleton Road, around the edge of the playing fields to Whittle Close and Clarks Lane.

In accordance with Environment Agency flood zone mapping the entire site and surrounding land is designated as being within Flood Zone 1, which means it is at low risk of fluvial flooding.

The estate along with the playing fields is allocated within the Newark and Sherwood Allocations and Development Management Development Plan Document (2013) as being part of the Yorke Drive Policy Area (Policy NUA/Ho/4). This is an area allocated for regeneration and redevelopment.

### Relevant Planning History

A number of planning applications have been submitted and determined in relation to land/buildings within the wider masterplan site. The majority of these applications are householder applications. Other applications of note include:

02/02046/FUL Erection of 9 houses to replace no's 14 - 48 Yorke Drive (to be demolished) – permission 20.01.2003

02/01752/FUL Erection of 9 houses to replace no's 24 - 62 Lincoln Road (to be demolished) – permission 24.09.2002

98/51385/FUL Residential development for 34 bungalows – permission 04.02.1999

94/51294/FUL Conversion of shops to form bedsits – permission 22.11.1994

92/50812/FUL Conversion of maisonettes to provide two storey dwellings – permission 15.02.1992

01911363 Conversion of 24 four storey maisonettes to 12 two storey houses – permission 29.01.1992

01910774 Demolish 12 no. maisonettes and provide 12 no domestic houses – permission 20.08.1991

01880966 Erection of elderly person's bungalows – permission 31.01.1989

01880967 Erection of houses and elderly person's bungalows – permission 31.01.1989

01870970 Changing facilities, toilets, multi-purpose hall, kitchen and parking for 45 cars – permission 18.11.1987

01840639 Erect portable sports changing unit – permission 07.08.1984

01830080 27 bungalows for the elderly, 1 wardens house, 1 day centre – permission 22.03.1983  
0182579 Residential development housing for older people – permission 08.09.1982

### The Proposal

The application seeks outline planning permission with all matters reserved apart from access for the 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.

Revised plans were received on 20.02.2019 to address concerns raised by Sport England and the Highways Authority. Two apartment blocks adjoining the north eastern edge have been removed from the scheme. This has increased the playing field area by 0.1 Ha and increased pitch run off areas/decreased potential use conflicts. As a consequence, the maximum number of dwellings proposed has reduced from 330 to 320 with a consequential amendment to the overall dwelling mix proposed. Parking provision in the illustrative masterplan has been rebalanced to show a greater proportion of off street parking bays to houses and the road as it passes around the north-west corner of the playing field has been realigned.

The submitted Design and Access Statement highlights a number of key issues which require addressing as part of the development including:

- A poor and limited frontage onto Lincoln Road;
- A complicated and unattractive internal vehicular access route with wide corners contributing to speeding issues;
- Unconventional and unattractive dwelling types;
- Networks of ill-defined alleyways;
- Poorly overlooked and underused open space.

As such, the masterplan concept is based around the following key principles:

- To create a new frontage and access onto Lincoln Road;
- To create a local green at the Lincoln Road access to the state;
- To create a new avenue following the existing route of Yorke Drive leading to a new park with community pavilion, play areas and improved sports pitches, new homes and a refurbished street and public realm network.

The most recent masterplan details indicate that development would take place in 3 phases:



Phase 1: 82 dwellings would be built on a portion of the existing playing field and would be made available for decant needs of existing residents affected by redevelopment within the estate. 6 dwellings could be demolished to open up direct access to the Phase 1 area (resulting in a potential need for temporary rehousing). It is intended that the playing field facilities would remain open and in use during the construction of phase 1. Works to the former allotment area to create playing field would need to be completed at the start of phase 1. The children’s play area (LEAP) along with perimeter path and outdoor gym trail and car parking would also be constructed during Phase 1 (as the existing Lincoln Road Play Area is likely to be cut off by proposed construction traffic). As such, the proposed LEAP would be provided as part of Phase 1 to offset the temporary loss of the existing play area. Construction access would be gained from an extended road Lincoln Road to the Sure Start Centre to the rear of the site.



3-storey apartments and houses overlook the playground and playing fields beyond

Phase 2: 75 existing dwellings on parcel of land adjacent Lincoln Road would be demolished and replaced by 66 new dwellings to be accessed off Lincoln Road. Residents affected could be decanted into Phase 1 dwellings. Construction access would be gained from Lincoln Road. It is



envisaged that the new entrance to Yorke Drive from Lincoln Road would be created by two gateway apartment blocks. The replacement pavilion would also be provided.



A new gateway to Yorke Drive from Lincoln Road

Phase 3: Demolition of 49 existing dwellings on central parcel of land and replacement with 69 new dwellings (predominantly for private sale unlike previous two phases). Residents affected by demolition in Phase 3 could decant directly in to properties built in Phase 2. The route of a new access off Lincoln Road is to be altered to run through the estate.



The new avenue created along Yorke Drive, leading to the new park

Phase 4: 103 predominantly market dwellings would be built on the north east corner of the playing fields.

Throughout the phases at least 3 full size pitches, in which a number of junior pitch sizes can be cross marked will be retained.

Proposed materials would comprise a theme of red brick, reconstituted stone or white brick dressings and cleanly detailed gables.



Overall, there are 190 additional homes proposed. 130 houses would be demolished and replaced. 225 dwellings within the existing estate would remain. The resultant estate would comprise 545 houses overall.

It is also anticipated that a range of estate improvements beyond the application boundary would take place including traffic calming, security, repaving the estate shop area, improving boundary treatments and road resurfacing. These proposals fall outside the scope of this planning application.

The application is accompanied by the following:

- Application Form
- Planning Statement (Dec 2018) and Planning Update Note (Feb 2019)
- Design and Access Statement (revised Feb 2019) inc. following parameter plans:
  - 40 Rev B Illustrative Masterplan
  - 30 Rev A Developable Area Parameter Plan
  - 31 Rev A Land Use Parameter Plan
  - 32 Rev A Vehicular Access Parameter Plan
  - 33 Rev A Non-Vehicular Access Parameter Plan
  - 34 Rev A Building Heights Parameter Plan
  - 35 Rev A Open Space Parameter Plan
  - 36 Rev A Proposed Levels Illustrative Overlay
- Noise Report (Dec 18) and Memo dated 15.02.2019 Mitigation Options Regarding Services Noise from Daloon Foods
- Drainage Strategy and Flood Risk Assessment (received Feb 2019)
- Air Quality Assessment (Dec 2018)
- Affordable Housing Statement (Dec 2018)
- Financial Viability Report (Dec 2018)
- Statement of Community Involvement (18.11.2018)
- Transport Assessment (Dec 2018), Transport Assessment Addendum (Feb 2019) and amended Access plans (SK-003-PO3, ATR-003, P02) received 21.03.19.
- Framework Travel Plan (Feb 2019)
- Preliminary Ecological Appraisal (Dec 2018)
- Bat Survey Report – Preliminary Roost Assessment (Dec 2018)
- Bat Mitigation Plan (Dec 2018)
- Phase 1 Geo-Environmental Assessment (Dec 2018)
- Historic Environment Desk Based Assessment (Feb 2019)
- Arboricultural Survey and Impact Assessment (11.12.18)
- Topographical Survey Plans
- Planning Update Notice (received 20.02.2019)
- Response to Sport England Comments of 7<sup>th</sup> January 2019 on Outline Planning Application
- Sport England Response Addendum (March 2019)

#### Departure/Public Advertisement Procedure

Occupiers of 645 properties have been individually notified by letter (which includes residents both within and near to the application site). Three site notices have displayed around the site (at the entrance to the playing field car park, along Lincoln Road near to the Co-Op and at the junction of Yorke Drive and Strawberry Hall Lane) and an advert was been placed in the local press. This level of consultation exceeds the publicity requirements required by the Town and Country

Planning (Development Management Procedure) (England) Order 2015.

## **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 6 Infrastructure for 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 10 Climate Change
- Core Policy 12 Biodiversity and Green Infrastructure
- NAP1 Newark Urban Area
- NAP3 Newark Urban Area Sports and Leisure Facilities

### **Allocations & Development Management 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 DM5 Design
- Policy DM7 Biodiversity and Green Infrastructure
- Policy DM10 Pollution and Hazardous Materials
- Policy DM12 Presumption in Favour of Sustainable Development
- NUA/Ho/4 Newark Urban Area – Housing Site 4 – Yorke Drive Policy Area

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014
- Estate Regeneration National Strategy 2016
- Newark and Sherwood Developer Contributions and Planning Obligations SPD (December 2013)
- Newark and Sherwood Planning Pitch Strategy Assessment Report 2014
- Newark and Sherwood Playing Pitch Strategy 2014
- Newark and Sherwood Playing Pitch Strategy Review 2016/17
- Newark and Sherwood Physical Activity and Sport Plan 2018-2021
- Green Space Strategy 2007-12
- Green Space Improvement Plans 2010
- Planning and Design for Outdoor Sport and Play by FIT

## **Consultations**

### **Newark Town Council:**

*Comments received 28.02.2019:*

Members were of the opinion that the wooded area, which has been removed from the original application, should be retained and possibly a smaller 5-a-side football pitch, rather than a full sized football pitch be provided. Therefore, Objection was raised to this application.

*Comments received 04.01.2019:*

No Objection.

**Sport England:**

*Comments received 21.03.2019:*

I am happy with the info and that it will be subject to a reserved matters final design.

*Comments received 12.03.2019:*

Thank you for re-consulting Sport England with a layout addendum which seeks to address one of the issues raised by us in our response dated 12<sup>th</sup> March regarding desire lines and footpath links/pedestrian routes. I can confirm that we support the principle of the works which should encourage those people wishing to simply cross the playing field to avoid the main pitch areas. It is not clear from the submitted layout how the proposed routes link with Whittle Close. The addition of knee rails along appropriate sections, could also help to discourage the crossing of pitches.

Can we take the opportunity to check the designation on the plan which shows a yellow edged rectangle adjacent to the proposed pavilion, it is assumed this is additional informal area created by moving the pitch further east.

In all other respects our earlier response copied below remains relevant.

*Comments received 12.03.2019:*

Thank you for re-consulting Sport England on the revisions to the above application, it is noted that 2 apartment blocks have been deleted which allows the playing field area to be increased by 0.1 hectare and with other changes reduces the number of dwellings proposed to a total of 320 dwellings with a net increase over the existing site of circa 190 dwellings.

**Summary:** Sport England is now able to remove our initial holding objection subject to conditions being imposed on the approval but also having regard to minor design alterations.

Sport England has re-considered the application in light of the National Planning Policy Framework (particularly Para 97) and Sport England's Playing Fields Policy given the amendments submitted which seek to address the concerns raised in our initial response both from a statutory and non-statutory perspective. The submitted response document covers the points raised in our initial holding objection.

The removal of the apartment blocks originally proposed on the eastern boundary of the retained playing field site has provided the ability to deliver a more relaxed layout with respect to formal playing field area and informal open space. We consider that this could be further improved by a redesign of the perimeter path outdoor Gym and play trail along the north eastern boundary of the retained playing field site. A minor alteration of the path route through this area would give a more direct route (discouraging shortcuts across the pitch area), but also allow the northern pitch to be moved slightly further to the east freeing up more space adjacent to the proposed community centre/changing rooms for informal activities. It is not clear if this would provide

sufficient room for a more formal hardcourt/MUGA area without adjustment to the location of the pavilion building or the neighbourhood play area, this may be something you would wish to consider with reference to objectives to support recreational football and other sports. .

This ties in with our earlier comments (point 3) around exiting footpath desire lines, in this regard it is suggested that a change in the angle of the parkland entrance point at Whittle Close could be a useful aid to encouraging those people crossing the playing field site (rather than using the area as a playing field or open space) to walk between pitches/pitch areas not across them. Signage in this regard will be important and could be brought in as part of the wider discussion around car park and access signage.

The supporting statement advises that a number of aspects would need to be controlled at the reserved matters stage which is supported by Sport England, however it is important to impose appropriate conditions to secure the submission of information, in our view the conditions should include;

- A detailed management and phasing plan to ensure that there is no loss of usable playing field space during the development period and the transition between temporary areas and permanently areas
- A technical assessment of the playing field area, which is to be retained and improved to fully understand the extent of the works required to deliver pitch improvements (including the former allotment area.)
- A whole site drainage/remediation/pitch improvement and implementation strategy. This will need to factor in time for the works and any settling in period before the playing field area can be used.
- A requirement to submit a detailed design for the pavilion /community/changing room building which would be designed in accordance with Sport England and Football Foundation guidance.

The assessment of the impacts of the development on indoor and outdoor sports facilities generated as a result of increase demand from the development is ultimately a matter for the council having regard to capacity of existing facilities to either cope with that demand or require other works in order to meet the needs of future occupiers. It is noted that the Council as applicant is willing to take on board the need for developer contributions to cater for additional demand for additional social provision to cater for increased health, education, sports and social needs arising from residents occupying the additional homes this is supported. The creation of a replacement community/pavilion/changing room is important in meeting the needs of local residents in this regard.

Sport England considers that the amendments to the proposal have enabled more playing field area to be retained which is an increase over and above the area defined in the playing pitch Strategy. It is understood that you are aware of the issues regarding meeting the PPS requirements and retaining a site which meets both informal and formal requirements both for the existing population and the net increase in population. We are also aware that this is the subject of further detailed consideration as part of the assessment of the application. It is our conclusion that the proposals to improved playing field quality should provide a more resilient area to cope with both formal and informal demands. The Artificial Grass Pitches at the sports village site provide training capacity and reduce reliance on grass pitches in the area for training. The identified local capacity for formal sport identified in the PPS is also a factor in this assessment.

## Conclusion

Given the above assessment, Sport England removes the holding objection on this application as it is considered to meet exception E1 and in part E4 of its Playing Fields Policy. The removal of the objection is subject to the following conditions being attached to the decision notice should the local planning authority be minded to approve the application:

Condition: The *reserved matters shall include* a detailed plan for the management and phasing of the development, including the provision of the temporary and permanent playing field area. The management and phasing plan details shall ensure that the works which result in the loss of playing field area are not commenced before the works to temporarily or permanently replace those playing field areas are available for use. The development hereby permitted shall not be carried out other than in accordance with the approved details.

Reason: To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures continuity of use [phasing provision] and to accord with Development Plan Policy.

Condition: The reserved matters shall include:

- a. A detailed assessment of ground conditions of the land proposed for the new/retained/replacement playing field land as shown on drawing number..... shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
- b. Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The works shall be carried out in accordance with the approved scheme in accordance with the detailed phasing and management plan.

*Reason:...To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with LP Policy.*

Condition: Prior to the bringing into use of the improved playing field area a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the improved playing field area.

*Reason: To ensure that new facilities is capable of being managed and maintained to deliver a [facility] which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport (National Planning Policy Framework (NPPF) para 97) and to accord with LP Policy.*

Condition: No development shall commence until details of the design and layout of [insert element of the community hall and changing rooms have been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The community hall/changing rooms shall not be constructed other than in accordance with the approved details.

*Reason: To ensure the development is fit for purpose and sustainable and to accord with Development Plan Policy.*

Please see the link to the Sport England guidance notes regarding the community Hall specification below we would however recommend that the design is discussed with the Football Foundation regarding the football specific elements.

<http://www.sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/>

If you wish to amend the wording or use another mechanism in lieu of the above conditions, please discuss the details with the undersigned. Sport England does not object to amendments to its recommended conditions, provided they achieve the same outcome and it is consulted on any amendments.

Should the local planning authority be minded to approve this application without the above conditions, then given Sport England's subsequent objection and in accordance with The Town and Country Planning (Consultation) (England) Direction 2009 the application should be referred to the Secretary of State via the National Planning Casework Unit.

If this application is to be presented to a Planning Committee, Sport England would like to be notified in advance of the meeting date and the publication of any committee agendas and report(s). 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.

*Comments received 07.01.2019:*

Summary: Sport England submits a Holding Objection with respect to our role as a statutory consultee and also please note that we have concerns with regards to elements which sit within our non-statutory role.

#### Sport England Statutory Role and Policy

It is considered 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 (particularly Para 97) and Sport England's Playing Fields Policy, which is presented within its Playing Fields Policy and Guidance Document : [www.sportengland.org/playingfieldspolicy](http://www.sportengland.org/playingfieldspolicy) Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

### The Proposal and Impact on Playing Field

The proposed development results in the loss of an area of existing playing field and the partial replacement of part of that loss by the reconstruction of the former allotment site to formal playing field.

### Assessment against Sport England Policy/NPPE

Sport England is content in principle with the conclusions as submitted having regard to the Playing Pitch Strategy with regard to the proposal meeting the requirements of Exception E1 of our policy and in part exception E4 of the policy. The PPS identified that a quantum of playing field which should be retained and the proposals improvements to the pitch quality and changing room facilities. It is noted that some of the pressure for formal football training on this site will be addressed by/provided at the sports village site, which does in part support the reduction in playing field area for more formal uses.

However, the re-provision/retention of a playing field area on site which is tightly constrained remains a concern for Sport England. It is noted that variations in pitch layouts and sizes and locations are possible and that the latest proposal involves the removal of trees, which currently project into the site (along the edge of the former allotment) In addition the pitch quality will be improved but the retained area will need to perform a dual role of formal sport and also as recreational public open space. With less space around pitches this may lead to conflict between users. (there is reference to this in the submitted information). This has been formally recognised to a degree in paragraph 5.31 and 6.27 of the planning statement. Although we are unsure as to why the PPS and the Playing pitch demand calculator is not being used to identify the demand generated for formal outdoor sport facilities. - should this calculation be based on the net increase? of 200 dwellings. (see below)

Whilst the provision of footpaths around the site replaces some of the desire lines crossing the playing field area it may be appropriate to formalise the future pitch arrangements such that the desire line (east west) from Whittle Close across the car park to York Drive can be accommodated without conflict during game time. A pitch variation based on baseline position of 3 adult pitches' or the flexible arrangement of 2 full size pitches with other junior pitches and other layouts. This would allow the desire line to be provided but also positions the mini pitches adjacent to the pavilion, this is more likely given the age group and the greater attendance by parents/spectators. It is suggested that the pitch variations should be tested with the desire line in place. This also re-emphasises the need for breathing space within the layout.

The main issue in this regard is the proposed dwellings north of the Whittle Close pedestrian connection if these dwellings were removed this gives more flexibility for informal open space adjacent to the pavilion and neighbourhood play area. There is an area of apparently underused land to east of the application site, could this land be utilised to provide some flexibility in the housing layout (including the provision landscaped noise attenuation barriers) and therefore flexibility in the pitch layouts to provide some breathing space and space around the pavilion and playing field entrance points which will be the focus of local activity?

It is accepted that that there is theoretically no need for temporary off site arrangement to allow football and other recreational activities to continue through the build period (para 4.41 planning statement) however the works to the allotment area to create playing field needs to be completed before the loss of playing field as a result of phase 1 to allow this temporary arrangement to work. In addition a management plan will be needed to understand the phasing of pitch quality improvement works. It is more cost effective to do the works as one contract particularly if the

works involve engineering works to create appropriate land levels and to install drainage. This may result in part of the playing field being out of commission and therefore temporary arrangement may be required.

It is clear therefore before any part of the playing field is lost there is a need for a whole site drainage/remediation/pitch improvement strategy which includes phasing and temporary solutions if required.

In a similar way the new pavilion will need to be constructed and available for use prior to the loss of the existing pavilion. As part of our assessment we have consulted the Football Foundation (who respond on behalf of the Football Association). The FF have advised:-

Clubhouse improvements:

- Details of clubhouse replacement must be provided and will be checked against the Football Foundation Data Sheets for Changing Accommodation

Grass pitch improvements:

The timing of the works is vital to ensure that the full growing season is captured and the establishment period is minimised whilst ensuring that the pitches meet The FA PQS.

The Regional Pitch Advisor and Notts FA must be consulted on the requirements and programme.

\* Quality - Pitches should pass a PQS test to a 'good' standard before they are used.

The testing should be arranged via the FA Pitch Improvement Programme.

\* Maintenance - In order to keep the quality of the pitches, an appropriate maintenance programme is agreed in-line with the design agronomist recommendations

The proposals include the retention of and the provision of new car parking areas to serve both the residential areas and for users of the playing field, we would recommend that these areas and the access to them are clearly signed, to minimise problems of on street parking. In addition those spaces allocated solely for use by residents should be identified and designated to ensure that the potential for conflict is minimised.

### Statutory Conclusion

Whilst Sport England is generally supportive of the application there are too many issues which need to be addressed and areas which need clarification as such we are unable to provide a substantive response at this time.

Sport England's interim position on this proposal is to submit a **holding objection**. However we will happily review our position following the receipt of all the further information requested above.

Should the local planning authority be minded to grant planning permission for the proposal, contrary to Sport England's holding objection, then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application should be referred to the Secretary of State, via the National Planning Casework Unit.

Please be aware that in the event of the abovementioned concerns being addressed Sport England is likely to recommend conditions which would secure an appropriate development and mitigate any outstanding issues. We are not able to finalise those conditions until such time as the points raised are addressed.



### Sport England Non Statutory Role and Policy

The Government, within their Planning Practice Guidance (Open Space, Sports and Recreation Facilities Section) advises Local Planning Authorities to consult Sport England on a wide range of applications. <https://www.gov.uk/guidance/open-space-sports-and-recreation-facilities-publicrights-of-way-and-local-green-space#open-space-sports-and-recreation-facilities>

This application falls within the scope of the above guidance as it relates to a major development over 330 dwellings but with a net increase of 200 dwellings as currently planned.

It is understood Newark and Sherwood District Council is a Community Infrastructure Levy (CIL) charging authority and as such, the proposed development is required to provide CIL contribution in accordance with the Councils adopted CIL Charging Schedule. However sports facilities are not covered by the CIL S123 list and as such could be covered via an agreement under S106, however, as stated - *it is likely that a S106 Agreement cannot be used to secure any contributions made in this case (due to the Council ownership of land) and further legal advice in this regard will be required.*

Sport England assesses this type of application in light of the National Planning Policy Framework (NPPF) and against its own planning objectives, which are Protect - To protect the right opportunities in the right places; Enhance - To enhance opportunities through better use of existing provision; Provide - To provide new opportunities to meet the needs of current and future generations. Further information on the objectives and Sport England's wider planning guidance can be found on its website:

<http://www.sportengland.org/planningforsport>

The occupiers of new development, especially residential, will generate demand for sporting provision. The existing provision within an area may not be able to accommodate this increased demand without exacerbating existing and/or predicted future deficiencies. Therefore, Sport England considers that new developments should contribute towards meeting the demand that they generate through the provision of on-site facilities and/or providing additional capacity offsite. The level and nature of any provision should be informed by a robust evidence base such as an up to date Sports Facilities Strategy, Playing Pitch Strategy or other relevant needs assessment.

### The Proposal and Assessment against Sport England's Objectives and the NPPF

The population of the proposed development is estimated to be an additional 450 new residents (200 dwellings net). This additional population will generate additional demand for sports facilities. If this demand is not adequately met then it may place additional pressure on existing sports facilities, thereby creating deficiencies in facility provision. In accordance with the NPPF, Sport England seeks to ensure that the development meets any new sports facility needs arising as a result of the development.

### Indoor Sports Facilities

The application appears silent on the needs or otherwise for additional indoor sports facilities to cater for the demand generated by new residents over and above the improvements as a result of the provision of an improved pavilion.

You may be aware that Sport England's Sports Facilities Calculator (SFC) can help to provide an indication of the likely demand that will be generated by a development for certain facility types.

The SFC indicates that a population of an additional 450 new residents (200 dwellings net) in this local authority area will generate a demand for an additional 29 visits per week to swimming pools and 28 visits per week to sports halls - when converted to a capital cost this equates to £162,000. A copy of the SFC report is attached. This demand may be able to be accommodated within existing facilities or by improving existing facilities, your council has the evidence available to understand the supply, demand, quality and capacity of existing facilities in Bassetlaw which would address the above, but this should be clarified.

#### Formal Outdoor sports facilities

The need for the proposals to take account of the demand generated by the net growth has been raised above. Your authority has an up to date PPS and has access to the Population growth demand calculator. The use of the two documents should be used to establish the additional demand generated by the increase in population in the area. The submitted information references spare pitch capacity in the area and the proposals to improve pitch quality, the changing facilities and the new AGP at the sports village may be sufficient to address the demand created. No doubt that your Community, Sports & Arts Development and Parks & Amenities teams will comment on this aspect of the proposals.

#### Open Space

It is for your authority to assess the open space requirements for this development particularly the growth in demand from additional dwellings, it is noted that some open space will be provided around the formal pitch area. I would refer to our comments above regarding space about the pitches and the pressures on shared use as a result of reducing the overall size of the currently available playing field area. You will be aware that the wider Sport England Strategy supports proposals which seek to encourage the inactive to become active. The plans to introduce circulatory and distance marked footpaths/running routes/cycle routes (including the green gym/trail) are supported in this regard.

Finally, the application makes reference to 'Active Design' and includes a number of design solutions to encourage 'active travel' and the neighbourhood plan encourages links between the existing and proposed communities this is encouraged and supported by Sport England. The connectivity and the proposed footpath/cycle links included in the proposal is supported as these encourage physical activity. We particularly support the links to the national cycle network. The proposal also has the potential to improve links to Beacon Hill Conservation Park located to the east of the site. The issue of desire lines across the playing field has been raised above.

#### Non-Statutory Conclusion

Sport England is not currently able to support the proposal as there are a number of unanswered questions regarding offsite contributions to indoor sports facilities but more particularly how the increased demand for formal outdoor sports pitches has been assessed.

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

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

**Trent Valley Internal Drainage Board** – The site is partly within the Trent Valley Internal Drainage Board District. There are no Board maintained watercourses in close proximity to the site. 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 the greenfield rate for other gravity systems.

The suitability of soakaways, as a means of surface water disposal, should be ascertained prior to planning permission being granted. Soakaways should be designed to an appropriate standard and to the satisfaction of the Approving Authority in conjunction with the Local Planning Authority. If the suitability is not proven the Applicant should be requested to re-submit amended proposals showing how the Site is to be drained. Should this be necessary this Board would wish to be re-consulted.

Where surface water is to be directed into a Mains Sewer system the relevant bodies must be contacted to ensure the system has sufficient capacity to accept the additional surface water. The Board also requests that applicant identify the receiving watercourse that the sewer discharges into and provide details on the potential effect that the proposed discharge may have on the receiving watercourse.

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

**NHS Health** – no comments received to date.

**Cadent Gas Ltd** – Informative note on decision notice advised in relation to pipeline's identified on site.

**Nottinghamshire Wildlife Trust** –

*Comments received 18.03.2019:*

I can't see any additional ecological information, although I note from the Planning Update Note report (Page 3) that the applicant is proposing to commission the additional bat survey work at the earliest opportunity in 2019 - weather depending, it is likely that these could be commenced in May which is welcomed. Receipt of this survey information would enable you to determine the application with a full understanding of the potential ecological implications (particularly with respect to bats).

*Comments received 21.01.2018:*

I can confirm that we have no further comments on this application - our previous comments (email dated Mon 19/11/2018 13:51) remain unchanged.

*Comments received 19.11.2018:*

I can confirm that we are not supportive of the suggested 'worst case scenario' approach as this does not allow you to determine the application with the full knowledge of the actual situation with regards to protected species (bats). As previously noted, Paragraph 99 of Government Circular 1/2005 (also known as ODPM Circular 06/2005) (which accompanied PPS9, but remains in force), states that:

'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.'

Also, BS42020:2013 Biodiversity: Code of practice for planning and development Section 6.4.5 states that "...where a PEA contains recommendations that further detailed survey work is necessary in order to inform a planning application, this work should be undertaken before determination of the planning application".

Finally, we wish to draw attention to the fact that whilst sometimes LPAs will condition ecological surveys: case law has demonstrated (*Woolley v Cheshire East Borough Council*, October 2009) that this is not good practice and LPAs should require protected species surveys prior to determination so that they can make a fully informed decision on any potential impacts.

*Comments received 08.11.2018:*

*Preliminary Ecological Appraisal (WSP, October 2018) -*

Having reviewed this document, we find we are generally satisfied with the methodology of the preliminary assessment of the site. The work was undertaken at a suitable time of year, included consultation with the local records centre and is sufficiently up to date.

### Assessment

Amphibians – the report concludes that as there are no aquatic habitats on site, it is unlikely that amphibians will be present. We note that the PEA makes reference to use of OS 1:25k mapping to search for ponds within 500m, but cannot see whether all residential gardens were searched for water features. We recommend that this matter is clarified as the potential presence of garden ponds could alter the proposals for the need to consider amphibians.

### Discussion

We are satisfied with the assessment of potential impact on protected sites – due to the distance and barriers involved. No further consideration is required in this respect.

The report identifies a number of habitats on site which have potential for use by protected and priority species. Some of these, for example hedgerows, are considered to be particularly valuable and we would therefore expect detailed site plans to demonstrate retention where possible, or sufficient replacement planting (native, locally appropriate species) to ensure no net loss of biodiversity.

No evidence of badger setts was recorded, however possible foraging and commuting habitat was present. We would expect a commitment to undertaken a pre-start walkover survey should site works not commence within 12 months of the date of this report.

Potential roosting, foraging and commuting habitat for bats was identified – this matter is dealt with further later in the report.

Suitable habitat for breeding birds was identified and we would expect any losses to be appropriately mitigated through replacement planting and integration of bird boxes into new dwellings.

Suitable habitat for hedgehog was identified – we would expect to see site connectivity maintained across the development to allow movement of hedgehog and other small mammals, with replacement planting and strong buffering of open space also implemented.

#### Further survey requirements

We agree that further, detailed survey work is required with respect to bats. Our advice to the LPA is that all necessary ecological survey work is carried out and reports submitted with any outline application. This is in accordance with Paragraph 99 of Government Circular 1/2005 (also known as ODPM Circular 06/2005) (which accompanied PPS9, but remains in force), which states that:

‘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.’

This guidance does not differentiate between outline and reserved matters applications. Provision of all required ecological information at outline stage ensures that the applicant can demonstrate to the LPA how necessary mitigation could be fully implemented into the proposed development.

#### Avoidance, mitigation and compensation

We find we are generally satisfied with the measures proposed in Section 4.7 for preliminary avoidance, mitigation and compensation measures and Section 4.8 for ecological enhancement opportunities. In particular, we wish to draw attention to the measures given in Section 4.8.5 which we would expect to see carried forward into site plans.

*WSP Memo (2<sup>nd</sup> October) -*

This document outlines the proposal for further detailed survey work with respect to bat roosts. As stated above, we recommend that the LPA requests that the PRA work, together with any required emergence/re-entry surveys are undertaken prior to submission of any planning application to ensure that all material considerations have been addressed. We are not supportive of the suggestion to wait until the Reserved Matters stage to undertake activity surveys.

In addition, we would expect to see consideration given to the need for bat activity transect and static monitoring surveys across the site. We cannot see these mentioned in the report however it appears that suitable foraging habitat is present and that this could be impacted by the changes proposed. If these are not undertaken, we would expect to see full justification as to why they are not deemed necessary.

Finally, we note that the PEA was produced largely without knowledge of the detailed plans for the site. We would expect either a revised PEA, or an additional document submitted with any planning application detailing how the identified impacts relate specifically to the proposal and whether any additional/amended mitigation is considered necessary.

**Network Rail** – No observations.

**Highways England** –

*Comments received 08.03.2019:*

Our previous response of 21 December 2018 therefore remains unchanged.

*Comments received 21.12.2019:*

Based on our review of the submitted information we consider that the development would have no material impact on the nearby strategic routes, the A46 and the A1, and as such raised no objections.

**NCC Highways Authority (Highway Safety) –**

*Comments received 18.01.2019:*

Since comments were last submitted on 18 January 2019 various correspondence with the applicants' highway consultant has been held in order to address a number of issues. This has included discussion over the findings of a road safety audit carried out on behalf of the Highway Authority.

The estimated traffic generation and distribution has been checked and accepted, bearing in mind that the development and existing estate will profit from having two point of access; one on to Strawberry Hill Lane, and the other on to Lincoln Road.

Using the agreed traffic flow figures, the junction modelling has also been checked to assess that the residual cumulative impact is not severe. To reiterate earlier comments: The development flows only add relatively small flows onto the base model for the assessed junctions at Lincoln Road/Brunel Drive and Lincoln Road/Northern Road. Both junctions are equipped with puffin/toucan style pedestrian facilities and they are also under MOVA control strategies. They benefit from CCTV cameras at, or adjacent to, them. Consequently, there is little further that could be done to mitigate the impact of the development traffic at these junctions *that would be proportionate to the scale of the additional flows*.

Notwithstanding the above, concerns have been expressed about the potential impact of the generated flows on conditions on Lincoln Road on the approach to the A46 roundabout. At peak times, queues from the roundabout already exist which affect flows on all legs of the Brunel Drive/Lincoln Road/Harvest Drive junction. Despite this problem originating with the inadequate capacity of the A46 roundabout, Highways England (who are responsible for this junction) have raised no objection despite being challenged on the matter. Highways England confirmed that the proposals would have no material impact on either the A46 or A1. Further investigation by the applicant's agent revealed that the impact of the generated traffic heading towards A1/A46 junction in AM peak will be only 3% in the morning peak and 2% in the evening peak (an average of 1 additional car every 2½ minutes). Whilst any added delay/queuing is regrettable under such circumstances, a *severe impact* could not be demonstrated as a direct result of the proposal, and it acknowledged that it is not the developer's obligation to solve existing traffic problems.

It is also worth noting at this point that A46 improvements around Newark are included in Highways England's Road Investment Strategy for the 2015-2020 period with a scheme delivery potentially earmarked for the 2020-2025 period should the necessary funding be justified and agreed. Also the District Council's Community Infrastructure Levy Regulation 123 list holds schemes to be funded that include junction improvements at Lincoln Road/Brunel Drive and Lincoln Road /Northern Road.

Regarding the new access on to Lincoln Road, it has been confirmed that this will take the form of a priority junction with a ghost island right turn facility. The scheme will require a small adjustment to a traffic refuge. In line with the recommendations of a safety audit, the layout has been amended so that the new access has a single lane approach to Lincoln Road. This has been modelled and junction capacity is well within acceptable limits. This type of junction maintains priority for traffic on Lincoln Road.

Some discussion has also taken place regarding the impact the new access would have on access in and out of local private driveways. However, this type of layout is not uncommon and there are several existing examples on Lincoln Road further to the north where there is no evidence of an accident problem. Whilst a traffic signal scheme might have been considered, such a scheme has not been presented for assessment and, in any case, may have given rise to other concerns over safety and/or traffic delays.

It is concluded therefore that the junction type and layout is suitable for the proposal.

As an outline application, the internal layout and parking provision has not been fully appraised. Some comments have previously been offered in order to be helpful, but it is considered sufficient to condition any approval such that the Highway Authority's highway design guide is used to develop the scheme further and that parking takes account of car parking research found at: <https://www.nottinghamshire.gov.uk/media/123026/residentialcarparkingresearch.pdf>

The revised Travel Plan is still being assessed. Either a further response will be provided prior to Committee consideration or perhaps a condition could be applied to any approval (example included below).

Similarly a condition should be applied to control construction traffic access arrangements.

In conclusion, it is considered that no objections be raised subject to conditions (listed under the Recommendation at the end of the Agenda report).

*Comments received 18.01.2019:*

Further to comments dated 4 January 2019, the traffic modelling within the Transport Assessment has now been assessed and the following comments require a response.

General:

1. There are some anomalies between the Distribution Development trips diagram and the 2023 Base+Devt diagram in the TA at the Yorke Drive/ Strawberry Hall Lane area. The 2023 base+development diagrams show a reduction in trips turning into and out of Yorke Drive compared with the 2023 base flows diagram whilst the development trips diagram shows an increase here. This does not affect the trips at the signalled junctions on Lincoln Road but it does call some of the flows and assumptions into question.

2. The new site access junction on Lincoln Road is a priority T-junction. The layout on the main road looks good with a right turn facility, protected by refuges at each end. These refuges are in the same location (more or less) as a couple of existing pedestrian refuges. However, the one to the northeast has moved slightly and this may restrict access to some private properties on Lincoln Road and so should be treated with caution and further clarity is sought.

3. The side road is shown as having 2 lanes out. This arrangement will need safety auditing as this raises the issue of a vehicle waiting to turn right masking the visibility to/ from a left turning vehicle; leading to potential conflicts if left turners make their turn blind into the path of an oncoming southwest bound vehicle.

4. The junction has been modelled in the overall Linsig model utilising slope and intercept data taken from a Junction 9 (Picady) model. There is no evidence of the Picady modelling and it would be good to see this to check that the geometric factors which have generated the slope and intercept values have been derived correctly and that the performance in both models is consistent.

5. Queueing from the A1/ A46 Winthorpe roundabout has been acknowledged in the text of the TA (para. 3.5.21) but has not been accounted for in the Linsig model (this will affect the base and development scenarios equally). The Highways England response to the initial scoping study enquiry (letter in Appendix H) ignores the effects of queueing traffic at the A46/A1 roundabout on Lincoln Road (since it's not a trunk road). Since the A1 and A46 will not be affected, no assessment of the roundabout junctions has been required by them. This Authority considers that this is the wrong approach since the consequential impact is one that should be identified.

#### Linsig modelling:

6. The Linsig model incorporates the new access junction as mentioned above. This is a legitimate approach as long as the data generated in the J9 Picady model has been correctly interpreted. There is no evidence of this.

7. The Linsig model stretches from Winthorpe Road to Brunel Drive taking in the new junction and the Emmendingen Drive crossing. The modelling of the existing traffic signal installations looks to have been done well with only minor differences in the way a pedestrian route have been modelled at Winthorpe Road. This is common to all scenarios and is not significant.

8. The traffic from the flow diagrams has been correctly assigned to the relevant traffic movements on the model.

9. The development flows only add relatively small flows onto the base model for the 2 main junctions. The development scenario results are worse than the base case but only by a small amount. Both junctions are equipped with puffin/ toucan style pedestrian facilities which will reduce pedestrian clearance periods if pedestrians are quick to clear the crossings. They are also under MOVA control strategies and have CCTV cameras at them or adjacent to them. Consequently, there is little further that could be done to mitigate the impact of the development traffic at these junctions that would be proportionate to the scale of the additional flows.

10. No account has been taken of the queueing back from the A1/A46 roundabout through the Brunel Drive junction. This regularly occurs in the PM peak affecting the discharge from Lincoln Road, Brunel Drive and, to a lesser extent, Harvest Drive. Adding more traffic into this junction will exacerbate these queues and the impact requires further assessment (see point 5 above).

*Note: Due to traffic disruption caused by major Severn Trent works locally, new traffic surveys will be difficult to judge as being typical and accurate.*

*Comments received 04.01.2019:*



I refer to the submitted Transport Assessment (rev. 2) dated December 2018. Due to the quantity of data submitted, further time is required beyond the consultation deadline to assess all the traffic and highway implications of the proposal. The Travel Plan and junction capacity assessments are being appraised and a further response provided in due course. Therefore, accept this as a holding objection, pending these further comments.

In the meantime and notwithstanding the above, the following comments are offered to help progress matters, without prejudice to any future recommendation:

1. Drawing 70045283-SK-001-P02 shows the proposed Lincoln Road junction as a priority junction with a right turn lane. However para.3.5.10 mentions the signalisation of this junction. Can the applicant confirm what type of junction is being proposed?
2. Para.5.1.5 suggests that construction traffic will use an existing access off Lincoln Road with some improvements. Could more detail be provided about these improvements? Could more information be provided also in terms of the amount of construction traffic to be expected and period over which such access will be required?
3. Public rights of way are affected. If the Planning Authority has not already done so, could the County Council's Countryside Access team be consulted?
4. An initial look at the 2018 base traffic models suggests that existing queuing is perhaps significantly less than that experienced on site. Observations have not yet occurred yet to check this, but the applicant may wish to consider (and may be required later) to carry out validation surveys to compare real-time delays/queues with those modelled.
5. The indicative road layout has not yet been assessed in detail but, since this is an outline application, it may be sufficient to suggest that any adoptable highways should be designed to comply with the Nottinghamshire Design Guide.
6. Regarding parking, two issues need attention:
  - a. The Highway Authority would not wish to adopt parking spaces. These should be provided within curtilages or at least maintained by a third party.
  - b. Unless they are associated with apartments/flats, parking courts should be avoided. Experience has shown that they are little used and result in increased on-street parking to the detriment of other highway users.
7. The swept path analysis drawings show that the proposed s-bend is difficult to navigate and may even be impossible if casual parking were to take place on-street.
8. Further assessment by the applicant's agent is required to demonstrate that the repositioned traffic refuge outside No.33 Lincoln Road will not inhibit vehicle manoeuvres in or out of that dwelling.

The above list of comments may not be exhaustive but are offered with the intention of being helpful until such time as further detailed assessment can be completed.

#### **NCC Highways Authority (Travel Plan) –**

*Comments received 17.01.2019:*

- Paragraph 3.1.1 refers to the inclusion of 'existing traffic flows on the highway network and key junctions'. These flows are not included within the TP, and as such we would recommend that this sentence is removed (rather than include them, since the inclusion of traffic flows / junction capacity assessments is not necessary in a Travel Plan – this may be a reference from the TA).
- Section 4.3 would benefit from a cycle map locating the cycle routes identified in paragraphs 4.3.3 and 4.3.4.
- The Travel Plan (and therefore the role of the TPC) should cover a period from first occupation to 5 years following 50% occupation of the site. This statement needs to be consistent throughout

(i.e. Paragraph 7.2.1 refers to a 'period of 5 years', whilst paragraph 10.1.6 refers to '5 years following first occupation'.)

- Full contact details for an interim TPC should be provided now, which could be a representative of the developer, or their agent. A commitment should also be made to update NCC of these details if/when a new TPC is appointed.
- We note the TP alludes (7.2.3) to the TPC being a member of the sales team – confirmation should be included that the appointment period of the TPC will match the monitoring period, and not simply the sales period.
- Travel Plan measures should be clearly split into 'hard measures' (i.e. What is being included within the design of the Site (pedestrian footways, cycle paths, cycle storage, 20mph zone on roads to encourage a safer environment for pedestrians etc.) and 'soft measures' (the provision of a 'welcome pack', the promotion of car sharing schemes etc.). At the moment, this isn't particularly clear.
- For a site of this size, we'd expect to see the offer of public transport Taster tickets for each household on first occupation, or alternative cycle discount voucher. This is what other developers are now commonly offering and often offered on a 'redemption basis'.
- Other measures should include the offer of 1-to-1 travel planning advice, delivered by the TPC, for any households requiring it.
- Whilst a local residents group could be established, it needs to be made clear that the TPC will continue to take full responsibility for the implementation of the TP. At no point within the TP period should the TPC pass responsibility of the TP to the residents group.
- Similarly, organisation of the car sharing initiative should be led by the TPC, not 'coordinated by residents' as stated in Paragraph 7.3.4. For a site of this size, it would be better to immediately go with the Nottinghamshire option.
- Targets should be based on the trip generation from the transport assessment, reduced to take into account the travel plan. (i.e. we have found it easiest to show two tables, one with the TA trip generation and one showing what the travel plan will achieve). Overall mode share can be a secondary target.
- No targets should be amended without the approval of NCC. At present, para 8.2.3 suggests targets will be unilaterally altered by the developer.
- Any baseline surveys should be approved by NCC prior to issue to residents.
- The Travel Plan should be monitored via the collection of traffic counts at the Site, in accordance with the SAM methodology (or similar), supplemented by travel surveys. A suggested timetable of survey monitoring is given below, taken from the NCC TP Guidance. The Travel Plan should also be monitored by resident Travel Surveys (as is suggested by the TP), the uptake of public Transport taster tickets and the number who sign up to the car sharing website.

Year	SAM	Resident Travel Survey
Baseline	No	Yes
1	Yes	Yes
2	No	Yes
3	Yes	Yes
4	No	Yes
5	Yes	Yes
Etc...		

- In addition to annual monitoring reports, the TP needs to commit to a 3 year review and evaluation which should be submitted to NCC.
- Should the TP fail to meet its targets, then there should be some fall-back measures included, which should include as a minimum the extension of the monitoring period and agreement of remedial actions with NCC.



## **NCC Policy –**

### Strategic Transport

The application site is located immediately adjacent to the B6166 Lincoln Road which is a major arterial route into Newark and suffers from peak period traffic congestion. The applicant's Transport Assessment concludes that the traffic generated by the application site would not lead to a significant detrimental impact in its own right however in combination with other planned and committed development in Newark there is forecast to be a significant worsening of traffic and travel conditions which would need to be supported by highway infrastructure improvements. As a result the local highway authority is proposing a number of schemes of improvement at the major traffic intersections on Lincoln Road in the town, although these do not feature in a current County Council implementation programme and will need to be funded from developer contributions taken by Newark and Sherwood District Council through the it's Community Infrastructure Levy (CIL). In which case the applicant should be advised that the District Council is likely to require a financial contribution from the developer (through CIL) and this should be used towards the cost of the provision of improvements on the B6166 Lincoln Road including a proposed traffic signal junction upgrade at the Lincoln Road / Brunel Drive junction.

### Public Transport

#### *General Observations*

The proposed access point appears to be from an improved entrance onto Lincoln Road. The nearest current bus stops are approximately fronting and within the site.

The current locations of bus stops NS0103 & NS0712, London Road (St Leonards Church), should be assessed for highways safety purposes. Should this location be considered unsafe in terms of highway safety with the introduction of an entrance providing access for this development, the developer will be required to both provide a suitable safe location for the relocated bus stops, and would be liable for funding such a relocation.

#### *Bus Service Support*

The County Council has conducted an initial assessment of this site in the context of the local public transport network. Stagecoach offer a frequent commercial service with buses passing the site every 30 minutes enroute to the town centre. Other facilities are available on Service 67 operating along Lincoln Road.

However this service is to be withdrawn in April 2019. Arrangements are being made for a Council funded replacement, however the level of service to be provided is currently not known.

Nottinghamshire County Council offers a travel pass service for new developments in partnership with local bus operators, and wish to encourage the take up and ongoing use of existing public transport facilities through delivery of the measures set out in the site Travel Plan. The County Council would request a sustainable transport contribution via a Section 106 agreement of £55,000 which will provide each new dwelling with either (1) up to two 3-month bus passes (or equivalent) for use on the existing local bus network and/or (2) to provide other sustainable transport measures or bus service enhancements to serve the site.

## *Infrastructure*

The current infrastructure observations from the County Council's photographic records are as follows:

NS0103 St Leonards Church – Both Ways Bus Stop Pole and Raised Boarding Kerbs.

NS0712 St Leonards Church – No Infrastructure.

NS0104 Beaumont Walk – Both Ways Bus Stop Pole.

NS0713 Beaumont Walk – No Infrastructure.

NS0568 Fenton Close – Bus Stop Pole, Raised Boarding Kerbs and Bus Stop Clearway Markings.

NS0100 Rosewood Close – Bus Stop Pole, Raised Boarding Kerbs and Bus Stop Clearway Markings.

NS0095 Yorke Drive – Bus Stop Pole, Raised Boarding Kerbs and Bus Stop Clearway Markings.

NS0118 Yorke Drive – Bus Stop Pole, Raised Boarding Kerbs and Bus Stop Clearway Markings.

The County Council would request a contribution via a Section 106 agreement for Bus Stop Improvements to the value of £40,000. This will be used towards improvements to the above bus stops and/or new bus stops within/in the vicinity of the site to promote sustainable travel. In addition, the developer would be liable for funding any bus stop relocations for existing bus stops, should their locations be considered unsafe in terms of highway safety with the introduction of a site entrance.

### *Summary of contributions requested:*

Bus Stop Improvements - £40,000

Sustainable Transport contribution - £55,000

### *Justification*

The sustainable transport contribution will provide new occupants with two 3 month smartcard bus passes (or equivalent) for use on the existing local bus network to encourage use of sustainable modes of travel, or provide other sustainable transport measures or bus service enhancements to serve the site.

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/provide new 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 or new stops which are situated close to or within the site, so are directly related to the development, and are fairly and reasonably related in scale and kind to the development.

### *Public Health*

Many of the health indicators are: *worse than the England average* with Healthy Life and Disability Free expectancy statistically worse than the England average for this area.

The Nottinghamshire Joint Strategic Needs Assessment (JSNA) provides a picture of the current and future health needs of the local population:

<http://jsna.nottinghamcity.gov.uk/insight/Strategic-Framework/Nottinghamshire-JSNA.aspx>. This states the importance that the natural and built environment has on health.

The Nottinghamshire Health and Wellbeing Strategy sets out the ambitions and priorities for the Health and Wellbeing Board with the overall vision to improve the health and wellbeing of people in Nottinghamshire:

<http://www.nottinghamshire.gov.uk/caring/yourhealth/developing-health-services/health-andwellbeing-board/strategy/>

The 'Spatial Planning for Health and Wellbeing of Nottinghamshire' document approved by the Nottinghamshire Health and Wellbeing Board in May 2016 with the Planning and Health Engagement Protocol 2017 identifies that local planning policies play a vital role in ensuring the health and wellbeing of the population and how planning matters impact on health and wellbeing locally. In addition a health checklist is included to be used when developing local plans and assessing planning applications:

<http://www.nottinghamshireinsight.org.uk/search?q=Spatial+Planning> It is recommended that this checklist is completed to enable the potential positive and negative impacts of the pre application on health and wellbeing to be considered in a consistent, systematic and objective way, identifying opportunities for maximising potential health gains and minimizing harm and addressing inequalities taking account of the wider determinants of health. Obesity is a major public health challenge for Nottinghamshire. Obesity in 10-11 year olds in this area is similar to not better than the England average Obesity levels for this It is recommended that the six themes recommended by the TCPA document 'Planning Health Weight Environments' – [http://www.tcpa.org.uk/data/files/Health\\_and\\_planning/Health\\_2014/PHWE\\_Report\\_Final.pdf](http://www.tcpa.org.uk/data/files/Health_and_planning/Health_2014/PHWE_Report_Final.pdf) are considered to promote a healthy lifestyle as part of this application. The six themes are:

- Movement and access: Walking environment; cycling environment; local transport services.
- Open spaces, recreation and play: Open spaces; natural environment; leisure and recreational spaces; play spaces.
- Food: Food retail (including production, supply and diversity); food growing; access.
- Neighbourhood spaces: Community and social infrastructure; public spaces.
- Building design: Homes; other buildings.
- Local economy: Town centres and high streets; job opportunities and access.

Due to the size of the development it is recommended that planners discuss this development as part of the Nottinghamshire ICS Strategic Estates Board or where all NHS stakeholders are members and also consult with the Newark & Sherwood Clinical Commissioning Group to consider any additional healthcare requirements e.g. S106 / CIL.

**NCC Education** – The current primary projections (set out below) over 5 years show that there are less than 20 places available in this planning area in 5 years but a further 137 pupils may be generated by housing developments in 10 years. On balance therefore the County Council would be seeking an education contribution at this time for Primary Education. A development of 190 dwellings equates to 40 primary places. Therefore, a contribution of £761,920 (40 x £19,048) based on build cost is sought.

This will be used towards the provision of new primary schools which are planned in the area, however the project on which these monies will be spent is subject to final confirmation. In terms

of the use of build cost to calculate the contribution; further information about the circumstances when this will be used and the cost per place currently being used is set out on pages 24 and 25 of the County Councils updated Planning Obligations Strategy which can be viewed at <https://www.nottinghamshire.gov.uk/planning-and-environment/general-planning/planningobligations-strategy>

DFE No:	School	Planning Area	Net Capacity	Average 5 Year Projection	Housing	Surplus or Insufficient Places
2921	Barnby Road Academy: Primary & Nursery School	Newark Town	525	540	1	-16
2016	Bishop Alexander LEAD Academy	Newark Town	300	300	1	-1
3292	The Sir Donald Bailey Academy	Newark Town	578	470	3	105
3450	Christ Church CoFE Infant School	Newark Town	85	50	14	21
3766	Holy Trinity Catholic School	Newark Town	300	299		1
2532	Lovers Lane Primary and Nursery School	Newark Town	205	201	20	-16
2673	Manners Sutton Primary School, Averham	Newark Town	56	76		-20
3040	The Mount CoFE Primary and Nursery School	Newark Town	210	214	106	-110
2026	William Gladstone Church of England Primary School	Newark Town	328	256	16	56
2853	Winthorpe Primary School	Newark Town	105	105	0	0
		<b>Total:</b>	<b>2692</b>	<b>2511</b>	<b>161</b>	<b>20</b>

In terms of secondary education; this funded via the District Councils Community Infrastructure Levy however, as noted the Strategic Planning response that was previously submitted to the District Council, based on current projections there are sufficient secondary age places available in the catchment school (Magnus School).

**NCC Libraries** – 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.

There is currently a proposal for a new development on land at Yorke Drive and Lincoln Road Playing Field, this would comprise 190 new dwellings. At an average of 2.3 persons per dwelling this would add 437 to the existing libraries’ catchment area population. The nearest existing libraries to the proposed development is Newark Library.

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 for additional library stock. An

increase in population of 456 would put more demand on the stock at this library and a developer contribution would be expected to help address this situation.

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.

Newark Library is currently below the MLA optimum stock level (see table on page 2) and so a developer contribution would be sought to ensure current stock levels are not put under further pressure as a result of the new development.

We would seek a developer contribution for the additional stock that would be required to meet the needs of the 437 population that would be occupying the new dwellings. This is costed at 437 (population) x 1.532 (items) x £10.00 (cost per item) = £6,694

Library Optimum Stock Levels:

LIBRARY	District	Catchment Popn Est (Census 2011)	Total Lending Stock	Ref Stock	Reserve stock	Total Stock	Optimum Stock figure	Difference Optimum vs Actual stock
Newark Library	Newark & Sherwood	37,752	37687	305	7243	45,235	57,836	-12,601

**NCC Lead Local Flood Risk Authority –**

*Comments received 08.03.2019:*

Their revised proposals deal with all my concerns.

*Comments received 27.12.2018:*

Object. The proposed approach to surface water drainage is unacceptable as it stands. The majority of this development is on existing greenfield land and as such it is unacceptable to propose to discharge to the public sewer network without further information. The developer should consider the options in more detail to ensure their surface water strategy is robust and therefore prevent any significant changes being required at a later stage in the planning process. The following points should be considered as part of a revised strategy.

1. The watercourse on Brunel Drive should be considered as the primary receptor for surface water. Section 4.1.3 of the Flood Risk Assessment states that this is not feasible ‘due to the length and complexity’. This statement is unacceptable without further detailed supporting information.
2. The hydraulic calculations should make an allowance for run off from the permeable areas including Catchment 7. This allowance should align with the impermeable nature of the ground (once confirmed via testing compliant with BRE365)
3. 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 (compliant with BRE365).

4. For greenfield areas, the maximum discharge should be the greenfield run-off rate (Qbar) from the area. 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.
5. The site drainage system should cater for all rainfall events up to 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.
6. Consideration must be given to exceedance flows and flow paths to ensure properties are not put at risk of flooding.
7. Any proposals to use SUDS must include details showing how these will be maintained to ensure their effectiveness for the lifetime of the development.

**NSDC Policy Officer** – The principle of releasing land from Lincoln Road Playing Fields to support the regeneration of the existing Yorke Drive Estate is established through Policy NUA/Ho/4, with the Policy Area providing a framework for its delivery. Whilst the application is outline with all matters reserved except from access it does seek consent for a potential maximum level of development, and so it is important that we are content that the objectives listed in the site allocation policy, and other relevant policy requirements, can be likely achieved at this maximum scale.

*Level of Development* - The application suggests that the current proposals would be for a scheme of 325 new homes, with 130 having been demolished and a net gain of 195. Clearly this is below the 230 net additional dwellings anticipated through Policy NUA/Ho/4. That figure was however based on the previous Broadway Malian master planning work, and has been revisited in greater detail as part of the more recent project. The current proposals are the result of detailed consideration of land-use planning and other constraints, soft-market testing, viability considerations and community engagement. This process has guided the level of development being sought consent for, and in my view our emphasis should be on the delivery of regenerative improvements to Yorke Drive rather than achieving a specific level of development from the playing fields. Indeed there is also a balance to be struck between that release and Spatial Policy 8 – ultimately it may not prove possible to achieve the anticipated net development in a way which is acceptable in terms of the quantum and quality of open space which would remain. Providing that the estate improvements can be achieved in a policy compliant manner and at the scale of development proposed then I would see no reason to raise an objection on this particular issue.

*In terms of the density of proposed development* – the developable area is 7ha and at 330 homes this equates to a density of 47dph. This far exceeds the 30dph minimum sought through CP3,

however regard needs to be given to site specific circumstances and local character in determining what is likely to represent an appropriate development. In this sense, given the surrounding context, I don't have any concerns over whether an appropriate standard of design and layout is likely achievable at the scale of development proposed.

*Master Plan* - Policy NUA/Ho/4 requires submission of a Master Plan which addresses a range of issues. These are considered in-turn below. I'm however mindful that all matters, bar access, are reserved for subsequent determination, and so should you be minded to recommend approval then I would recommend that a condition requiring submission and approval of a detailed Master Plan is attached.

*Phasing* - It is currently proposed that development would occur across four phases – and this appears to make sense, integrating development with the rehousing of residents and minimising of traffic increase and disruption. I would however suggest that the subsequent submission and approval of detailed phasing arrangements should be the subject of a condition.

*Redevelopment and Housing Mix and Tenure* - Within the existing estate the policy requires that the Master Plan demonstrate the removal of poorer quality housing and replacement with new dwellings. The submitted Master Plan, and accompanying Demolition Plan, demonstrates a proposed approach to the replacement of poorer quality housing with new dwellings, although this will fall to be considered in detail at the Reserved Matters stage. The application would not facilitate the total regeneration of the existing estate, with its central and southern areas left unaffected. Nevertheless my understanding is that, as indicatively proposed, the areas of poorest quality housing would be addressed. The extent of intervention has also been guided by what is considered able to be financially supported by the release of land from the playing field.

*Linked to the above is the re-housing of existing residents whose homes are scheduled for demolition* – for which a 'Residents Offer' policy has been brought together. This includes the offer of rehousing into a new home for all Council tenants who wish to remain in the area, and support for owner-occupiers to help them buy a new property. The household survey carried out in February and March indicated around 80% of residents would want to remain in the area. Whilst the approach to demolition is a matter for subsequent determination it is, in my view, important that the issue is able to be properly considered at that stage and that we can be content that the accommodation needs of existing residents will continue to be met (whether on or off-site according to preference). I would therefore suggest that consideration be given to conditioning the requirement for submission, and approval, of a detailed schedule and broad timetable (perhaps linked to detailed phasing arrangements) outlining the approach to the re-housing of existing residents and demonstrating how this has been integrated into delivery of the scheme.

NUA/Ho/4 reflects a desire to increase the mix of tenure and range of housing within the estate. Whilst this is an issue to be resolved at the Reserved Matters stage the affordable housing statement is nonetheless welcomed, and provides a level of reassurance over how the indicative proposals sit against relevant policy requirements. It is clear that from the perspective of affordable housing the indicative scheme would fall short of meeting the 30% policy requirement, once those existing affordable units lost through demolition are factored in. I do however recognise the difficulties and complexities involved in delivering a project of this nature, and CP1 does allow for shortfalls/non-provision where the meeting of the contribution would prove unviable. I note therefore that the application is supported by a viability assessment.

Notwithstanding this, the viability of the scheme may change as indicative proposals become firmed up, the scheme amended, should market conditions change and/or additional external funding become available. Therefore as the exact numbers, type, tenure, location and timing of affordable units are unknown I would suggest the use of a condition requiring submission and approval of this information and details prior to development beginning – i.e. similar to that detailed at para 3.35 of the Affordable Housing SPD. Should there still be a shortfall at that stage then there will need to be justification either through site specific circumstances and/or a robust viability assessment, in line with CP1.

Beyond the specifics around affordable housing provision I would also emphasise the importance of being able to understand how the proposals affect the balance of tenure and house type within the estate as a whole. The submitted statement gives an overall description of the house types and tenures which can be found - but it's not possible from this to establish the precise existing balance within the estate. I appreciate that the final mix of the scheme will not be resolved until the reserved matters stage, and that the undertaking of a Housing Needs Survey will contribute towards this. However this information will be necessary at the reserved matters stage for us to be able to come to a view over whether the policy objective of broadening mix and tenure has been achieved. I would therefore recommend that this be the subject of a condition, requiring submission of a detailed housing statement outlining the existing composition of housing mix and tenure and the change which would occur as a result of the proposal.

#### *Improvements to the Estates Environment and Linkages*

The site allocation policy requires the Masterplan to facilitate improvements to the layout and public realm of the estate, and to improve linkages to the wider Bridge Ward (including Lincoln Road and Northern Road Industrial Estate). The indicative layout shows both to be theoretically possible at the scale of development proposed, though I would defer to your expertise over matters of design and layout. It is however also important, in line with CP9 and DM5, that a good standard of design and layout is capable of being achieved at the scale of development indicatively suggested for the playing fields.

#### *Lincoln Road Playing Fields*

Policy NUA/Ho/4 requires that suitable playing pitches be retained to meet the requirements of Spatial Policy 8 'Protecting and Promoting Leisure and Community Facilities' (SP8). But the matter of compliance with SP8 stretches beyond the playing pitches – in addition to formal recreational sports provision there is also the existing pavilion building and the informal recreational use of the open space. In my view it is reasonable, bearing in mind the tests at para 48 of the NPPF, to afford meaningful weight to SP8 as set out within the Amended Core Strategy. The policy seeks to restrict the loss of existing community and leisure facilities particularly where it would reduce the community's ability to meet its day-to-day needs.

Turning first to the playing pitches - the case is made that the residual open space can accommodate sufficient provision to meet both previous (2017/18) and current (2018/19) playing pitch demand from the main user, the Fernwood Foxes. This relies on the use of variable layouts within the reduced site area and, in my view, as an approach this has the potential to satisfy SP8. This would however be subject to the flexibility in configuration being a practical approach (i.e. that demand can be managed in a way which makes reconfiguration a realistic option) and feasible (i.e. that the reconfigured pitches would continue to meet relevant technical standards and would not impede other existing uses of the space – such as informal recreation). Ultimately it will be necessary to rely on the expertise of stakeholders for guidance on this, and I note that

there is a holding objection from Sports England. Clearly there will be the need for further engagement with the body, however I have picked up some of the main issues below.

Concerns have been raised by the body over the tightly constrained nature of the layout within the open space and that there may be conflict between the formal and informal uses. The indicative layout shows that some degree of informal space can be provided at the scale of development proposed – with this being located in the south-eastern corner and the southern extent of the playing fields. This is a reduced area (1.2ha), when compared to that currently available, and so I would suggest that internal advice be sought over whether the indicative residual space would be theoretically sufficient to allow informal needs to be met. The extent to which informal and formal uses are likely to overlap is also a consideration – and if this proves to be limited then presumably the potential for conflict would be restricted.

It is suggested that the dwellings indicatively proposed to the pedestrian connection north of Whittle Close could be removed to provide additional breathing space within the playing fields layout, and I would suggest that this option is explored. Should the units prove to be fundamental to the scheme and unable to be relocated then this may be an indication that the maximum scale of development proposed is inconsistent with the ability to satisfy SP8.

The body have also made comment around the phasing of development and the provision of the new playing pitches, the drainage/remediation/pitch improvements and provision of the new pavilion – with the need for this to occur prior to the loss of the existing facilities. These issues could however be resolved through inclusion within the phasing condition referred to above, with submission and approval of details being required.

The final area of consideration in terms of SP8 is the pavilion – which performs a range of community facility roles beyond providing changing facilities. Indicative proposals concern a larger building with improved changing rooms and kitchen facilities with higher quality flexible sports, leisure and community activity use. Clearly such an outcome would satisfy SP8 in respect of the pavilion.

### *Developer Contributions*

Following the Developer Contributions and Planning Obligations SPD (2013) this scale of development (195 net additional dwellings) would be theoretically liable for contributions towards – affordable housing (addressed earlier), community facilities, education (primary only), health, libraries, community facilities, provision for children and young people, natural and semi-natural green space, amenity green space, outdoor sports facilities and transport. Sports England has also raised the need for the additional demand generated by the development for recreational and general open space to be addressed. Though the need for such contributions and the ability of the proposal to accommodate the financial burden are however valid considerations.

In this respect relevant contributions have been modelled as part of the submitted viability assessment, and notably this concludes the provision of affordable housing and further developer contributions to be unviable. We will need to be content this is correct, but it does not seem unlikely given the nature of the proposal.

I would defer to relevant stakeholders for advice over whether there is a theoretical need for contributions to be sought across the different typologies. But in respect of formal sports provision, I note that the response from the Community, Sports And Arts Development team

consider the retained provision will be sufficient to meet identified current and anticipated future demand of the community. Beyond additional provision the condition of the existing Lincoln Road pitches has been assessed as poor, and my understanding is that the quality of the retained provision is intended to be significantly improved – which is something that we may also wish to give some weight to.

Given the existing viability position and taking account of input from relevant stakeholders we will need to come to a view over whether an appropriate balance is likely to be struck between facilitating estate renewal and what can be supported from a developer contributions perspective. I am sympathetic to the complexities and timescales around delivery of the proposed development, and the difficulty of definitively setting the scale and nature of contributions at this stage. Therefore providing we are content that the viability assessment is robust and that the minimum contributions necessary to make the scheme acceptable are likely to be deliverable then I would offer no objection. This is however subject to appropriate controls being attached to the outline consent, requiring subsequent submission and approval of proposed contributions, and allowing for the revisiting of viability across the different phases of development.

#### *Highways Arrangements*

In respect of the development on the playing field the site allocation policy requires provision of an additional access via Lincoln Road. With access being a matter not reserved for subsequent determination it's important that we are satisfied the arrangements are satisfactory. Whilst the proposed access differs from that previously considered (utilising the existing lane to the north of the Coop) there are clear design and layout benefits to this approach- particularly from the perspective of integrating the playing field development with the existing estate. The comments from the Highways Authority are noted, and clearly additional engagement will be necessary to the points raised.

#### *Flood Risk*

Core Policy 9 and Policy DM5 require the effective management of surface water – and the Lead Local Flood Authority is at present objecting to the proposal. It is important that sufficient detail is available to allow for consideration over the likelihood of suitable arrangements being deliverable.

#### *Conclusion*

The principle of development has been established through the allocation of the site, and the renewal of the existing Yorke Drive estate is a key policy objective. I'm comfortable that the outline proposal has the potential to provide the basis for delivering the regeneration of the existing estate and release of land from the playing fields in a policy compliant manner - subject to the outstanding objections from various stakeholders being addressed and appropriate controls being attached to the consent.

#### **NSDC Environmental Health (Reactive) –**

##### *Comments received 05.03.2019:*

The proposed noise mitigation measures for Daloon foods, these would appear acceptable in reducing noise levels.

##### *Comments received 15.01.2019:*

Where the main noise source is industrial or commercial activity the use of BS4142 2014 assessment is advised to assess the impacts. I assume that this is what the noise consultant has done? Whilst noise levels inside properties are clearly important, so are exterior levels and we need to be careful not to build “acoustic prisons”, where residents are only offered a suitable level of protection inside their dwelling with high quality double glazed windows closed. It is reasonable to expect windows to be opened for ventilation on a regular basis for a number of reasons and noise exposure needs to take account of this. Similarly outdoor amenity space needs to be protected (BS8233 2014) so that such spaces can be used by residents in reasonable acoustic comfort.

#### **NSDC Environmental Health (Contaminated Land) –**

With reference to the above development, I have received a Phase I Desktop Study report submitted by the consultant (WSP) acting on behalf of the developer. This includes an environmental screening report, an assessment of potential contaminant sources, a brief history of the sites previous uses and a description of the site walkover.

The report has identified several potential contaminant sources and then concludes with a series of recommendations including a scope of intrusive investigations/targeted soil sampling to be carried out.

I generally concur with these findings and would therefore recommend the use of our full phased contamination condition.

#### **NSDC Environmental Health (Air Quality) –**

I have now had the opportunity to consider the Air Quality Assessment report that has been submitted by WSP in support of this application. This assessment uses IAQM methodology to consider the risks and impacts of air emissions during the construction phase and operational phases at sensitive receptors identified as part of the report.

Following assessment of baseline levels using various data sources, the report considers how demolition /construction and operational phases could impact on these receptors.

It is considered that human health risk from particulate emissions to be negligible however the risk of dust deposition (nuisance dust) is considered greater and a raft of mitigation is proposed to control this during the construction phase. Furthermore some measures are proposed to preserve long term air quality during operational phase also.

Providing the recommended mitigation measures are implemented, the magnitude of dust effect on each receptor is considered negligible.

As such I can concur with the findings of the assessment and would expect that mitigation measures (section 6 of the report) are included as planning conditions as follows:

#### Construction Phase Mitigation

##### *General Communication*

- A stakeholder communications plan that includes community engagement before work commences on site should be developed and implemented.

- The name and contact details of person(s) accountable for air quality and dust issues should be displayed on the site boundary. This may be the environment manager/engineer or the site manager. The head or regional office contact information should also be displayed.

#### *General Dust Management*

- A Dust Management Plan (DMP), which may include measures to control other emissions, in addition to the dust and PM10 mitigation measures given in this report, should be developed and implemented, and approved by the Local Authority. The DMP may include a requirement for monitoring of dust deposition, dust flux, real-time PM10 continuous monitoring and/or visual inspections.

#### *Site Management*

- All dust and air quality complaints should be recorded and causes identified. Appropriate remedial action should be taken in a timely manner with a record kept of actions taken including of any additional measures put in-place to avoid reoccurrence.
- The complaints log should be made available to the local authority on request.
- Any exceptional incidents that cause dust and/or air emissions, either on- or off- site should be recorded, and then the action taken to resolve the situation recorded in the log book.

#### *Monitoring*

- Regular site inspections to monitor compliance with the DMP should be carried out, inspection results recorded, and an inspection log made available to the local authority when asked.
- The frequency of site inspections should be increased when activities with a high potential to produce dust are being carried out and during prolonged dry or windy conditions.

#### *Preparing and Maintaining the Site*

- Plan the site layout so that machinery and dust causing activities are located away from receptors, as far as is practicable.
- Where practicable, erect solid screens or barriers around dusty activities or the site boundary that are at least as high as any stockpiles on site.
- Where practicable, fully enclose site or specific operations where there is a high potential for dust production and the Site is active for an extensive period.
- Avoid Site runoff of water or mud.
- Keep Site fencing, barriers and scaffolding clean using wet methods.
- Remove materials that have a potential to produce dust from Site as soon as possible, unless being re-used on Site. If they are being re-used on-Site cover appropriately.
- Where practicable, cover, seed or fence stockpiles to prevent wind whipping.

#### *Operating Vehicle/Machinery and Sustainable Travel*

- Ensure all vehicle operators switch off engines when stationary - no idling vehicles.

- Avoid the use of diesel or petrol-powered generators and use mains electricity or battery powered equipment where practicable.
- A Construction Logistics Plan should be produced to manage the sustainable delivery of goods and materials.

#### *Operations*

- Only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques such as water sprays or local extraction, e.g. suitable local exhaust ventilation systems.
- Ensure an adequate water supply on the Site for effective dust/particulate matter suppression/mitigation, using non-potable water where possible and appropriate.
- Use enclosed chutes and conveyors and covered skips.
- Minimise drop heights from conveyors, loading shovels, hoppers and other loading or handling equipment and use fine water sprays on such equipment wherever appropriate.
- Ensure equipment is readily available on site to clean any dry spillages, and clean up spillages as soon as reasonably practicable after the event using wet cleaning methods.

#### *Waste Management*

- Avoid bonfires and burning of waste materials.

#### *Measures Specific to Earthworks*

- Stockpile surface areas should be minimised (subject to health and safety and visual constraints regarding slope gradients and visual intrusion) to reduce area of surfaces exposed to wind pickup.
- Where practicable, windbreak netting/screening should be positioned around material stockpiles and vehicle loading/unloading areas, as well as exposed excavation and material handling operations, to provide a physical barrier between the Site and the surroundings.
- Where practicable, stockpiles of soils and materials should be located as far as possible from sensitive properties, taking account of the prevailing wind direction.
- During dry or windy weather, material stockpiles and exposed surfaces should be dampened down using a water spray to minimise the potential for wind pick-up.

#### *Measures Specific to Construction*

- Ensure sand and other aggregates are stored in bunded areas and are not allowed to dry out, unless this is required for a process, in which case ensure that appropriate additional control measures are in place.
- Ensure bulk cement and other fine powder materials are delivered in enclosed tankers and stored in silos with suitable emission control systems to prevent escape of material and overfilling during delivery.
- For smaller supplies of fine powder materials ensure bags are sealed after use and stored appropriately to prevent dust.
- All construction plant and equipment should be maintained in good working order and not left running when not in use.



### Operational Phase Mitigation.

- The provision of at least 1 Electric Vehicle (EV) “rapid charge” point per 10 residential dwellings and/or 1000m<sup>2</sup> of commercial floorspace. Where on-site parking is provided for residential dwellings, EV charging points for each parking space should be made.
- Where development generates significant additional traffic, provision of a detailed travel plan (with provision to measure its implementation and effect) which sets out measures to encourage sustainable means of transport (public, cycling and walking) via subsidised or free-ticketing, improved links to bus stops, improved infrastructure and layouts to improve accessibility and safety.

**NSDC Community Projects** - I have been actively involved in this project and I am aware that there has been extensive community and stakeholder consultation (including local community user groups such as Fernwood Foxes Football Club and Newark Wanderers Table Tennis Club) in respect of the community sports and leisure offer which has influenced the overall design as submitted. Whilst it is noted that there is a net loss of open space the proposal will improve the overall quality of the retained provision which is deemed sufficient to meet the identified demand for football pitches currently. Furthermore the proposed layout offers flexibility in terms of pitch provision which will satisfy the anticipated demand generated from the local community in the future. Improvements to the supporting infrastructure is also welcomed including a new community facility with associated changing provision (replacing the current building) which will increase indoor provision and scope for wider community engagement and use. The proposal also incorporates active design principles that will encourage greater use of the overall leisure provision by local residents which will contribute to improving health and wellbeing within the locality.

### **NSDC Tree Officer –**

*Comments received 27.02.2019:*

The revised planning layout does not change my previous comments/recommendations.

*Comments received 17.12.2018:*

The proposals are broadly acceptable.

Although the submitted tree survey addresses potential tree loss but any final design should inform any further impact taking into account demolition, building footprint and location/size of tree canopy that may cause future nuisance issues, service runs, removal and installation of hard surfacing.

Any proposed soft landscaping proposal should ensure that sufficient room is allocated for root growth and canopy spread to allow full development and retention of any proposed trees.

### **NSDC Archaeology Officer -**

*Comments received 05.03.2019:*

The geophysics survey shows significant levels of modern magnetic disturbance which may have masked potential archaeological deposits. Further information will be required to investigate this potential in order to formulate an appropriate mitigation strategy. However the geophysical survey has shown that there is modern disturbance which may mean that the survival rates of any archaeology may be compromised.

It is my recommendation that trial excavation be undertaken prior to any development on this site, this work should be secured by permission.

Recommendation: Prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction. Initially I envisage that this would involve trial excavation which should then inform an appropriate mitigation strategy for further archaeological work, should this be required.

'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 (2019)'

*Comments received 04.01.2019:*

Many thanks for sending me the Archaeological Desk Based Assessment, sadly the report hasn't been finished, as there are a number of omissions that have been highlighted as requiring editing. However there is enough information to progress the archaeological comment to the next stage. There is no archaeology recorded on the development site, although this is most likely because this site has not been developed, and therefore not investigated for many hundreds of years. There is the potential for archaeology to survive on this site from the Roman period onwards but the form, importance and survival of any remains is unknown.

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 Viability Officer (received prior to the amendment of the application reducing the overall no. of units to 320 but not reconsulted as the amendment would not materially alter the advice given) –**

The purpose of the viability assessment is to determine the level of viability of the mixed private and affordable housing scheme being promoted by the Council to determine if the level of affordable housing and S106 infrastructure contributions is reasonable and viable to deliver.

The main premise of the viability appraisal, following advice contained in the NPPF, is that the development should be deliverable, taking account of the full cost impact of planning policies (including affordable housing, CIL and other infrastructure contributions) whilst maintaining a reasonable return to the landowner and developer.

The site is an existing brownfield housing development consisting primarily of Local Authority Housing and a significant area of open space. It is proposed to clear and level the site in four phases to enable existing residents to be relocated within the site and new private housing to be delivered as part of a Council led regeneration project.

### Key Assumptions

<b>GENERAL</b>		
Net Developable Site Area		6.9Ha
Development Scenario		Brownfield (Existing Housing)
Total Unit Numbers		325
<b>AREAS</b>		
Net Residential Sales Area	Houses	18600sqm
	Apartments	6269sqm
Gross Construction Area	Houses	18600sqm
	Apartments	7209sqm
<b>AFFORDABLE HOUSING</b>		
Affordable Housing Delivery Test Parameters		30%
Affordable Housing Tenure Mix		6% Shared Ownership
		37% Intermediate
		57% Affordable Rent
<b>SALES VALUES</b>		
	Houses (average)	£2100sqm
	Apartments	£1900sqm
<b>CONSTRUCTION COSTS</b>		
	Total	£33,384,716
<b>ABNORMAL DEVELOPMENT COSTS</b>		
Abnormal Construction Costs	As set out below	£4,220,000
<b>LAND VALUE ALLOWANCE</b>		
Residual Land Value with Planning Permission		£0
Existing Brownfield Land Use Value		£1,300,000
Share of Uplift in Land Value to Landowner		NA%
Land Value Allowance in Viability Appraisal		£1,300,000
<b>OTHER FEES &amp; COSTS</b>		
Professional Fees		8.0%
Legal Fees		0.5%

Statutory Fees (Planning, Build Regs, Warranties)		1.1%
Sales/Marketing Costs		2.0%
Contingencies		3.0%
<b>FIXED DEVELOPER CONTRIBUTIONS</b>		
CIL		£0
Planning Obligations	Outdoor Sports	£358,296
	Education	£546,240
	Community Facilities	£270,630
	Libraries	£8,732
	Health	£180,500
	Transport	£95,000
<b>FINANCE COSTS</b>		
Interest		5%
Arrangement Fee		1%
<b>DEVELOPMENT PROFIT</b>		
Development Profit Return on GDV		17.5%

### Assumptions Comments

The market sales values proposed by the applicant for the apartments range from £1356-£1603sqm. The proposed market house values range from £1743-£1905sqm. These values are considered low and the appraisal has therefore adopted alternative values based on the research underpinning the Local Plan viability work in 2017 and adjusted to 2019. An average sale value of £1,900sqm has been adopted for the market apartments and £2,100sqm for the market houses.

House Type	Unit No	Unit Size	Sale Sqm	Unit Sale	Total Sale
<b>Private Units</b>					
1B2P Flat Private	23	50	£1,900	£95,000	£2,185,000
2B4P Flat Private	49	71	£1,900	£134,900	£6,610,100
2B4P House Private	72	71	£2,100	£149,100	£10,735,200
3B5P House Private	67	84	£2,100	£176,400	£11,818,800
4B6P House Private	14	106	£2,100	£222,600	£3,116,400
<b>Affordable Units</b>					
1B2P Flat Aff Rent	23	50	£950	£47,500	£1,092,500
2B4P Flat Aff Rent	7	70	£950	£66,500	£465,500
2B4P House Aff Rent	22	79	£1,050	£82,950	£1,824,900
3B5P House Aff Rent	5	93	£1,050	£97,650	£488,250
3B5P House SO	6	84	£1,470	£123,480	£740,880
3B5P House Intermediate	25	93	£1,470	£136,710	£3,417,750
4B6P House Intermediate	12	112	£1,470	£164,640	£1,975,680
<b>Total</b>	<b>325</b>				<b>£44,470,960</b>

Discounts have been applied to the proposed Affordable Housing units as follows :-

Shared Ownership	70% Open Market value
Intermediate	70% Open Market Value
Affordable Rent	50% Open Market Value

The total value of the scheme including 30% Affordable Housing has been assessed at £44,470,960.

The applicant proposes total base construction costs of £33,384,716 (inc preliminaries, externals etc). This is below comparative BCIS rates which would give a total of £37,077,000. The applicant's construction cost figure has therefore been adopted in the appraisal.

There are significant abnormal costs associated with this regeneration scheme included the clearance of 130 existing houses and re-levelling of the site. The following allowances have been proposed by the applicant and accepted within the appraisal.

Demolition, Clearance and Site Levelling	£1,940,000
Playing Field Works	£1,290,000
Decontamination	£222,500
Archaeological Trenching	£50,000
Abnormal Foundations	£42,500
Surface Water Attenuation	£300,000
Electricity Sub-Station	£75,000
New Road Junction	£250,000
Play Equipment	£50,000

A residual land value appraisal (based on 100% market housing) indicated negative land value. As such the normal benchmarking methodology is not appropriate. A land allowance of £1,300,000 has been adopted in the appraisal based on a nominal allowance of £10,000 per existing residential plot.

The standard fee and cost assumptions adopted by NSDC have been used in the appraisal with the exception of finance costs where the applicant's assumption of £33,962 has been adopted. The developer profit allowance of 17.5% proposed by the applicant has been accepted in the appraisal.

For the purpose of the appraisal the draft Sec 106 Infrastructure contributions are set out in the table above and total £1,459,398. The location carries no CIL charges.

### Viability Results & Conclusions

The application proposes 100 affordable housing units. Normally the 325 unit development would have a 30% overall requirement at 100 units but because 130 existing affordable units are being cleared it is considered that an overall target of 187 is applicable (130 existing units plus 30% of the additional 195 units).

The viability assessment indicates a negative margin of -£8.6 Million.

This less than the applicant's estimate of -£16 Million but nevertheless, solely on viability considerations, there is no scope for additional affordable housing beyond the 30% proposed and there is a case to set aside the proposed S106 infrastructure contributions of £1.45 Million.

### **NSDC Emergency Planning and CCTV Officer –**

*Comments received 27.02.2019:*

Risk of surface flooding near has been identified and associated mitigation measures have been proposed. Should these measures be implemented this is likely to reduce the risk. However I must stress I am not trained in hydrology or in available mitigation measures. It may be appropriate to identify those properties that may be affected by flooding and consider what measures may be required to prevent issues such as flooding caused by vehicles driving through roads affected by surface flooding ( often referred to as bow wave flooding).

Proposed mitigation measures are noted as;

- Raising of FFL – Any development located in area indicated to be potentially at risk of surface water flooding will have raised floor levels above the surrounding ground to reduce the likelihood of water ingress into properties. This will include raising of 150 mm above ground level for areas at low/medium risk and 300 mm for areas at medium/high risk;
- New fit-for-purpose drainage system – Designed with capacity to safely remove surface water from storms up to and including the 1 in 100-year event, plus a 40% allowance for climate change;
- Detailed SuDS and overland flow design – One of the advantages of using above-ground SuDS measures is that overland flow and flood water is much easier to control, and can be engineered to occupy blue-green corridors rather than flooding homes. This will form part of the detailed site masterplanning and design; and
- Design of external area gradients - where possible, will be designed to fall away from buildings, so that any overland flow resulting from extreme events would be channelled away from the entrances.

*Further comments received 27.02.2019:*

Further to my comments which considered the flooding risk to the proposed development the following comments refer to the provision of CCTV.

Newark and Sherwood DC manage, monitor and control a number of public space CCTV cameras providing a visible deterrent to potential offenders and provision of high quality evidence to support investigation and prosecution in the event of any such crime and disorder.

There are currently a small number of cameras within the Yorke Drive estate. These cameras are in need of upgrade and I recommend that plans to do so are considered alongside this development. In addition there are two spaces within the plan that typically attract crime and disorder or fear of such behaviour to the extent that it may reduce the enjoyment and use of those public spaces.

1. The playing fields and children's play area.
2. The car parking area adjoining the playing field area.

Therefore I would advise that the development of the public space utilities includes the provision of bespoke CCTV columns and investment to commission, purchase and deploy high quality CCTV.

**NSDC Access Officer** – 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 the dwellings on all floors be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards to ensure that they provide suitable clear unobstructed access to the proposals. In particular, 'step-free' access to and into the dwellings is important with reference to the topography of the site and an obstacle free suitably surfaced firm level and smooth 'traffic free' accessible pedestrian pavement route is essential to and into the dwellings from facilities such as car parking and from the site boundary. External footpaths to and around the site should be incorporated and carefully designed to accepted standards to ensure that they provide an integrated network of 'traffic free' pedestrian pavements around the site without pedestrians being required to walk along roadways. Pedestrian routes should be barrier free. It is recommended that inclusive step free access be considered to garden areas, open spaces, parks, amenity spaces and external features. Car parking provision for disabled motorists should be considered. BS8300 gives further information regarding design, layout and proportion

Carefully designed 'step-free' approach, ramps, level flush thresholds, generous doorways, suitably wide corridors etc. all carefully designed to facilitate easy access and manoeuvre on all floors are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the dwellings together with suitable accessible WC and sanitary provision etc.

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

**7 letters of representation have been received from neighbours/interested parties (two of which are from the Newark Sports Association) which can be summarised as follows:**

Principle of Development:

- Overdevelopment – there has been a 79% increase in population in the Bridge Wards in the last 10 years;
- There is an under provision of amenity green space and outdoor sports space in the area;
- The relevant policies are not robust and are out of date so the land should not be built on;
- The application fails to take account of local strategies to improve health including the Green Spaces Strategy 2013 and Sports and Physical Activity Strategy 2018-21;
- Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements. There is not a robust and up to date assessment that demonstrates that the land is surplus to requirements and so the land should not be built on.
- this is the last green space of any size in the area and will result in a shortfall based on population size;
- development is good for the council tenants and believe it is much needed. However, it is not necessary to demolish No. 54 which has been well looked after and improved in the past and will result in a personal loss and loss of cost to the current occupier.

#### Highways:

- Further clarification with regards to the number of car parking spaces in light of proposed pitch usage required. There are 3 full size football pitches and 2 5-a side pitches. If the 3 full size pitches are in use there could be 100 (players and team staff) participants and additional support present.
- Newark is already overburdened with traffic with queues from traffic existing the industrial estate.
- Lincoln Road is already unable to cope with the volume of traffic;
- Putting a road between the housing estate and the children's play area and surrounding green space with housing is an obvious danger;
- The country council has opportunity to build an escape road from Jessop Way.

#### Visual Amenity:

- Detrimental impact of the loss of the playing fields on the character of the area;
- 3 or 4 storey blocks would be completely out of character with existing housing along Lincoln Road and be counter-productive to the aim of improving the living conditions of everyone in the Yorke Drive area and integrating the community;
- the increase in building heights in the revised plans is designed to compensate for loss of planned units due to the more limited expansion of the site onto recreational areas – the project is of unacceptably high density for the land available.

#### Residential Amenity:

- Light and noise pollution on the residents at the end of Middleton Road and Emmington Avenue (for the sake of profit);
- Exhaust emissions are linked to some severe illnesses in our children from busy roads and traffic queues;
- The additional height of housing requiring a much greater sound barrier seems completely irrational; if the noise is unacceptable for people living in nearby houses then surely it must cause equal, if not greater, discomfort for anyone living in higher blocks. Is it possible that these blocks are themselves being considered as sound barriers for the rest of the housing? This would instantly create inequality on the estate which would be totally unacceptable;
- The traffic noise from Lincoln Road is not so intrusive since recent reduction of the speed limit to 30 mph but 4 storey buildings along one side of Lincoln Road will act as a sounding board and bounce the traffic noise back, causing more of a noise problem to the existing housing across the road.

#### Other:

- The environmental impact will be very damaging. Mature trees have already been lost nearby. This makes it important for a traffic free area to be retained;
- The consultation was deeply flawed as users of the playing fields were not consulted – residents from the surrounding area were not allowed to participate or talk through operations with the Yorke Drive community;
- There are not, and never have been, planning notices on the playing fields and the green space;
- Residents with properties adjacent to the proposed development area have not even been notified, yet we are told that residents of the Yorke Drive estate are already being offered payments to leave their homes, even though the planning application has not yet been decided;



- The project would not change the behavior/trouble caused by a small percentage of residents – putting the playing fields in the middle of the estate would create a no go area making them inaccessible to users from outside the estate;
- The footpath to the rear of Middleton Road is a source of anti-social behaviour. It appears to be remaining on the proposals but would appear to go nowhere.

### Comments of the Business Manager

#### **The 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.

The Council can robustly demonstrate that it has a 5 year housing land supply and that for the purposes of decision making the Development Plan is up to date.

The proposal site is located in Newark, a Sub Regional Centre, allocated for development in the Core Strategy (adopted 2019) under Spatial Policy 1 and Spatial Policy 2. The site forms Housing Site 4 as identified in Policy NUA/Ho/4 of the Allocations and Development Management DPD (adopted 2013). The DPD confirms the site is allocated for regeneration and redevelopment through a comprehensive scheme of regenerating existing housing and developing new stock in a coordinated and sustainable manner.

The submitted Affordable Housing Statement confirms that the reputation of the estate is generally poor and in terms of the national Index of Multiple Deprivation, the estate falls in the top 20% of most deprived areas in England. The proposals for regeneration of the estate originated from the Bridge Ward Neighbourhood Study undertaken for the Council in 2012. The Council secured funding from the Government's Estate Regeneration Fund in 2017 to revive the Neighbourhood Study proposals, as a consequence of which further masterplanning has been carried out in the area in 2018, utilising extensive public consultation to help develop proposals.

Policy NUA/Ho/4 sets out a detailed approach for the bringing forward of the site. This approach requires the proposals to be presented as part of a Masterplan which will:

- i. Include proposals for improved linkages between the policy area and the wider Bridge Ward including Lincoln Road and Northern Road Industrial Estates;*
- ii. Include proposals for phasing and delivery methods for the redevelopment;*
- iii. Meet the general policy requirements in the Core Strategy and the Development Management Policies in Chapter 7, with particular reference to DM Policy 2 Allocated Sites and Policy DM3 Developer Contributions and Planning Obligations; and*
- iv. Facilitate pre-determination archaeological evaluation and post-determination mitigation measures.*

*Within the existing Yorke Drive Estate the Master Plan will provide for the following:*

- i. Removal of poorer quality housing and replacement of new dwellings;*
- ii. Change of housing type to increase mix of tenure and range of housing; and*
- iii. Improvements to the layout and public realm of the estate;*

*Within the Lincoln Road Playing Field the Master Plan will address the following;*

- i. *Suitable playing pitches are retained to meet the requirements of Spatial Policy 8; and*
- ii. *Additional access is provided to the site via Lincoln Road.*

*In allocating this site for housing development it is anticipated that approximately 230 net additional dwellings will be developed.*

Through the site's inclusion as part of the allocation NUA/Ho/4 the principle of development in this location has therefore been established and a masterplan for the site has been produced which aims to address the approach set out above.

It is therefore important that the detail of the proposal is able to satisfy the relevant aspects of the District's development plan with the addressing of the requirements of the site allocations policy particularly important in this respect. This includes consideration of a number of complex issues including whether the proposal would fulfil the requirements for the provision of suitable playing pitches; results in a satisfactory housing mix (having regard to displacement and provision of affordable housing); makes an adequate contribution towards infrastructure requirements; illustrates a satisfactory layout and relationship between existing and proposed uses is achievable and adequately addresses any site specific constraints including ecology, archaeology and contamination. As such, the principle of development is considered acceptable in principle subject to an assessment of all relevant site specific considerations.

#### Impact on Existing Open Space / Playing Fields

Policy NUA/Ho/4 requires '*suitable playing pitches are retained to meet the requirements of Spatial Policy 8*'. As such, there is an acceptance in principle, that some of the existing field would be lost to accommodate development. Spatial Policy 8 states that the loss of existing community and leisure facilities will not be permitted 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.

#### *Formal Requirements – playing fields*

Spatial Policy 8 is broadly consistent with the more detailed guidance specifically in relation to planning fields contained within the Sport England Playing Fields Policy and Guidance Document (March 2018). This states that 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 a playing field unless the development meets one or more of five exceptions.

Revised plans have been submitted to overcome the original concerns raised by Sport England which omit two apartment blocks from the Illustrative Masterplan to increase flexibility of proposed pitch layouts and to increase the space around the pitches to reduce the likelihood of potential conflict between users. In response to the Sport England comments received on 12.03.2019, a Sport England Response Addendum (March 2019) was also submitted by the Applicant changing the angle of the parkland entrance point at Whittle Close to discourage people

crossing the playing field site. Following the submission of amended plans, Sport England (see full comments are set out in the Consultations section above) consider the proposal would meet the following exception(s):

E1 A robust and up-to-date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted, and the site has no special significance to the interests of sport.

And in part Exception 4 which states:

E4 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.

The existing playing fields are used by Fernwood Foxes FC which has approximately 9 various aged junior teams. The submitted Design and Access Statement states that the illustrative Masterplan aims to *'replace a relatively monofunctional, insecure and underused offer of football pitches with a safe and attractive park. The park will not only provide for the needs of current pitch users in an improved way but also opens up the amenity to a wide range of others'*.

The Illustrative Masterplan has been developed to include the provision of an area equivalent in size to three full size 11v11 pitches, plus two 5v5 pitches but with various flexible pitch sizes marked out within each 11v11 pitch to meet the needs of Fernwood Foxes at that specific time. This provision reflects the baseline position for pitch provision at Lincoln Road as set out in the Newark and Sherwood District Council Playing Pitch Strategy 2014 and Review 2016/17. The Playing Pitch Strategy Assessment 2014 states that Lincoln Road has 3 adult pitches which are poor quality and underused. The Playing Pitch Strategy (and Review) are considered to be up to date for Exception 1 purposes alongside an existing understanding that the Playing Pitch Strategy defines a quantum of playing field which should be retained and upgraded for formal sports use. The remaining area is currently underutilised for formal sport (and in part is currently not of sufficient quality to be used as formal playing field hence the reason why improvements to its quality would in part meet Exception 4). Sport England have commented that the *'amendments to the proposal have enabled more playing field area to be retained which is an increase over and above the area defined in the playing pitch Strategy'*.

The new pitch layout would also have improved levelling and drainage, and be provided with appropriately selected turf for enhanced durability. All posts would be demountable with storage facilities available in the new pavilion. An improved and increased size of pavilion is also proposed and would provide changing room facilities and other benefits to the users of the playing fields. Whilst not relevant to the Sport England view, I also note that three storey dwellings are proposed to the north of the proposed playing fields to provide the permanent passive surveillance that the playing fields currently lack.

Overall, Sport England raise no objection to the proposal subject to conditions relating to the phasing and provision of playing pitches and pavilion, securing improvements to its quality and its future maintenance.

#### *Informal Requirements – open space*

As well as meeting formal requirements, it is important that the informal requirements for the existing population and the net increase in population is also considered.

As explained in the 'Developer Contributions' section below, the area of amenity open space proposed exceeds the requirement for 330 units proposed in the Illustrative Masterplan, albeit falling short in relation to the provision for children and young people. What this does not necessarily account for is the existing open space deficits wider than the development site as set out in the Green Spaces Strategy 2007-12 and the Green Space Improvement Plans 2010. The Bridge Ward Improvement Plan highlights a deficit in amenity greenspace (informal open space). In relation to the provision of informal open space within the development site, it is aimed to increase the usage through the provision of a 600m surfaced path around the perimeter of the pitches with outdoor exercise equipment, natural wildflower planting and habitat areas are also proposed. The proposal would however undoubtedly lead to the loss of a quantum of existing informal open space and given the wider deficits identified, it is difficult to conclude that there is sufficient provision of such facilities in the area in accordance with the requirements of Spatial Policy 8 of the Core Strategy.

With respect to children and young people's provision - the provision of a play area (LEAP) next to the new pavilion (where there is currently no children's and young person's provision) and the addition of seating and through a number of LAP locations throughout the estate (playable space for under 5 year olds) is proposed. Whilst the level of provision falls short of developer contribution requirements this nevertheless represents a new provision. It is noted that there was a skatepark located on site historically, however I understand that this has not been in use for a number of years and this has not therefore formed of the assessment against Spatial Policy 8.

The issues around informal open space and children and young people's provision must however be balanced against the acceptance of the development through the site's allocation for development, as set out in Policy NUA/Ho/4, in order to deliver regenerative benefits to the existing estate. Delivery of estate renewal will support significant social and environmental benefits, and as such should be afforded significant weight as part of the planning balance. In addition losses in the quantum of open space are capable of being mitigated through the proposed improvements to quality - which could support increased usage. Sport England has also concluded 'that the proposals to improved playing field quality should provide a more resilient area to cope with both formal and informal demands'. On balance, the proposal is therefore considered to strike an appropriate balance between the requirements of Policy NUA/Ho/4 and Spatial Policy 8 of the Core Strategy.

#### Density/Housing Mix/Phasing

Policy NUA/Ho/4 requires removal of poorer quality housing and replacement of new dwellings and change of housing type to increase mix of tenure and range of housing. Proposals should also include phasing and delivery methods for the redevelopment. The policy also anticipates that approximately 230 net additional dwellings will be developed.

Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. Core Policy 3 also states that the LPA will seek to secure new housing which adequately addresses the housing need of the district, namely family housing of 3 bedrooms or more, smaller houses of 2 bedrooms or less and housing for the elderly and disabled population. It goes on to say that the LPA will secure an appropriate mix of housing types to reflect the local housing need.

Paragraph 122 of the NPPF states that “Planning policies and decisions should support development that makes efficient use of land, taking into account:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
- b) local market conditions and viability;
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
- d) the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
- e) the importance of securing well-designed, attractive and healthy places.

*Density*

It is recognised that the precise level of development would be a matter reserved for subsequent determination, the application does however suggest that 190 net additional homes are proposed and 130 houses would be demolished and replaced. The net additional figure is less than the 230 requirement set out in Policy NUA/Ho/4. However, this was an approximation and it is not considered that the reduced amount of additional homes provided is fatal to the scheme overall provided that the remaining objectives of Policy NUA/Ho/4 can be complied with. An indicative density in excess of 45 dwellings per hectare is proposed on the site which would be in keeping with the character of the area and in accordance with the minimum density required by Core Policy 3.

*Existing Mix and Type*

13 of the 130 properties to be demolished are privately owned and will need to be acquired by the Council. The existing mix and type of dwellings affected by the proposal is as follows:

<b>Phase</b>	<b>Tenure</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>
Phase 1	Rent	0	0	4	0
	Private	0	0	2	0
Phase 2	Rent	31	0	39	2
	Private	0	0	3	0
Phase 3	Rent	8	1	31	1
	Private	0	0	8	0

*Proposed Mix and Type*

I am mindful that the layout plan submitted is only indicative and therefore the housing mix may change when the precise mix of dwellings is determined as part of the reserved matters

application. Of the 320 additional and replaced homes, the following housing mix is proposed in the indicative masterplan layout:

	<b>Overall No of dwellings</b>
1 bed (flat)	48 (15%)
1 bed (house)	0
2 bed (flat)	54 (17%)
2 bed (house)	94 (29%)
3 bed	98 (31%)
4 bed	26 (8%)
<b>TOTAL</b>	<b>320</b>

The illustrative mix proposed is for 92% 3-bed dwellings or smaller. This is likely to help address the housing need of the district and is also likely to increase the mix of tenure and range of housing of the Yorke Drive estate overall.

I note that it is currently proposed that 31.25% of the 320 additional and replaced homes would be affordable which would equate to the provision of 100 affordable dwellings. Whilst the precise mix of affordable and market dwellings is unknown at this stage, it is understood that priority will be given to meeting the needs of residents displaced as part of the development.

Core Policy 1 refers to the proposed tenure mix which is 60% social rented housing and 40% intermediate housing (Shared Ownership). The SPD indicates in Para 3.12 that *'the Council recognises that some schemes may be put forward that propose to deliver the Government's new Affordable Rent Model. In these cases, the Council will take a pragmatic approach to tenure and will take account of factors such as affordability issues, viability, subsidy availability and the contractual requirements of the Registered Provider involved with the scheme'*. The Affordable Housing Statement submitted with the application states that there are currently 100 new rented and intermediate sale homes proposed, however *'it should be noted that the level may change once a Housing Need Survey has been carried out and detailed discussions have taken place with residents affected about their rehousing needs. The affordable element may be flexed if this proves necessary or may be increased if additional funding becomes available'*.

There would be a net loss affordable housing provision across the Yorke Drive estate overall given that 117 existing affordable dwellings are to be demolished. The loss of affordable housing units is material to the planning decision. Whilst this is not necessarily contradictory to the requirements of NUA/Ho/4 which seeks to increase the mix of tenure and range of housing on the estate overall to ensure its successful regeneration, this does not represent the best case scenario in planning terms which would be to fully replace the affordable units in quantum like for like, plus 30% of the net additional dwellings to be affordable.

Whilst I understand that the affordable housing provision on this site is complex and highly influenced by the overall viability of development (considered in more detail in the 'Developer Contributions' section below), this does create some conflict with Core Policy 1 of the Core Strategy which requires 30% of new housing to be affordable. Whilst approximately 30% of net additional housing would be affordable, this is only the case when the existing affordable does not form the basis of the calculation and is therefore an issue which must be weighed in the overall planning balance alongside the benefits of the scheme and the associated viability issues.

This issue is further justified by the Applicant as follows:

*'A household survey carried out in February and March 2018 indicated that approximately 80% of residents would want to remain in the area. On this basis it is assumed that on the basis of the Resident Offer:*

- *Phase 1 and 2: 61 tenants would require new rented homes*
- *Phase 3: 33 tenants would require new rented homes*

*In addition (and based on experience of other regeneration schemes) it is assumed that 5 of the 10 owner-occupiers would require a shared equity or shared ownership option to be able to buy a new market sale home in the area.*

*Rounded up from 99 to 100 new rented and intermediate sale homes this would represent a requirement for 30.76% of the total new homes to be affordable. However, it should be noted that the level may change once a Housing Need Survey has been carried out and detailed discussions have taken place with residents affected about their rehousing needs. The affordable element may be flexed if this proves necessary or may be increased if additional funding becomes available'.*

#### *Phasing*

The submitted Affordable Housing Statement confirms that *'phases and provision of affordable housing have been primarily geared to facilitate decanting of residents. It is assumed that development would commence with new rented housing on the playing field in Phase 1, so that existing residents from Phase 2 can be rehoused into the completed units. The rolling programme would continue with residents from Phase 3 being rehoused into the new homes built on Phase 2.....It is assumed that residents in Phase 1 whose homes are required to open up the new road access from Yorke Drive can be rehoused into early completions in Phase 1 itself or accommodated temporarily elsewhere'.*

In order to ensure that the affordable housing is delivered in a timely manner and that full consideration is given to the occupants displaced through proposed demolition, it is recommended that a condition be imposed to include a detailed schedule including details of housing mix, tenure need and a broad timetable outlining the approach to the re-housing of existing residents and demonstrating how this has been integrated into delivery of the scheme.

#### *Summary*

Overall, I have no concerns with regards to the density or mix of development and it complies with the aims of Policy NUA/Ho/4 which requires the removal of poorer quality housing and replacement of new dwellings and change of housing type to increase mix of tenure and range of housing. This is subject to a condition requiring details of final housing mix at reserved matters stage including further details of the approach to re-housing of existing residents. The proposal would also contribute to the need for smaller units that is required in this district as acknowledged by Core Policy 3.

## Impact on Visual Amenity

Policy NUA/Ho/4 requires development to improve the layout and public realm of the estate. 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 NPPF supports development that makes efficient use of land, taking into account a number of factors including the identified need for different types of housing and the importance of securing well-designed, attractive and healthy places.

The site is predominantly located amongst 20<sup>th</sup> century development and there is a variety and intensity of modern housing and commercial development in the vicinity. There would be a mix of style, design and size of dwellings with a mixture of red brick, reconstituted stone or white brick dressings and cleanly detailed gables proposed. Dwelling types are envisaged as a mixture of detached, semi-detached and terrace houses together with small blocks of flats. Given the mixed use nature of the surrounding area, the proposed plot sizes are generally considered to be in keeping with the character of the area.

The use of front gardens, verges and street trees to promote a green character of the public realm across Yorke Drive, in addition to the provision of amenity green space is proposed on site (see Developer Contributions section below) to include a perimeter path and outdoor gym and natural play trail which would help to increase use of the existing open space. The hedgerow and trees are an important feature along this part of Lincoln Road and the Illustrative Masterplan indicates they would be retained (see further commentary in relation to Impact on Trees below).

The 'Buildings height' parameter plan contained within the Design and Access Statement states that buildings would be 2-3 storey albeit they could be up to 4 storey along the Lincoln Road frontage and adjacent to the playing fields/business park. The illustrative masterplan does however show these buildings to be 3 storey. Whilst precise details of height of the proposed dwellings is a matter reserved for subsequent approval, I do not consider 4 storey dwellings along the Lincoln Road would be in keeping with the character of the street scene, particularly as there is a retained bungalow development immediately to the south of the site also located alongside Lincoln Road. As such, it is considered appropriate to impose a condition to ensure that proposed dwellings do not exceed 3 storeys in height along the Lincoln Road frontage. Proposed dwellings adjacent to the playing fields/business park are however capable of accommodating taller development and would help to address the transition from the industrial estate to the residential area.

In many instances, proposed parking is indicated to the front as opposed to the sides of dwellings. However, I am also aware of the intention to break this up as much as possible with soft landscaping/careful consideration of surfacing as demonstrated through the submission of indicative street scenes.

The detailed layout, scale, appearance and landscaping are matters to be considered at the reserved matters stage. Notwithstanding the issue of buildings heights along the Lincoln Road frontage I consider that the Illustrative Masterplan demonstrates a quantum of development that is acceptable in both visual amenity terms and in demonstrating a layout which improves the layout and public realm of the estate. Overall, the outline details submitted are considered acceptable and in compliance with Policy NUA/Ho/4, Core Policy 9 and Policy DM5 of the DPD. It is



recommended that the development should be conditioned to require that the reserved matters applications broadly reflect the submitted Illustrative Masterplan.

### Impact on Residential Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF promotes ‘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’.

The detailed design and layout are matters to be considered at the reserved matters stage. However, I still need to be convinced that the Illustrative Masterplan indicates a quantum of development that is considered acceptable in residential amenity terms at the outline planning stage. The application site is located in a mixed use area close to an industrial estate with proposed houses located close to the playing fields which can be a noise source also.

### *Neighbouring Uses - Proximity to Business Park*

The submitted Noise Impact Assessment identifies a noise source on the roof of a neighbouring industrial building on Brunel Drive (Daloon Foods) comprising extract fans and a collection of compressors and refrigeration units. At present, the plant is in operation between the hours of 05:00 and 21:00 on weekdays. There is currently no weekend working. For the purposes of the Assessment, a worst-case scenario of the plant running 24/7 has been assumed to allow for future changes. A daytime noise level of 60 dB LAeq, 16hr and night time noise level of 58dB LAeq,8hr were measured at the boundary of the development site nearest to the Daloon Foods plant (see diagram below).



Figure 3 Noise Contours-No Mitigation Measures

World Health Organisation (WHO) guidelines suggests that for steady external noise sources, during the day, an internal noise level of 35 dB LAeq,T is appropriate for resting conditions within

living rooms and bedrooms and a level of 40 dB LAeq,T is applicable to dining rooms. During the night, an internal noise level of 30 dB LAeq,T is recommended within bedrooms. Guidance further states that *'for traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments. However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted'*.

The noise levels at the nearest proposed dwellings to both Daloon Foods and Lincoln Road would exceed these levels. For the reasons set out above, the noise levels to be experienced by dwellings fronting Lincoln Road by virtue of traffic noise is not considered to be materially worse than the levels experienced by the existing dwellings to be replaced. The Indicative Masterplan shows that proposed dwellings would front onto the road (as opposed to backing onto it in some instances currently) which would represent an improvement to the noise levels experiences within private amenity areas.

However, to propose additional dwellings adjacent to an existing noise source at Daloon Foods requires careful consideration and I concur with the views of the Environmental Health Officer that the proposed apartments nearest to this source would suffer adverse noise impacts to the detriment of the future occupiers of these dwellings without mitigation. The Design and Access Statement confirms that it *'may be necessary for bedrooms facing the noise source to have the option of mechanical ventilation, to avoid noise disturbance on warm nights when occupants would otherwise open windows'*. I disagree AND consider that in order to experience adequate amenity levels, occupants of these dwellings should be able open their main habitable room windows. Similarly, any shared outdoor amenity areas need to be protected. As a consequence, the Applicant has suggested the following mitigation measures:

- The installation of in-duct attenuators for fans
- Additional plant noise screens (i.e. noise barriers) on the roof

With the addition of these mitigation measures, the proposed noise levels in the gardens adjacent to Daloon Foods are predicted to fall within the desired noise criteria of 50 dB LAeq,T and consequently, the noise levels within the proposed dwellings would also be acceptable (see diagram below).



Figure 5 Noise Contours-With Mitigation Measures

Whilst the proposed mitigation measures are considered to be acceptable, it is not considered possible to secure these measures either by condition or as part of a legal agreement as Daloon Foods falls outside of the application site and is not within the control of the Applicant. As such, the Applicant has commissioned that these mitigation measures are undertaken prior to the issuing of a planning application decision. As such, Members will note that the resolution to Planning Committee includes a clause which states that should Members be minded to approve the application that this should first be subject to confirmation being received that the mitigation measures have been implemented.

#### *Proximity to playing fields/play area*

Best practice advice contained within 'Planning and Design for Outdoor Sport and Play' states that there should normally be a minimum of 20 metres provided between the activity zone of a Locally Equipped Area for Play (LEAP) and the habitable room façade of the nearest dwelling. In this case, the Illustrative Masterplan indicates a separation of 20 metres which should ensure no adverse impact upon the occupants of the future residents by virtue of any noise impacts would result. It is noted that the submission documents state that this area would be a Neighbourhood Area Equipped for Play (NEAP) which contained play equipment for older children also. However, given the proximity of future residential properties and the fact that the fitness trail will be suitable for older children, it is considered that a LEAP is more appropriate in this location. Given the proximity of built development and roads infrastructure to the sports pitches, the submitted Design and Access Statement states that a tree planted bund of approximately 1m in height would be proposed along the most vulnerable edges of the pitches. This would prevent balls from leaving the pitches and provide a sense of enclosure to the pitches, and prevent vehicles from entering. Additional ball stop fencing may also be required in localised areas behind goal mouths.

#### *Relationship between Dwellings*

The 'Overlooking and Proximity Plan' contained within the submitted Design and Access Statement confirms that proposed dwellings would maintain a minimum distance of 21 metres between main habitable room windows and 13 metres between main habitable room windows and blank elevations where possible. However, from assessing the Illustrative Masterplan, it appears that this

distance is lower in a small number of instances e.g. a distance of only 16 metres is proposed between front to front elevations albeit this relationship is across a public estate road which reduces my concern. The distance between main habitable rooms and blank elevations reduces to 10.5 metres in some instances. This issue would need to be considered in greater detail when the reserved matters of appearance, layout and scale are applied for, however, I am satisfied that an acceptable solution can be achieved.

Notwithstanding the resolution to Planning Committee with regards to noise mitigation below, overall the illustrative layout provides sufficient certainty that the objectives of Policy DM5 can be achieved.

### Impact on Flood Risk and Drainage

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

All of the sites are located with Flood Zone 1 on the Environment Agency's mapping relating to flooding from rivers and sea and therefore under the definitions within the NPPF in an area of low probability for flood risk.

Consideration of surface water impacts also need to be addressed. An amended Drainage Strategy was submitted with the application to overcome the original concerns raised by the Lead Local Flood Authority (LLFA) to ensure a robust surface water strategy in order to prevent any significant changes being required at a later stage in the planning process. Currently, surface water from the site drains via a conventional network of below ground drainage which removes surface water and discharges to the public sewer network to the south of the development area. As part of the area redevelopment, it is proposed to provide a new fit-for-purpose drainage and SuDS system to manage surface water across the development in line with current best practice and policy. It is recommended that floor levels are to be set at either 150mm or 300mm above finished floor level dependent on surface water risk.

Amendments required by the LLFA include more detail regarding a potential gravity connection to the watercourse along Brunel Drive; updating hydraulic calculations to include the permeable playing fields area; confirming that the use of infiltration will be re-visited once infiltration testing/GI is available; clearly stating the approach of attenuating to greenfield rate; making reference to the need to consider exceedance flows and flow paths to ensure properties are not put at risk of flooding and acknowledging that the use of SuDS must include details showing how these will be maintained to ensure their effectiveness for the lifetime of the development.

In relation to foul sewage, the existing estate is served by a separate foul drainage system, and where possible this will be retained subject to being inspected for condition. The existing connection to the wider public network will be retained with new foul sewerage provided to supplement the existing where required.

The LLFA raises no objection to the amended Drainage Strategy subject to a condition requiring detailed drainage plans being submitted and approved by the Local Planning Authority prior to the commencement of development.

Subject to this condition, I am satisfied that the proposed development would not result in any increased flood risk and would pro-actively manage surface water in accordance with the requirements of Policy DM5 and Core Policy 9.

#### Highway Matters including Public Rights of Way

Policy NUA/Ho/4 requires *'improved linkages between the policy area and the wider Bridge Ward including Lincoln Road' and Northern Road Industrial Estates and 'additional access is provided to the site via Lincoln Road'*. Spatial Policy 7 of the Core Strategy seeks to ensure that the vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The indicative masterplan appears to broadly comply with the requirements of Policy NUA/Ho/4 with an additional access via Lincoln Road a key part of the proposal. Details of access have been submitted for approval as part of this application. This access would be in the form of a priority junction with right hand turning lane for access and egress from the junction.

The Design and Access Statement confirms that the proposal is *'expected to generate 207 two-way vehicle trips in the AM Peak and 229 two-way vehicle trips in the PM Peak. The majority of trips are existing trips that are already generated by the estate, as the new dwellings will account for less than 40% of the total trip generation following the completion of the works. The frequency of departures in the AM Peak and arrivals in the PM Peak respectively equates to approximately 2 vehicles per minute. Given that a new access to the estate via Lincoln Road will be constructed as part of the development proposals, the additional trips will be spread between the new and existing accesses to the estate'*.

The indicative Masterplan proposes 610 parking spaces within the application site. 68 parking spaces are proposed within the reconfigured parking area along the western edge of the playing field to cater for match day demand.

There is an existing Public Right of Way around the perimeter of the site. All existing public right of way connection points to the surrounding area would be retained. However, the Illustrative Masterplan shows that parts of the route of the existing rights of way would require diversion. It is recommended that details of this diversion are required by planning condition.

The full comments of the Highways Officer are set out above under consultation responses. I note that they originally raised concern in relation to the submitted application documents that highway safety concerns had not been satisfactorily addressed. As a result of these comments, the Applicant submitted a proposed junction drawing which now shows a single egress with a lane width of 3.7 metres with radii of 10 metres. The visibility to both left and right is in excess of 56 metres accounting for the speed limit of 40 mph on Lincoln Road and a swept path analysis of the junction showing all turning manoeuvres has been submitted which is considered acceptable. The modelling undertaken indicates enough capacity at the junction.

The Highways Officer note in their comments that traffic generation and distribution would be acceptable having regard to the fact that the estate would benefit from two access points as opposed to one currently. Highways England raise no concern in relation to the potential for increased traffic accessing the A46 roundabout. Whilst the Highways Authority note concerns in relation to increased traffic flows on Lincoln Road, they also note that a severe impact cannot be demonstrated as a direct result of this proposal. As a consequence, Highways Authority raise no

objection to the application subject to conditions.

A Travel Plan has been submitted with the application albeit final confirmation that this document is acceptable has not been received from the Highways Officer. As such, it is recommended that a planning condition be imposed to ensure its completion.

I am therefore satisfied that the proposed access arrangements would meet the requirements of Policy NUA/Ho/4 in terms of providing improved linkages including access to Lincoln Road and the level of development and would not result in any adverse impact upon highway safety in accordance with Spatial Policy 7 of the Core Strategy.

### Impact on Ecology and Trees

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Paragraph 118 of the NPPF includes that opportunities to incorporate biodiversity in and around developments should be encouraged.

#### *Ecology*

I am mindful that the NPPF states at paragraph 175 that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Equally I am aware that paragraph 99 of Government Circular 06/2005 states that:

*“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...”*

A Preliminary Ecological Appraisal, Preliminary Bat Roost Assessment and Bat Mitigation Plan have been submitted with the application. No impacts from the Proposed Development are envisaged on the nearest designated and non-designated sites, due mainly in part to distance and topographical barriers such as road and rail infrastructure and dense residential housing and industrial sites.

The Phase 1 habitat survey confirms that the site comprises two distinct areas – a housing estate and open space containing managed grassland and an overgrown species-rich hedgerow. In relation to protected species no recommendations have been given in respect to amphibians. However, the survey highlights the potential presence of a number of protected species. In relation to badgers, no evidence of badger sett was found and habitat does not exist within the survey area for the construction of a sett, so no further recommendations are proposed. In relation to hedgehogs and birds, vegetation clearance of trees scrub and garden clearances are to be undertaken at specific times during the winter months to avoid disturbance of breeding birds and hibernating hedgehogs. A condition should be imposed to ensure a mitigation scheme for implementing these measures is secured.

In relation to bats, the roost assessment states that certain buildings (approx. 20) to be demolished have moderate or low potential for bats with emergence surveys recommended. Local Planning Authorities are required to consider the likelihood of a license (required if bats are found) being granted when determining a planning application and would need to have in mind the three tests set out in Regulation 53 of the Habitats Regulations if required, 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 accordance with the advice received from Nottinghamshire Wildlife Trust, it is therefore considered appropriate for these emergence surveys to take place before a decision is issued so that the full extent of impact and required mitigation measures are known upfront. As such, the Applicant has commissioned that these surveys are undertaken prior to the issuing of a decision on the planning application. As such, Members will note that the resolution to Planning Committee includes a clause which states that should Members be minded to approve the application, this should first be subject to confirmation that delegated authority is given to Officers to await and assess the results of the emergence surveys and to impose the addition of any planning conditions with regards to bat mitigation as required.

*Trees and hedgerow*

There are a number of existing trees within the application site. The submitted Arboricultural Survey identifies a total of 112 trees/groups/hedgerows within the application site as follows:

	Total	A - High quality trees whose retention is most desirable.	B - Moderate quality trees whose retention is desirable.	C - Low quality trees which could be retained but should not significantly constrain the proposal.	U - Very poor quality trees that should be removed unless they have high conservation value.
Trees	82	5	50	22	5
Groups	27	0	20	7	0
Hedgerows	3	0	0	3	0
Total	112	5	70	32	5

It is anticipated that a number of trees would be removed to accommodate the Illustrative Masterplan as follows:



Quality Category	Trees proposed for removal due to development	Total number of removals per category	Percentage of removals
A	T21, T22	2	1.8%
B	G6, G7, G8, T18, T20, T23, T26, T30, T35, T36, T38, T41, T42, T43, T45, T80	16	14.2%
C	G5, T44, T54, T55, T82	5	4.5%
U	T17, T19, T24, T26, T28	5	4.5%
Totals	N/A	28	25%

Overall, approximately 25% of the total arboricultural resource will have to be removed to implement the development proposals

Some of these trees are contained within groups considered to have low amenity value. However there are 18 Category A and B trees/groups to be removed. The two category A trees indicatively identified for removal are located close to the Lincoln Road frontage in the position of a proposed internal access road. The Category B trees are scattered through the estate and where removal is required it is because they do present constraints to the demolition and construction phase of the project. The existing trees located within the southern part of the existing fields are Category B trees and proposed for removal in order to increase pitch usability and flexibility. The hedgerow located adjacent to the existing playing fields is identified as a Category B and also as a Habitat of Principal Importance and falls under Nottinghamshire Habitat Action Plans and is proposed for retention.

The submitted Design and Access Statement confirms that the existing tree resource will be retained where possible and that any tree losses required to facilitate the new development would be offset through a comprehensive structure of new tree planting. This would increase and enhance the arboricultural resource for the area. The Tree Officer raises no objection to the proposal on this basis. I agree with this view and consider that whilst the need to remove these trees is regrettable arboriculturally, it would be unfeasible to consider the retention of all Category A and B trees given the constraint to development they pose.

Details of landscape is a matter reserved for subsequent approval. On this basis, the current Indicative Tree Retention and Removal Plan is not to be agreed at this stage and I would recommend a condition be imposed to ensure further details and justification for loss is submitted at reserved matters stage. A landscape scheme could mitigate for any essential tree loss and this along with the introduction of a wildflower meadow would help to enhance the site's habitat and biodiversity value overall.

Notwithstanding the issue in relation to outstanding bat emergence surveys, overall it is considered that subject to conditions, no adverse ecology impacts or tree loss impacts without appropriate mitigation would result from the proposal in accordance with Core Policy 12 and Policies DM5 and DM7 of the DPD.



### Contaminated Land

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

A Phase I Desktop Study report has been submitted with the application which identifies several potential contaminant sources and then concludes with a series of recommendations including a scope of intrusive investigations/targeted soil sampling to be carried out. The Environmental Health Officer raises no objection to the application subject to the use of a full phased contamination condition. As such, the site is considered suitable for its new use subject to compliance with the requirements of this condition in accordance with the requirements of Policy DM10 of the DPD.

### Archaeology

Core Policy 14 of the Core Strategy requires the continued preservation and enhancement of the District's heritage assets including archaeological sites. Policy DM9 of the DPD states that where proposals are likely to affect sites of significant archaeological potential, the applicant is required to submit an appropriate desk based assessment. Policy NUA/Ho/4 requires facilitation of '*pre-determination archaeological evaluation and post-determination mitigation measures*'. The NPPF requires Local planning authorities to '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.'

An Archaeological Desk Based Assessment including geophysics survey has been submitted with the application. There is the potential for archaeology to survive on this site from the Roman period onwards but the form, importance and survival of any remains is unknown. Modern disturbance may mean that the survival rates of any archaeology may be compromised. However, the Archaeology Officer has advised that further information will be required to investigate this potential in order to formulate an appropriate mitigation strategy. As such, it is recommended that a condition be imposed requiring a Scheme of Archaeology Works to include trial excavation be undertaken prior to any development on this site.

Subject to the imposition of this condition, it is considered that appropriate mitigation would be secured to ensure no adverse impact upon archeological remains in accordance with Core Policy 14 and Policies NUA/Ho/4 and DM9 of the DPD.

### Developer Contributions

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 (SPD) 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.

Paragraph 57 of the revised NPPF 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.'*

A Viability Report has been submitted as part of the application. The independent appraisal of this report indicates a negative margin of -£8.6 Million. This is less than the applicant's estimate of -£16 Million but nevertheless, solely on viability considerations, there is no scope for additional affordable housing beyond the 30% of the net additional dwelling proposed and there is a case to set aside the proposed S106 infrastructure contributions of £1.45 Million.

Notwithstanding this view, the NPPG is clear that in *'decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission'*. Viability must therefore be an accepted and carefully assessed as materially important in an overall planning balance. The net additional 190 units would clearly increase pressure on local facilities and infrastructure given that it promotes a mix of dwellings and families to the scheme. On this basis, despite the negative viability margin, the Applicant intends to provide the contributions which are considered to be necessary to ensure the delivery of a sustainable development. In addition, to meet the viability shortfall, the proposal will need to be partially grant funded and it is expected that some of this funding should be used towards the required contributions.

Some contributions cannot be fixed until final overall numbers are known. The S106 would therefore be set out, where relevant, as a series of formulas to be applied to each separate obligation dependent on details submitted in the reserved matters stage. The main areas for which development contributions are sought are considered below:

#### *Affordable Housing*

The Council's Core Strategy (2019), Affordable Housing SPD (June 2013) and Developer Contributions and Planning Obligations SPD (2013) seek to secure the provision of 30% on site affordable housing where the thresholds are met.

Paragraph 64 of the revised NPPF now expects that for major development, planning decisions should expect at least 10% of 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.'* The paragraph goes on to list exemptions to this 10% requirement, which does not include discussions around viability.

In this case, it is currently proposed that 31.25% of the 320 additional and replaced homes would be affordable which would equate to the provision of 100 affordable dwellings. This exceeds the

30% requirement of the 190 additional homes to be built but falls short the total number of dwelling required when the demolished units are added to this figure which equate to 174 units (30% of additional + 117)]. This would represent a net loss of overall affordable housing provision across the site and is a negative factor to be weighed in the overall planning balance (explained in more detail in the Proposed Mix and Type Section above). In this respect, I have sought advice from the Council's Viability Officer (set out in the 'Consultations' section above) who is satisfied that the case presented provides a fair assessment of the site and the market circumstances and that there is no scope for additional affordable housing beyond the 30% of the 320 new and replaced units proposed.

### *Community Facilities*

The SPD sets out that a net increase in 190 dwellings would equate to a community facilities contribution of £262,973 plus indexation. However, in this case the requirement is more complex as the Illustrative Masterplan includes the provision of a replacement pavilion. Whilst this replaces the existing facility to be lost as opposed to being a completely new facility to cater for the net increase in dwellings on site, I note that it would be larger, better located and contain improved facilities within it. As such, the application does not propose any contribution towards off site community facilities which I consider acceptable due to the shortfall in viability of the development overall.

### *Open Space and Outdoor Sports Facilities*

Further commentary in relation to the provision of open space is set out in the 'Impact on Existing Open Space / Playing Fields' section above and within the Developer Contribution table below. The updated Indicative Masterplan indicates overprovision of amenity greenspace albeit an under provision for children and young people. Taking a pragmatic view, I consider this under and over provision to largely cancel each other out, particularly as there is currently no formal children's play area on the application site and because the proposed amenity greenspace does include the provision of an informal area of open space and 600m fitness trail which could be used by both adults and children.

The proposal indicates the provision of outdoor sports facilities. However the proposed provision is a requirement of Sport England/SP8 as opposed to being an additional area required by the net additional 190 dwellings on site. As such, a contribution towards outdoor sports facilities is proposed given the lack of 'additional' provision which equates to a sum of £358,296 + indexation.

### *Education*

In respect of education a net additional 190 dwellings would yield an additional 40 primary places. Nottinghamshire County Council would therefore wish to seek an education contribution of £761,920 to provide primary provision to accommodate the additional pupils projected to arise from the proposed development (as set out in full in the 'Consultations' section above). Despite the shortfall in the viability of the development overall, the Applicant proposed the full contribution towards education provision for the reasons set out above.

### *Libraries*

The Developer Contributions SPD sets out that residential developments of 50 dwellings or more may trigger the need for a contribution towards libraries based on need. In respect of libraries,

Nottinghamshire County Council would seek a developer contribution of £6,694 + indexation. The application does not propose any contribution towards libraries which I consider acceptable due to the shortfall in viability of the development overall.

*Health*

The Developer Contributions SPD sets out that residential developments of 65 dwellings or more may trigger the need for a contribution towards health. In this case, I have not received a consultation response from the NHS. As such, the application does not require any contribution towards health which I consider acceptable due to the shortfall in viability of the development overall.

*Transport*

The Developer Contributions SPD sets out that residential developments of 65 dwellings or more may trigger the need for a contribution towards integrated transport contributions. In this case, the County Council has requested contributions to both bus stop improvements and bus taster tickets (to be given to new residents of the estate). Given that the provision of bus stops is important in ensuring the delivery of a sustainable development, the application proposes a contribution of £40,000 + indexation for this purpose. The application does not propose any contribution towards bus taster tickets which I consider acceptable due to the shortfall in viability of the development overall.

*Summary Developer Contributions*

A summary of the developer contributions/S.106 requirements is set out below:

<p><b>Developer Contributions</b></p>	<p><b>Requirement based on 190 net additional dwellings (replacement dwellings would not be subject to developer contributions with exception in relation to affordable housing as the demolition of existing stock is material to the planning decision).</b></p>	<p><b>Proposed Contribution (NB Some contributions cannot be fixed until final overall numbers are known. The S106 would therefore be set out, where relevant, as a series of formulas to be applied to each separate obligation dependent on details submitted in the reserved matters stage).</b></p> <p>320 proposed (inc. replacement and new build)  <u>225 retained</u> +                  Estate total 545</p> <p>Total demolition 130                  Net gain 190                  No. affordable units on site 100</p>
<p><b>Affordable Housing</b></p>	<p><b>30% on site provision</b> which equates to 57 units when considering the additional 190 units only.</p> <p>When added to the 117 (minus 13 market dwellings within the 130 demolition total) existing affordable houses to be demolished this would equate to an overall requirement of <b>174 units.</b></p>	<p><b>A minimum of 30%</b> of the 320 additional and replaced homes would be affordable. Indicative details submitted with the application state that 31.25% of the 320 additional and replaced homes would be affordable which would equate to <b>100 affordable dwellings.</b></p>

<p><b>Open Space (for 10+ dwellings) / Children's Play Area (for 30 + dwellings)</b></p>	<p><b>Provision &amp; maintenance of amenity green spaces and provision for children and young people:</b>  On site physical provision to include play equipment.  Amenity Green Space requirement = 14.4m<sup>2</sup>/dwelling = <b>2736m<sup>2</sup></b> when <u>considering the additional 190 units only.</u>  The total area of existing open space to be lost at 3.4 ha = 34,000m<sup>2</sup> (not including the 3.8 ha playing pitch area). Given the site allocation, it is not feasible to retain this space.  Taking a pragmatic view, the amenity green space requirement would therefore be <b>4852m<sup>2</sup></b> when <u>considering the total provision of 330 units.</u>  +  Provision for children and young people = 18m<sup>2</sup>/dwelling = <b>3258m<sup>2</sup></b> when considering the additional 181 units 2+ bed units only. (There is a net increase of 9 1-bed units are proposed so can be taken off children's play requirement). There would be no loss of existing provision for children and young people to account for.  <b>or</b> where appropriate an off-site contribution if full requirement cannot be met on site.</p>	<p>On site physical provision to include play equipment including:</p> <p>Amenity Green Space = Wildflower Meadow + Public Open Space + Informal pitch run off space and 600m fitness trail including equipment = 1.6 ha (<b>16,000 m<sup>2</sup></b>). This figure does not include the 2.7 hectare formal playing pitches area and exceeds the 4852m<sup>2</sup> requirement.</p> <p>Provision for children and Young people: LEAP + LAP's = 0.14 ha (<b>1400m<sup>2</sup></b>). This represents a shortfall in terms of quantitative provision.</p> <p>No off site contribution proposed.</p>
<p><b>Outdoor sports facilities (100+ dwellings relevant to wider allocation)</b></p>	<p><b>Outdoor sports facilities</b>  On site provision 52.8m<sup>2</sup> / dwelling.  <b>or</b> where appropriate an off-site contribution if full requirement cannot be met on site which equates to 190 x (£737.72 provision + £1148.05 maintenance) = <b>£358,296</b></p>	<p>The proposal includes the provision of playing fields. However this is to replace the existing provision on site as opposed to additional provision in relation to the net additional 190 dwellings on site. As such a contribution of <b>£358,296 + indexation</b> is proposed.</p>
<p><b>Education (for 10+ dwellings)</b></p>	<p><b>190 additional dwellings would create a primary school place requirements of 0.21 x 190 = 40. £761,920</b> to provide 40 additional primary places (based on build cost) + indexation</p>	<p><b>£761,920 + indexation</b></p>

<b>Community Facilities (for 10+ dwellings)</b>	£1384.07 per dwelling applies to 190 dwellings = <b>£262,973</b> + indexation <b>And/ Or</b> on site provision of replacement pavilion.	<b>On site provision of improved replacement pavilion with a minimum 450m<sup>2</sup> area (80 m<sup>2</sup>)</b> more than existing, including: <ul style="list-style-type: none"> <li>• Minimum 200 m<sup>2</sup>/ mixed use hall</li> <li>• Minimum 136 m<sup>2</sup>/ changing and shower facilities (4 changing rooms + additional facilities)</li> <li>• Lockers</li> <li>• Minimum 20 m<sup>2</sup>/ kitchen facility</li> <li>• Minimum 30 m<sup>2</sup>/ Equipment storage</li> </ul>
<b>Libraries (for 50+ dwellings)</b>	At an average of 2.3 persons per dwelling, 190 dwellings would add 437 to the existing libraries' catchment area population. This is costed at 437 (population) x 1.532 (items) x £10.00 (cost per item) = <b>£6,694 + indexation</b>	No contribution proposed.
<b>Health (for 65+ dwellings)</b>	190 x £950 per dwelling = <b>£180,500 + indexation</b>	No contribution required.
<b>Transport (for 65+ dwellings)</b>	Bus Stop Improvements - £40,000 Bus Taster Tickets contribution - £55,000 <b>Total = £95,000</b>	<b>£40,000 + indexation.</b> No contribution proposed towards bus taster tickets.

Overall, I consider it reasonable to accept reduced contributions as set out above in light of the viability issues presented and the proposal is compliant with the requirements of the NPPF and NPPG as a consequence. In terms of securing these contributions, the NPPG advises that *'No payment of money or other consideration can be positively required when granting planning permission. However, where the 6 tests will be met, it may be possible use a negatively worded condition to prohibit development authorised by the planning permission until a specified action has been taken (for example, the entering into of a planning obligation requiring the payment of a financial contribution towards the provision of supporting infrastructure).'*

The NPPG further advises that this may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. In this case the Applicant has agreed to the need to secure the above developer contributions and the imposition of a Grampian condition in this regard is the only mechanism available in ensuring the delivery of this regeneration scheme as far as I am aware.

### Other Matters

#### *Equality Act 2010*

The Affordable Housing Statement states that the master planning process sought resident involvement in producing proposals through two Public Exhibitions, three Design Workshops and a series of consultation meetings with the newly established Yorke Drive Residents Consultative Panel. The outline masterplan proposals were presented at a Public Exhibition and Drop in event

in September 2018. 160 residents attended the events and of the 84 residents who completed the Council's feedback questionnaire over 70% of residents indicated their support for the proposals to transform Yorke Drive, with 12% opposed. It is important that the impact of demolition on the occupants of existing homes is considered at the time when outline permission is granted in accordance with Section 149 of the Equality Act 2010. An Equality Impact Assessment has been undertaken by the Council and was reported to the Policy & Finance Committee on 29<sup>th</sup> November 2018. This states that:

*'The regeneration of Yorke Drive will require 130 homes to be demolished on the estate. This will require social housing tenants and resident freeholders to be rehomed. Social housing tenants will be rehoused in Council homes. They will receive the statutory home loss payment and a disturbance allowance as defined in the Council's residents offer.'*

*For resident and non-resident freeholders there is the potential for additional cost of conveyancing and moving to a new property, which could have a negative impact. However, along with the ongoing consultation process the Council & Company are drawing up a 'Resident Offer' which will mitigate any potential negative impacts. All residents affected by the demolition will be offered a new home (built to modern, decent standards and energy efficient with the potential to reduce energy costs), along with a financial compensation package and 1-2-1 support, which will have a positive impact.'*

*There is a positive economic impact of delivering the regeneration proposals through creating additional employment opportunities for local residents'.*

#### *Construction Management Plan (CEMP)*

An Air Quality Assessment has been submitted with the application which assesses potential air quality impacts during both the construction and operational phases. Whilst this report identifies no air quality constraints, it does recommend a number of mitigation measures (section 6 of the report) mainly to control potential dust impacts. Following consultation with the Environmental Health Officer, it is recommended that a condition be imposed requiring the submission of a CEMP which includes the recommendations of the Air Quality Assessment.

#### *Anti-social behaviour*

I note that consultation responses received from neighbours infer that they do not consider the proposal likely to improve existing levels of anti-social behaviour that exists on the estate. However, I would disagree with this view and consider the proposed improvements to layout and quality of houses, increased permeability of the site, increased levels of natural surveillance and improved quality of public realm are all factors that aim to reduce existing levels of anti-social behaviour.

#### **Planning Balance and Conclusion**

Given the site's allocation as part of the policy NUA/Ho/4 the principle of regenerating and redeveloping the site through a comprehensive scheme of regenerating existing housing and developing new stock in a coordinated and sustainable manner has already been accepted in principle. The presumption in favour of sustainable development within the NPPF and reflected in Policy DM12 is also acknowledged. In terms of decision making this presumption means approving developments that accord with the development plan without delay.

The substantive matter for consideration under this outline application is the level of compliance achieved with the policy requirements of Policy NUA/Ho/4 and the other Core Strategy and development plan policies. Overall, the proposal is considered to meet the aims of the allocation policy which is to deliver regeneration of the existing Yorke Drive Estate. The application meets the policy requirement to secure the required level of affordable on site in relation to the total number of dwellings proposed however falls short of an affordable housing provision which adds the number of existing affordable dwellings to be lost to this requirement. Full contributions are to be secured towards education, bus stop improvements and outdoor sports facilities. Whilst there would be a loss in the area of the existing open space, enhanced amenity provision including fitness trail and wildflower meadow is proposed along with provision for childrens play space. An improved and larger pavilion with community hall and changing room is also proposed. No contribution towards libraries or bus taster tickets is proposed.

However, taking into account the overall site viability, on balance I consider it reasonable to accept the shortfall in developer contributions so as not to inhibit the development and to ensure the delivery of a sustainable housing development which contributes towards the regeneration of the estate and requirements of the allocation policy in accordance with the requirements of the NPPF and PPG in this instance.

Detailed matters (other than access) are matters for subsequent approval. Based on the indicative site plan submitted with the application it is considered that the highways, flood risk, drainage, tree loss, archaeology and design impacts of the proposal can be acceptable subject to planning conditions.

In relation to ecology, further surveys are required to establish whether or not any mitigation measures are required which may affect the indicative site layout. The recommendation below is therefore subject to the further ecology survey work as required by the submitted Ecology Report being undertaken prior to the issuing of a decision.

In relation to noise impacts, confirmation is required that mitigation measures to reduce the noise impacts from the adjacent business park have been adequately implemented on site prior to the issuing of a decision.

Subject to these requirements and the conditions below, the recommendation is for approval.

### **RECOMMENDATION**

**That outline planning permission is granted subject to:**

- (a) the conditions shown below; and**
- (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.**

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

The development hereby approved shall be implemented substantively in accordance with the Phasing Scheme (contained in Section 9 and Appendix 1 of the Design and Access Statement Revised Feb 19) and prior to commencement of development on any phase or sub phase an up to date Phasing Plan and Programme shall be submitted, approved in writing by the Local Planning Authority and thereafter be implemented. The submitted details shall include the provision of the playing field area, children's play areas, community facilities comprising pavilion, amenity open space, access and shared parking areas. Each Reserved Matters submission shall accord with the latest Phasing Plan and Programme unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the site is developed in a satisfactory manner and for the avoidance doubt.

04

No development for any phase pursuant to Condition 3 shall commence until a planning obligation pursuant to Section 106 Town and Country Planning Act 1990 relating to the land subject of this consent has been made by all parties with an interest in the land has been lodged with and executed by the local planning authority. The said obligation will provide for following:

	<p><b>Contribution Based on up to 320 Dwellings Total/190 Net Additional Dwellings (NB Some contributions cannot be fixed until final overall numbers are known. The S106 would therefore be set out, where relevant, as a series of formulas to be applied to each separate obligation dependent on details submitted in the reserved matters stage).</b></p>
<p><b>Affordable Housing</b></p>	<p>A minimum of 30% of the 320 additional and replaced homes would be affordable.</p>

<b>Open Space / Children's Play Area</b>	On site provision & maintenance of amenity green spaces and provision for children and young people including:  Amenity Green Space = Wildflower Meadow + Public Open Space + Informal pitch run off space and 600m fitness trail with equipment = 1.6 ha (16,000 m <sup>2</sup> ).  Provision for children and Young people: LEAP + LAP's = 0.14 ha (1400m <sup>2</sup> ).
<b>Outdoor sports facilities</b>	190 dwellings x (£737.72 provision + £1148.05 maintenance) = £358,296 + indexation
<b>Education</b>	£761,920 to provide 40 additional primary places (based on build cost) + indexation
<b>Community Facilities</b>	On site provision and maintenance of improved replacement pavilion with a minimum 450m <sup>2</sup> area including: <ul style="list-style-type: none"> <li>• Minimum 200 m<sup>2</sup>/ mixed use hall</li> <li>• Minimum 136 m<sup>2</sup>/ changing and shower facilities (4 changing rooms + additional facilities)</li> <li>• Lockers</li> <li>• Minimum 20 m<sup>2</sup>/ kitchen facility</li> <li>• Minimum 30 m<sup>2</sup>/ Equipment storage</li> </ul>
<b>Transport (for 65+ dwellings)</b>	Bus Stop Improvements contribution £40,000 + indexation.

Reason:

In order to secure the necessary infrastructure and contribution requirements in accordance in the interests of achieving a sustainable development.

05

Reserved matter submissions for any phase or any use shall be substantively in accordance with the Illustrative Masterplan (reference number 40 Rev B) and Design and Access Statement (revised Feb 2019) including parameter plans contained within this document as amended by the Sport England Response Addendum (March 2019) unless otherwise agreed in writing by the Local Planning Authority. For the avoidance of doubt, the parameter plans include the following:

- 40 Rev B Illustrative Masterplan
- 30 Rev A Developable Area Parameter Plan
- 31 Rev A Land Use Parameter Plan
- 32 Rev A Vehicular Access Parameter Plan
- 33 Rev A Non-Vehicular Access Parameter Plan
- 34 Rev A Building Heights Parameter Plan
- 35 Rev A Open Space Parameter Plan
- 36 Rev A Proposed Levels Illustrative Overlay

Reason: To ensure that the site is developed in a satisfactory manner and for the avoidance doubt.

06

The development hereby permitted authorises the erection of no more than 320 dwellings (comprising 130 replacement dwellings and 190 net additional dwelling).

Reason: To define the planning permission and in line with the applicants submissions.

07

Notwithstanding the submitted Building Heights Parameter Plan 0032 Rev A (also referred to in Condition 5), the proposed building adjacent the Lincoln Road frontage shall not exceed 3 storeys in height.

Reason: In the interests of visual and residential amenity.

08

Linked to the requirements of Condition 3, the reserved matters application(s) shall include a detailed plan for the management and phasing of the development, including the provision of the temporary and permanent playing field area. The management and phasing plan details shall ensure that the works which result in the loss of playing field area are not commenced before the works to temporarily or permanently replace those playing field areas are available for use. The development hereby permitted shall not be carried out other than in accordance with the approved details.

Reason: To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures continuity of use [phasing provision] and to accord with Spatial Policy 8 of the Core Strategy.

09

The reserved matters application(s) shall include the submission of a pitch improvement strategy comprising:

- a. A detailed assessment of ground conditions of the land proposed for the new/retained/replacement playing field land as shown on drawing number 40 B (Illustrative Masterplan) shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
- b. Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The works shall be carried out in accordance with the approved scheme in accordance with the detailed phasing and management plan required by Condition 8.

Reason: To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with Spatial Policy 8 of the Core Strategy.

10

Prior to the use of the improved playing field area a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority following consultation with Sport England. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the improved playing field area.

Reason: To ensure that new facilities is capable of being managed and maintained to deliver a facility which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport (National Planning Policy Framework (NPPF) para 97) and to accord with Spatial Policy 8 of the Core Strategy.

11

No development shall commence until details of the design and layout of the pavilion to include a community hall and changing rooms has been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The community hall/changing rooms shall not be constructed other than in accordance with the approved details.

Reason: To ensure the development is fit for purpose and sustainable and to accord with Spatial Policy 8 of the Core Strategy.

12

No development on any phase pursuant to condition 3 shall take place within the application site until details of a Scheme of Archaeological Works in accordance with a written scheme of investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme should be drawn up and implemented by a professional archaeologist or archaeological organisation. For the avoidance of doubt, this should involve trial excavation which should then inform an appropriate mitigation strategy for further archaeological work, should this be required. Thereafter the scheme shall be implemented in full accordance with the approved details.

Reason: To ensure that satisfactory account is taken of the potential archaeological interest of the site.

13

The reserved matters application(s) shall be accompanied by an arboricultural method/impact statement and scheme for the protection of retained trees/hedgerows. The application shall be designed to retain existing trees on site where possible and where trees are to be removed justification for their loss shall be provided. Scheme details 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.

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

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

14

The reserved matters submission for the landscaping of each phase (as required by condition 3) shall include the submission of full details of both hard and soft landscape works for that phase and a programme for their implementation. This submission shall include:

- o Hard landscaping details shall include car parking layouts and materials, materials for other vehicle and pedestrian access and circulation areas, minor artefacts and structures for example, furniture, refuse or other storage units, signs, lighting etc.
- o Soft landscaping details shall include planting plans, written specification (including cultivation and other operations associated with plant and grass establishment) and schedules of plants, including species, numbers and densities together with clear annotations as to existing trees and hedgerows that would be retained plus proposed finished ground levels or contours. 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 approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of each phase of the development, whichever is soonest, unless otherwise agreed in writing with the District Planning Authority. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted on written consent of the District Planning Authority.

Reason: In the interests of visual amenity and biodiversity, to ensure that trees and hedgerows to be lost as a result of development is properly and commensurately mitigated with replacements.

15

No construction work, including site clearance and delivery of materials, shall be carried out except between the hours of 07.30 -18.00 Monday to Friday and 08.30 - 13.00 on Saturdays and at no time on Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

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

16

No development shall take place on any phase or sub phase until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by, the local planning authority. The approved CEMP shall be adhered to throughout the construction period. The CEMP shall include mitigation measures required by Section 6 of the submitted Air Quality Assessment and shall set the overall strategies for:

- i. the parking of vehicles of site operatives and visitors;

- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v. wheel washing facilities;
- vi. measures to control the emission of dust and dirt during construction;
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of residential amenity.

17

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 on any phase pursuant to Condition 3 until parts 1 to 4 (below) 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 condition 4 has been complied with in relation to that contamination.

#### 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - 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'*.

#### 2. 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.

### 3. 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.

### 4. 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 condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of 2., 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 3.

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.

18

No development shall be commenced for any phase pursuant to Condition 3 until a scheme for ecological enhancements has been submitted to and approved in writing by the Local Planning Authority. This could include (but shall not be limited to) bird and bat boxes at appropriate points within the site. This shall also include details of a timetable for implementation of the enhancements. The scheme shall thereafter be implemented in accordance with the approved scheme.

Reason: In order to provide ecological enhancements in line with the Core Policy 12 of the Development Plan and the advice contained in the NPPF.

19

Notwithstanding the submitted details, no part of the development for any phase pursuant to Condition 3 shall be commenced until drainage plans for the disposal of foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter 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 foul sewage disposal.

20

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

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

21

Linked to the requirements of Condition 3, the reserved matters application(s) shall include a detailed schedule including details housing mix and tenure need and a broad timetable outlining the approach to the re-housing of existing residents and demonstrating how this has been integrated into delivery of the scheme. The development shall be implemented in accordance with the approved schedule and timetable unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that there is adequate provision of dwellings/accommodation to support residents displaced as part of the development.

22

The development will require the diversion of existing public rights of way and no part of the development hereby permitted or any temporary works or structures shall obstruct the public right of way until approval has been secured and the diversion has been constructed in accordance with a detailed design and specification first submitted to and approved in writing by the Local Planning Authority.

Reason: To retain a safe and sustainable pedestrian route.

23

The formal written approval of the Local Planning Authority is required prior to commencement of any development with regard to parking and turning facilities, access widths, road layout, surfacing, street lighting and drainage (hereinafter referred to as reserved matters). All details submitted to the Local Planning Authority for approval shall comply with the County Council's current Highway Design Guide and shall be implemented as approved.

Reason: To ensure the development is constructed to adoptable standards.



24

No development shall commence on any part of the application site unless or until a suitable access has been provided at Lincoln Road as shown for indicative purposes on drawing 70045283-SK-003-P03 to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety

25

No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 90m at the new junction with Lincoln Road are provided in accordance with drawing 70045283-SK-004-P02. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: To maintain the visibility splays throughout the life of the development and in the interests of highway safety.

26

Notwithstanding the submitted details, 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. 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 local planning authority 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 travel.

27

No development shall commence on any part of the application site unless or until a suitable construction traffic management plan, including access arrangements and lorry routing, has first been submitted to and agreed in writing by the Local Planning Authority, and thereafter implemented in accordance with that plan.

Reason: In the interests of highway safety & to protect the town centre from extraneous traffic.

### **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

**Considerations in relation to gas pipeline/s identified on site:**

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required. All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) Tel: 0800 688 588

04

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.

05

In order to carry out the new junction works at Lincoln Road 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@nottscc.gov.uk](mailto:david.albans@nottscc.gov.uk) for details.

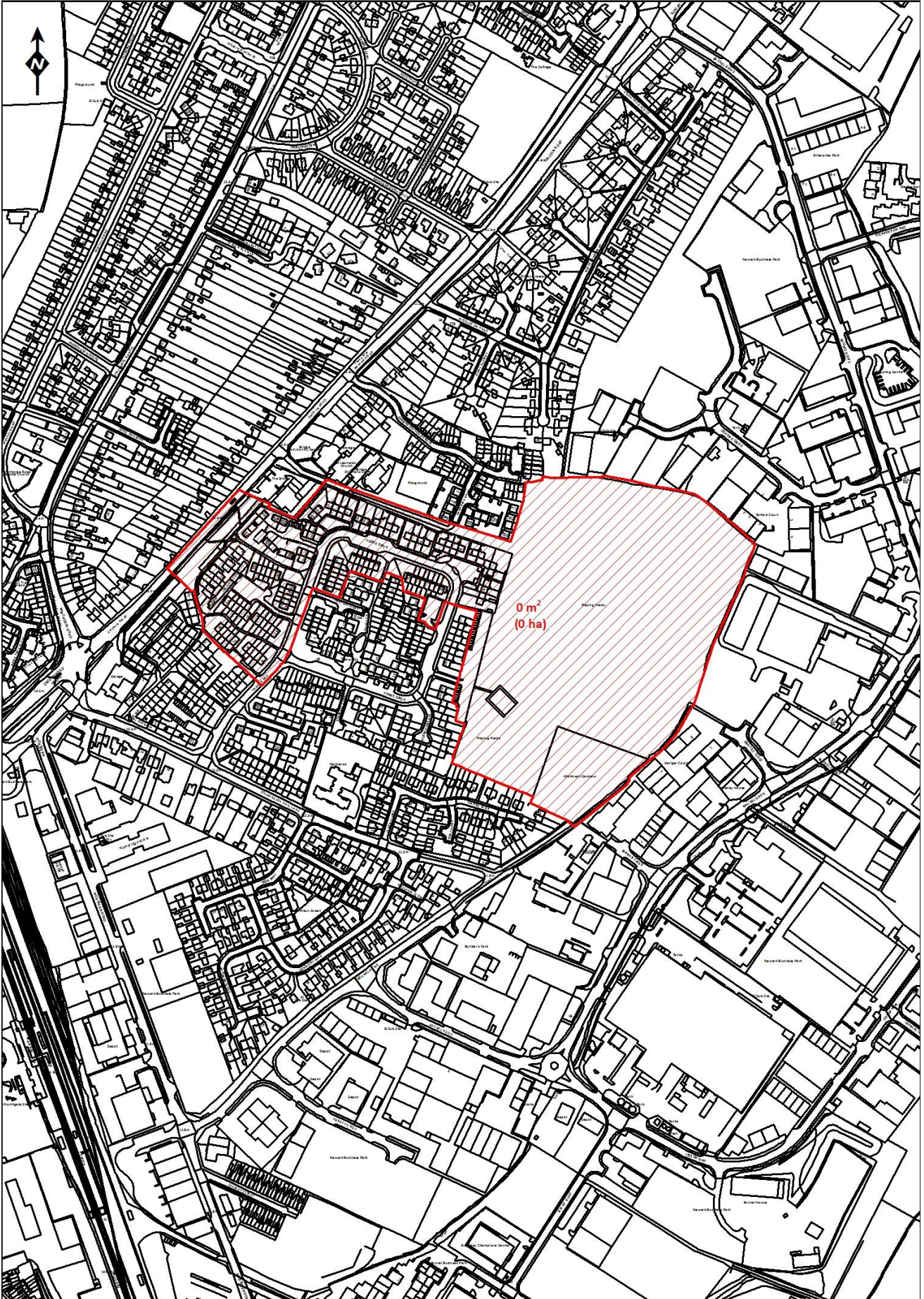
**BACKGROUND PAPERS**

Application case file.

For further information, please contact Helen Marriott on extension 5793

**Matt Lamb**  
**Director Growth and Regeneration**





**Schedule of Communication Received after Printing of Agenda**

<b>Item</b>	<b>Correspondent</b>	<b>Date</b>	<b>Points Raised (Summary)</b>	<b>Officer's Response</b>
8	Newark Sports Association	01.04.2019	A letter of objections is included in full in Appendix B of this late items report.	Noted.
8	Officer	01.04.2019	The Design and Access Statement mentions that construction traffic could be from Lincoln Road and/or Brunel Drive dependant on the phase.	<p>It is recommended that Condition 16 (Construction Environment Management Plan) be amended to include the submission of further details in relation to routing of construction traffic for each phase as amended below:</p> <p><i>16. No development on any phase pursuant to condition 3 shall take place within the application site, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by, the local planning authority. The approved CEMP shall be adhered to throughout the construction period. The CEMP shall include the submission of a plan detailing routing of construction traffic and mitigation measures required by Section 6 of the submitted Air Quality Assessment and shall set the overall strategies for:</i></p> <ul style="list-style-type: none"> <li><i>i. the parking of vehicles of site operatives and visitors;</i></li> <li><i>ii. loading and unloading of plant and materials;</i></li> </ul>

**Schedule of Communication Received after Printing of Agenda**

				<p><i>iii. storage of plant and materials used in constructing the development;</i></p> <p><i>iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;</i></p> <p><i>v. wheel washing facilities;</i></p> <p><i>vi. measures to control the emission of dust and dirt during construction;</i></p> <p><i>vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.</i></p> <p><i>Reason: In the interests of residential amenity.</i></p>
8	Nottinghamshire County Council	02.04.2019	<p>Clarification of the education contribution requested by Officer given that information provided by the County showed there is a current surplus of 20 primary school places in the area and it was unclear exactly where the contribution would be spent. The response below has been received:</p> <p><i>'I have sought to engage with education colleagues to gain an understanding of the rationale for requesting a contribution towards 40 primary school places. In the absence of any further information, I can confirm that the County Council would be seeking</i></p>	<p>Proposed education contribution as stated on Page 128, in the table on Page 129 and Condition 4 of the Agenda to be amended from £761,920 to £380,960.</p>

**Schedule of Communication Received after Printing of Agenda**

			<p><i>an amended contribution for 20 primary school places , based on build cost, of £380,960 (20 places x £19048 per place).</i></p> <p><i>In terms of where these monies would be spent; it would be put towards the provision of the new school which is to be provided as part of the scheme at Land South of Newark and which is being delivered by the relocation and expansion of Christ Church C of E Infant and Nursery School'.</i></p>	
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**PLANNING COMMITTEE – 5 NOVEMBER 2019**

**APPEALS A**

**APPEALS LODGED (received between 16 September and 21 October 2019)**

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**

2.1 That the report be noted.

BACKGROUND PAPERS

Application case files.

For further information please contact our Planning Development Business Unit on 01636 650000 or email [planning@nsdc.info](mailto:planning@nsdc.info) quoting the relevant appeal reference.

Lisa Hughes  
Business Manager – Planning Development

Appeal reference	Application number	Address	Proposal	Procedure	Decision
APP/B3030/C/18/3219628	18/00042/ENF	C S G Leisure Land Adjacent To The Limes Cafe Old Rufford Road Bilsthorpe Nottinghamshire NG22 8TH	<p>Without planning permission, development consisting of the material change of use of the land to use as a Haulage Yard including the following activities;</p> <p>The storage and parking of trailers on a short and long term basis. Overnight stays by drivers and passengers. The loading and unloading and exchange of loads, storage of loads. Vehicle washing and maintenance. Parking and storage of road maintenance vehicles, plant and machinery. Other associated transport services.</p>	Written Representation	Enforcement notice



Appeal reference	Application number	Address	Proposal	Procedure	Decision
APP/B3030/C/18/3219637	18/00042/ENF	C S G Leisure Land Adjacent To The Limes Cafe Old Rufford Road Bilsthorpe Nottinghamshire NG22 8TH	<p>Without planning permission, development consisting of the material change of use of the land to use as a Haulage Yard including the following activities;</p> <p>The storage and parking of trailers on a short and long term basis. Overnight stays by drivers and passengers. The loading and unloading and exchange of loads, storage of loads. Vehicle washing and maintenance. Parking and storage of road maintenance vehicles, plant and machinery. Other associated transport services.</p>	Written Representation	Enforcement notice

Appeal reference	Application number	Address	Proposal	Procedure	Decision
APP/B3030/C/3219700	18/00042/ENF	C S G Leisure Land Adjacent To The Limes Cafe Old Rufford Road Bilsthorpe Nottinghamshire NG22 8TH	<p>Without planning permission, development consisting of the material change of use of the land to use as a Haulage Yard including the following activities;</p> <p>The storage and parking of trailers on a short and long term basis. Overnight stays by drivers and passengers. The loading and unloading and exchange of loads, storage of loads. Vehicle washing and maintenance. Parking and storage of road maintenance vehicles, plant and machinery. Other associated transport services.</p>	Written Representation	Enforcement notice

Appeal reference	Application number	Address	Proposal	Procedure	Decision
APP/B3030/C/19/3227087	18/00346/ENF	29 California Road Farndon Newark On Trent Nottinghamshire NG24 3SB	Without planning permission, development consisting of the erection of a balcony and rail on an existing flat roof, as shown on photographs 1 & 2, and marked X on Plan A.	Written Representation	Enforcement notice

Appeal reference	Application number	Address	Proposal	Procedure	Decision
APP/B3030/D/19/3234298	19/00623/FUL	Eden Great North Road South Muskham NG23 6DY	Householder application for proposed two storey side extension	Fast Track Appeal	Delegated

Appeal reference	Application number	Address	Proposal	Procedure	Decision
APP/B3030/W/19/3236332	19/00868/FUL	Land To The Rear Of 8 Main Street Sutton On Trent Nottinghamshire	Erection of 4(No.) Dwellings and Associated Garages (Re-submission of 18/00599/FUL)	Written Representation	Committee – contrary to officer recommendation

Appeal reference	Application number	Address	Proposal	Procedure	Decision
APP/B3030/W/19/3236345	18/01891/FUL	Land Adjacent Tu Pare Low Street Elston Nottinghamshire	Erection of one affordable dwelling	Written Representation	Committee – in line with officer recommendation

<b>Appeal reference</b>	<b>Application number</b>	<b>Address</b>	<b>Proposal</b>	<b>Procedure</b>	<b>Decision</b>
APP/B3030/W/19/3236431	19/00343/FUL	Land Off Holme Lane Winthorpe Nottinghamshire	Erection of Single Detached Dwelling	Written Representation	Committee – in line with officer recommendation

**PLANNING COMMITTEE – 5 NOVEMBER 2019**

**APPENDIX B: APPEALS DETERMINED (between 16 September and 21 October 2019)**

**DISMISSED**

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision date</b>	<b>Decision by</b>	<b>Committee Decision in line with recommendation</b>
18/02056/FUL	Land Adjacent Roewood Lodge Bleasby Road Thurgarton Nottinghamshire	Construction of new, 2-storey dwelling and garage.	Appeal Dismissed	20.09.2019	Committee	No
18/00190/ENF	Belle Vue House Belle Vue Lane Blidworth Nottinghamshire NG21 0SF	Appeal against enforcement notice	Appeal Dismissed	30.09.2019	Enforcement	Not applicable
18/00400/ENF	1 Home Farm Close Kelham Newark On Trent Nottinghamshire NG23 5QB	Appeal against enforcement notice	Appeal Dismissed	02.10.2019	Enforcement	Not applicable
18/00401/ENF	8 Home Farm Close Kelham Newark On Trent Nottinghamshire NG23 5QB	Appeal against enforcement notice	Appeal Dismissed	30.09.2019	Enforcement	Not applicable
18/00271/ENF	18 Sherwood Avenue Edwinstowe Nottinghamshire NG21 9NE	Appeal against enforcement notice	Appeal Dismissed	30.09.2019	Enforcement	Not applicable
19/00396/FUL	The Willows Cottage Pasture Lane Gunthorpe Nottinghamshire NG14 7EQ	Householder application for proposed first floor extension over existing orangery and alterations to include insertion of window to north elevation.	Appeal Dismissed	30.09.2019	Delegated	Not applicable

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision date</b>	<b>Decision by</b>	<b>Committee Decision in line with recommendation</b>
18/01795/FUL	Land Adjacent 1 Oak Avenue And 10 Sycamore Road Ollerton Nottinghamshire	Erection of a pair of semi-detached houses	Appeal Dismissed	18.09.2019	Committee	Yes
18/02080/FUL	40 Winthorpe Road Newark On Trent Nottinghamshire NG24 2AB	Demolition of existing dwelling to create 4 new semi-detached dwellings.	Appeal Dismissed	17.09.2019	Committee	No
19/00083/FUL	Land At Church Lane Maplebeck NG22 0BS	Erection of a dwelling	Appeal Dismissed	19.09.2019	Delegated	Not applicable
19/00187/OUT	Billericay 124 High Street Collingham NG23 7NH	1 No. Barn style Chalet bungalow	Appeal Dismissed	18.09.2019	Delegated	Not applicable
18/02002/FUL	Field Reference Number 8708 Gravelly Lane Fiskerton Nottinghamshire	Extension to the existing barn for hay storage	Appeal Dismissed	16.10.2019	Committee	Yes

## ALLOWED

App No.	Address	Proposal	Decision	Decision date	Decision by	Committee Decision in line with recommendation
16/00356/ENF	Barfield House Greaves Lane Edingley Nottinghamshire NG22 8BH	Appeal against enforcement notice	Appeal Allowed	19.09.2019	Enforcement	Not applicable
18/02219/FUL	Land North Of Crossways Off Main Street Bathley Nottinghamshire	Change of use of land to use as a residential caravan site for one Gypsy family with 2 No. caravans (including no more than 1 No. static caravan/mobile home), laying out of hardstanding, construction of access and erection of ancillary utility building	Appeal Allowed	08.10.2019	Delegated	Not applicable

## RECOMMENDATION

That the report be noted.

## BACKGROUND PAPERS

Application case files.

For further information please contact our Planning Development Business Unit on 01636 650000 or email [planning@nsdc.info](mailto:planning@nsdc.info) quoting the relevant application number.

Lisa Hughes  
Business Manager – Planning Development

## PLANNING COMMITTEE – 5 NOVEMBER 2019

### QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report follows on from the report that was presented to Members on 6<sup>th</sup> August 2019 which highlighted planning enforcement performance during the second quarter of 2019. This report relates to the quarter from 1<sup>st</sup> July to 30<sup>th</sup> September 2019 and provides an update on cases where formal action has been taken. It also includes cases which show how the breaches of planning control have been resolved through negotiation.

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

- Schedule A outlines the enforcement activity during the quarter which captures the overall split to show of the cases investigated, how many are found to be a breach of planning or otherwise.
- Schedule B (separate attachment) sets this (on a pro-rata basis) against the activity over previous quarters). Please note that cases closed exceed, on occasion, cases received as a case received in an earlier quarter may have been closed in a later quarter.
- Schedule C details a summary of formal action taken since the last report was compiled which in this case is for quarter 2 (July to September).
- Schedule D – provides examples of cases where breaches of planning control have been resolved without formal action being taken.
- Schedule E – Notices complied with.
- Schedule F – Enforcement Appeal Outcomes

### Headlines Summary

- The number of **cases closed** this quarter **exceeds the cases received** and demonstrates the benefit of the additional temporary resource within enforcement (since mid-June) is starting to pay dividends;
- All enforcement appeal decisions received from the Planning Inspectorate have been dismissed and the enforcement notices upheld – See Schedule F for details.

### SCHEDULE A

Table 1

<b>SCHEDULE A: ENFORCEMENT CASES</b>	<b>1<sup>st</sup> to 31<sup>st</sup> July 2019</b>	<b>1<sup>st</sup> to 31<sup>st</sup> August 2019</b>	<b>1<sup>st</sup> to 30<sup>th</sup> September 2019</b>	<b>Totals</b>
<b>Cases Received</b>	56	28	32	116
<b>Case Closed*</b>	54	52	40	146
<b>Notice Issued</b>	1	1	5	7
<b>Notice Complied With</b>	2	1	2	5
<b>Appeal Lodged**</b>	0	0	1	1
<b>Prosecutions/Injunctions***</b>	0	1	0	1

\*It should be noted that 'case closed' can include a number of outcomes, which are generally breach resolved (through a planning application or removal of the breach), no breach identified (permitted development or not development), or that a breach exists but it is not expedient to



pursue. Please note that 'Notice' for the purposes of these statistics does not include Planning Contravention Notices issued.

\*\* Appeal lodged during Quarter 3, 2019 is:

- 19/00098/ENF (**19/00047/ENFNOT**) appeal received 5<sup>th</sup> September 2019 - Crossways, Great North Road, Weston relating to the erection of a brick built structure which has not been erected in accordance with the approved agricultural notification. Notice (served 12<sup>th</sup> August 2019) required rectifying the breach.

Of the cases closed, the reasons for these closures are detailed below in Table 2:

\*\*\* Prosecution relates to case 17/00144/ENF (Willow Tree Farm, Easgle Road, Spalford) – The prosecution was taken following the non compliance with a Breach of Condition Notice (BCN). The contravener was found guilty of the offence and was subject to a fine and a contribution to the Council's legal costs. The Council are now aware that the contravener has subsequently complied with the notice and the enforcement case has been closed.

**Table 2 (Reasons for Closure)**

Month/Year	Total Number of Cases Closed	No Breach (No Further Action required)	Breach Resolved (through negotiation, permission granted etc.)	Breach – No Further Action (not expedient)	Other (such as Duplicate Case)
July 2019	54	26 (48.14%)	17 (31.48%)	7 (12.96%)	4 (7.4%)
August 2019	52	28 (53.84%)	10 (18.51%)	9 (17.30%)	5 (9.61%)
September 2019	40	15 (37.5%)	14 (35%)	9 (22.5%)	2 (5%)
<b>Totals</b>	<b>146</b>	<b>69</b>	<b>41</b>	<b>25</b>	<b>11</b>
<b>Average per month</b>	<b>48.6</b>	<b>23 (46.46%)</b>	<b>13.6 (28.33%)</b>	<b>8.33 (17.58%)</b>	<b>3.66 (7.66%)</b>

**SCHEDULE B – SEE SEPARATE SHEET AT END OF THIS REPORT**

**SCHEDULE C. FORMAL ACTION TAKEN (1<sup>st</sup> JULY TO 30<sup>TH</sup> SEPTEMBER 2019)**

Schedule C provides a more detailed position statement on formal action (such as enforcement notices served) since the performance report was brought before Members. This table does not detail Planning Contravention Notices served.

**FORMAL ACTION TAKEN IN JULY 2019**

<p><b>Enforcement Ref:</b> 19/00125/ENF</p> <p><b>Site Address:</b> Usta Grill, 13-15 Castle Gate, Newark, NG24 1AZ</p> <p><b>Alleged Breach:</b> Without listed building consent, the repointing of the south-west gable end</p>
---

and the repointing of the first and second storey wall making up the final right-hand bay on the western elevation. The mortar mix includes cement which is not appropriate on this historic building.

**Date Received:** 29.03.2019

**ACTION TO DATE:** Listed Building Enforcement Notice was served on 15<sup>th</sup> July 2019

Background

It came to the attention of officers that unauthorised works had taken place at the property. These works (as set out above) were considered harmful to the special architectural and historic interest of the listed building. Unauthorised works to a listed building is a criminal offence.

A Listed building enforcement notice was therefore served upon all those having an interest in the building on 15<sup>th</sup> July. The Notice takes effect on 15<sup>th</sup> August 2019 and the perpetrators/owners have been given 3 calendar months to comply by rectifying the unauthorised works. This includes raking out all cement mortar and repointing with an appropriate lime render.

**FORMAL ACTION TAKEN IN AUGUST 2019**

**Enforcement Ref:** 19/00098/ENF

**Site Address:** Crossways, Great North Road, Weston

**Alleged Breach:** Structure not being built in accordance with approved agricultural notification.

**Date Received:** 12.03.2019

**ACTION TO DATE:** Enforcement Notice served

Background

The Local Planning Authority received notification that a large brick structure was under construction at Crossways, Great North Road, Weston. A site visit found that the structure was a considerably altered version of an agricultural prior notification approved under 18/00264/AGR.

A retrospective planning application was refused (19/01034/FUL) and a planning Enforcement Notice served on the 12<sup>th</sup> August 2019, requiring considerable amendments to the structure so that the approved prior notification can be implemented lawfully. The Notice has been appealed and the LPA is awaiting a start date from the Planning Inspectorate.



### **FORMAL ACTION TAKEN IN SEPTEMBER 2019**

**Enforcement Ref:** 19/00190/ENF, 19/00191/ENF and 19/00182/ENF

**Site Address:** Numbers 15, 17 and 19 Syerston Way, Newark

**Alleged Breach:** Extension of residential gardens and laying of hard surfacing over a drainage ditch

**Date Received:** 7<sup>th</sup> May 2019

**ACTION TO DATE:** Three Enforcement Notices served

#### **Background**

The Local Planning Authority was notified that the three dwellings had collectively laid additional soil/hard surfacing over a drainage ditch and wildlife corridor, in order to facilitate an extension to their residential curtilage. Three retrospective planning applications were considered and refused on the 12<sup>th</sup> September 2019, on account of its impact on drainage and ecology, with Enforcement Notices served upon each landowner on the same date. The Notices have not yet been appealed and require the reversal of all works within 4 months.

**Enforcement Ref:** 18/00034/ENF

**Site Address:** The Workshop, Cockett Lane, Farnsfield, NG22 8JQ

**Alleged Breach:** Change of use of agricultural land to waste transfer site/storage of materials

**Date Received:** 25<sup>th</sup> January 2018

**ACTION TO DATE:** Enforcement Notice issued

## **Background**

The case revolves around an alleged material change of use of the site.

The case has been investigated concurrently along with Nottinghamshire County Council as there has been an allegation that the land has been used for waste activities.

Investigations initially led to the service of an Enforcement Notice (August 2018), and latterly a Stop Notice (July 2019), by Nottinghamshire County Council against the alleged material change of use of the land for use for waste activities. The service of the Enforcement Notice was the subject of an appeal. In September 2019 the Council were notified by colleagues at Nottinghamshire County Council that the appeal against the issue of an planning enforcement notice by Nottinghamshire County Council (NCC) had been withdrawn. Although the planning Enforcement Notice issued by NCC therefore remains extant, the Council were also notified by colleagues at NCC that the alleged unauthorised material change of use of the land (in terms of ceasing waste import, ceasing waste processing, removed waste and processed waste and removed plant etc. solely associated with the waste use), has now ceased. The requirements that no waste activity takes place remains.

Following the withdrawal of the appeal, officers were therefore of the opinion that the activity taking place on the land at the present time is that associated with aggregate storage and distribution and hence constitutes a new material change of use of the land from agriculture. Officers consider this use of the land to be incompatible with the Development Plan and therefore on 27<sup>th</sup> September 2019 issued a planning Enforcement Notice (EN). This requires the use of the land for aggregate storage and distribution to cease and the use of the land be returned to agriculture. The period for compliance with Enforcement is 120 days following the date that the notice comes into effect, the 28<sup>th</sup> October 2019. Whilst issuing the notice it was noted that the land may also be being used for the storage of heavy goods vehicles and machinery. The owner of the land has therefore been reminded a previous planning enforcement notice, issued on 17<sup>th</sup> August 2007, prohibits the use of the land for the storage of heavy goods vehicles, plant machinery and skips. This enforcement notice remains extant and therefore any breach of this notice is an offence. Officers will be undertaking regular inspections to check compliance with the notice.

Further, a a Breach of Condition Notice was issued on 15<sup>th</sup> May 2019. The BCN requires the use of the agricultural building for purposes other than agriculture to cease. The date for compliance was 13<sup>th</sup> August 2019 – 90 days after the notice was served. Officers will be undertaking regular inspections to check compliance with the notice.



**Enforcement Ref:** 19/00194/ENF

**Site Address:** 2 Willow Holt, Lowdham, Nottinghamshire, NG14 7EJ

**Alleged Breach:** Erection of fence adjacent to highway without consent

**Date Received:** 14<sup>th</sup> May 2019

**ACTION TO DATE:** Enforcement Notice issued

### **Background**

The Local Planning Authority received notification that a timber fence of approximately 1.8m in height has been erected along boundaries of the property. The fence encloses the side and rear boundaries, however due to the position of the property as a corner plot, the fence is immediately adjacent to the back edge of the pavement. Planning permission is therefore required as the fence exceeds the maximum 'permitted' height of a means of enclosure.

Attempts were made to resolve the breach of planning without formal action by requesting that the height of the fence be reduced to no more than 1m.

No application was submitted and as the Council does not consider that the fence is acceptable visually, a planning enforcement notice was issued.

The enforcement notice requires the overall height to be reduced to no more than 1 metre.



#### **SCHEDULE D: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION**

Formal enforcement action is usually the last resort and where negotiations have failed to produce a satisfactory resolution of a breach of planning control. In the vast majority of cases negotiation, or the threat of formal action, is enough to secure compliance with planning legislation and the following are just a few examples of how officers have resolved breaches through negotiation during the last quarter.

**Enforcement Ref:** 18/00254/ENF

**Site Address:** 57 Beacon Hill Road, Newark

**Alleged Breach:** Unauthorised Construction of Side Extension to Dwelling

**Status:** Breach resolved

#### **Background**

Officers were notified of an unauthorised side extension having been constructed on a dwelling. The works required planning permission and, in the view of Officers, was of an unacceptable design. The requirements of Permitted Development were set out to the owner, who over a period of time cooperatively amended the extension to accord with permitted development conditions. The structure no longer requires planning permission and is now a positive addition to the host dwelling.



**Before**



**After**

**Enforcement Ref:** 19/00105/ENF

**Site Address:** Bridgend, Blacksmith Lane, Kelham, NG23 5QT

**Alleged Breach:** Unauthorised Fencing in a Conservation Area

**Status:** Breach resolved

Background

The Local Planning Authority was notified that a section of domestic hedgerow had been removed and 1.8 metre high timber fencing with concrete bases and posts had been erected without planning permission. The fencing was considered to negatively impact the Conservation Area and highway safety. Meetings were held with the owner of the property,



who relocated the fencing further into the gardenspace, so that the fencing meets the requirements of permitted development.



**Before**

The impact on highway safety has been improved and the visual amenity of the area improved as a result. Whilst not ideal this now constitutes permitted development such that the breach has been resolved.



**After**

**Enforcement** Ref: 19/00269/ENF

**Site Address:** Drumilly Cottage, Main Street Kirton, NG22 9LP

**Alleged Breach:** Erection of fence adjacent to highway without consent

**Status:** Breach resolved

Background

The Local Planning Authority was notified that a fence measuring approximately 1.8 metres in



height had been erected along the side boundary of the property, adjacent to the back edge of the pavement.

The fence required planning permission as the height adjacent to the back edge of the pavement exceeded 1 metre, the maximum height without an application for planning permission.

The owners were requested to reduce the overall height of the section that is adjacent to the highway, in order to resolve the visibility issues of motorists using the adjacent car park.

The impact on highway safety has been improved and the visual amenity of the area improved as a result.



**Before**



**After**

**SCHEDULE E – NOTICES COMPLIED WITH DURING QUARTER (1<sup>st</sup> July – 30th September 2019)**

In addition to the notices complied with that were issued this quarter and detailed within the sections above, further notices issued previously can also be reported as complied with as follows:

**Notices Complied with in July 2019:**

**Enforcement Ref:** 18/00084/ENF

**Site Address:** The Scarecrow Patch, Eagle Road, Spalford.

**Alleged Breach:** Unauthorised alterations to land levels, erection of structure for keeping poultry.

**Action to Date:** Enforcement Notice served 4<sup>th</sup> April 2018.

Background

In March 2018, Officers were made aware that various works were taking place on a parcel of agricultural land off Eagle Road, Spalford. This included the siting of lorry trailers with windows installed, the erection of a low-rise brick electricity box, the laying of hard standing and alterations to land levels to begin forming a pond.

An Enforcement Notice was issued in April 2018 requiring various works to be undertaken, including the removal of the lorry backs, hard standing and reversal of alterations of land levels. The Notice was appealed and, during the lifetime of the appeal, the land tidied and the lorry-backs clad in timber ready for housing poultry.

Given the changes that occurred, the Planning Inspectorate resolved to grant planning permission for the structure and associated hard standing. The requirement to reverse alterations to land levels was upheld and complied with quickly once this part of the enforcement appeal was dismissed.

**Enforcement Ref:** 19/00299/ENF

**Site Address:** Crab Lane, North Muskham

**Alleged Breach:** Installation of doors and windows at first-floor level without planning permission

**Action to Date:** Enforcement Notice issued 8<sup>th</sup> April 2019

Background

In March 2019, Officers were made aware that doors and windows had been installed at first-floor level on the side elevations of 7 Crab Lane, North Muskham. This led to an unacceptable loss of privacy in respect of both neighbouring dwellings. A planning Enforcement Notice was issued on the property requiring the doors and windows to be permanently closed and for obscure glazing to be fitted. A later site visit found that the Enforcement Notice had been complied with in full, and the breach of planning control resolved as a result.

**Notices Complied with in August 2019:**

**Enforcement Ref:** 19/00133/ENF

**Site Address:** The Bearings, Bowbridge Road, Newark

**Alleged Breach:** The removal of trees in breach of planning conditions.

**Action to Date:** Temporary Stop Notice and Breach of Condition Notice issued.

Background

In April 2019, the Local Planning Authority was made aware that trees were in the process of being felled on land approved for housing development. Conditions attached to the grant of planning permission forbade the removal of trees during the bird nesting season (that being March to August inclusive). Tree protection measures were also required to be approved and installed prior to development taking place.

A Temporary Stop Notice and a Breach of Condition Notice were issued on the 2<sup>nd</sup> April 2019, requiring works to trees to cease and the relevant conditions complied with. Works ceased immediately and no further works to trees took place during the bird nesting season, in breach of the Notices.

**Notices Complied with in September 2019**

**Enforcement Ref:** 17/00337/ENF

**Site Address:** Lurcher Farm, Mansfield Road, Farnsfield, NG22 8HY

**Alleged Breach:** Alleged material change of use of land for storage of caravans

**Action to Date:** Enforcement Notice issued 12<sup>th</sup> July 2018.

**Date of compliance:** 17<sup>th</sup> September 2019

Background

The initial report alleged the material change of use of the land from a campsite to the storage of 25+ caravans.

The alleged breach was confirmed by a site visit when it was noted that the site was 'permitted' to be used as a campsite via a licence from an exempt organisation, this automatically places a limit of 5 caravans and 10 tents on a site.

Despite extensive negotiations an application for planning permission to retain the use was not submitted and given there was harm arising, a planning enforcement notice was issued on 21<sup>st</sup> August 2018. The enforcement notice required the owners/occupiers of the land to: Cease the use of the 'land' for the storage of caravans. Remove from the land all caravans which are stationed for storage purposes.

The owners/occupiers appealed the service of the notice, including under Ground (a) (that planning permission should be granted). The appeal was subsequently dismissed on 9<sup>th</sup> April

2019.

The date for compliance with the enforcement notice has now expired and it is noted that the requirements have been met and the breach of planning control has therefore ceased. Accordingly the planning enforcement case can now be closed.



**Enforcement Ref:** 17/00253/ENF

**Site Address:** 11 Newark Road, Ollerton, NG22 9PZ

**Alleged Breach:** Erection of a large summer house

**Date Received:** 21.07.2017

**ACTION TO DATE:** Enforcement Notice were served on 8<sup>th</sup> February 2018.

#### Background

The complaint was initially raised in July 2017 and related to a detached outbuilding that was being erected within the rear garden of the property.

Upon inspection it was noted that the structure being erected was a large timber framed structure with a high pitched roof with openings and frames for dormer windows.



The structure was not permitted under Class E (buildings etc incidental to the enjoyment of a

dwellinghouse) as the height of the structure significantly exceeded the maximum 'permitted' height – the eaves are approx. 2.8m (PD 2.5M) and the overall height approx. 5m (2.5m).

Several attempts were made to engage the occupant in discussions as it was considered that the height of the structure was too imposing on the neighbouring properties and there was concern over the potential use taking into account the space in the roof. However, it was also felt that the structure could be made acceptable by reducing the overall height.

Having assessed the development it was considered that the development did not comply with Policies DM5 & DM6 as the development had an unacceptable impact upon the amenity of the neighbouring properties including overbearing impacts, loss of light and privacy.

Further, the structure was built upon a raised platform and as such users of the building were offered the opportunity to look into the adjoining neighbours private garden.

As a result a Planning Enforcement Notice was issued on 8<sup>th</sup> February 2019. The Notice required the reduction in height of the structure to no more than 2.5 metres, and the reduction of the platform to no more than 0.3 metres. The Notice was required to be complied with by 8<sup>th</sup> June 2019.

Follow up inspections after the date for compliance with the Notice revealed that no changes had been made to the structure.

As there had been a failure to comply with the ENF Notice, and no response was received to chase up correspondence, the case was referred to NSDC legal department to take legal action as the failure to comply with an ENF Notice is an offence. Following a letter from NSDC legal department an application for planning permission to retain the structure was submitted in January 2018, planning ref 18/01646/FUL. The application was refused as, in the opinion of the Local Planning Authority, the detached garden building had a harmful impact upon the character and appearance of the area by virtue of its design, large scale and massing and would introduce a feature that would be overly dominant and alien for its surroundings. Furthermore the height, scale and massing of the building would result in an overbearing and harmful impact on neighbouring amenity. This is contrary to Policy DM5 (Design) and Policy DM6 (Householder Development) of the adopted NSDC Allocations and Development DPD, the NSDC Householder Supplementary Planning Document and the NPPF being material planning considerations.

The case was then taken up by the NSDC legal dept. again and a further application was then submitted, 19/01048/FUL, to retain the structure with a revised (reduced) roof height – the eaves would remain at the existing height (2.8 metres). The application was approved in August 2019, subject to a condition that the structure being completed in accordance with the revised plans.

I have subsequently inspected the development and note that the roof structure has been removed. The height of the structure is therefore currently 2.8 metres. I noted that the raised veranda has also been removed.





Whilst the structure does not fully comply with the ENF Notice as the height has not been reduced to 2.5 metres, this limit was only imposed as the maximum PD height and having assessed the structure in its current state I consider it to be of an acceptable scale and form for its location. The reduction in roof height significantly reduces its prominence and makes it appear more domestically proportioned, therefore complying with policies CP9, DM5 and DM6, supported by the Householder Development SPD.

The enforcement case has therefore now been closed as it is not expedient to pursue the matter further.

#### **SCHEDULE F – ENFORCEMENT APPEAL OUTCOMES (1<sup>st</sup> July – 30<sup>th</sup> September 2019)**

**Enforcement Ref:** 18/00400/ENF & 18/00401/ENF

**Site Address:** 1 and 8 Home Farm Close, Kelham, NG23 5QB

**Alleged Breach:** Without planning permission, the material change of use of a C3 dwellinghouse to commercial leisure accommodation.

**Date Received:** 17.12.2018

**ACTION TO DATE:** Enforcement Notices were served on 30<sup>th</sup> January 2019.

#### **Background**

Officers received continuing allegations that numbers 1 and 8 Home Farm were continuing to be used by Kelham Hall Limited as commercial accommodation for tourists and wedding guests associated with events at Kelham Hall, leading to regular disruption, parking issues and noise disturbance for local residents. The matter has been investigated in an ongoing capacity and Officers were able to issue Enforcement Notices on both properties.

The Notices were appealed on the grounds that the use did not amount to a breach of planning control. With assistance from local residents, the Planning Inspectorate determined that a breach of planning control had occurred and that the Enforcement Notice should be upheld. Both properties are required to be used for their authorised C3 (dwellinghouse) useage from November 2019.

**Enforcement Ref:** 18/00190/ENF

**Site Address:** Belle Vue House, Belle Vue Lane, Blidworth

**Alleged Breach:** Without planning permission, the erection of a means of enclosure exceeding 1 metre in height adjacent to the highway and the erection of a detached structure.

**Date Received:** 13.06.2018

**ACTION TO DATE:** Enforcement Notices were served on 20<sup>th</sup> July 2019.

### **Background**

The Council received a complaint about several issues at the property, including the erection of a large set of gates and fence and an outbuilding to the front of the property.

Investigations revealed that the new means of enclosure did not have planning permission and as it was the opinion of the Council that the enclosure was unacceptable a planning enforcement notice was issued.

The enforcement notice requires the reduction in height of the enclosure to a maximum height of 1 metre and the outbuilding to be removed completely.

An appeal was made against the notice, including under Ground A (that planning permissions should be granted).

The appeal was dismissed on all grounds and the requirements are therefore required to be complied with by no later than 29<sup>th</sup> December 2019.



**Enforcement Ref:** 18/00271/ENF

**Site Address:** 18 Sherwood Avenue, Edwinstowe, NG21 9NE

**Alleged Breach:** Unauthorised extension to dwellinghouse.

**Date Received:** 17.08.2018

**ACTION TO DATE:** Enforcement Notices were served on 20<sup>th</sup> March 2019.

**Background**

The Council received a complaint about erection of a second floor rear extension on the dwellinghouse. Planning permission had not been sought for the erection of the extension which was therefore unauthorised.

In response to the enforcement investigation, an application was submitted retrospectively to retain the extension, application ref 18/02365/FUL. The application was refused due to the unacceptable design and impact of the extension.

A planning enforcement notice was issued that requires the removal of the extension.

An appeal was lodged and dismissed on all grounds and the requirements are therefore required to be complied with by no later than 30<sup>th</sup> September 2020.



**RECOMMENDATION**

**That Planning Committee considers the contents of the report and identifies any issues it wishes to examine further.**

**Background Papers**

Enforcement Case Files

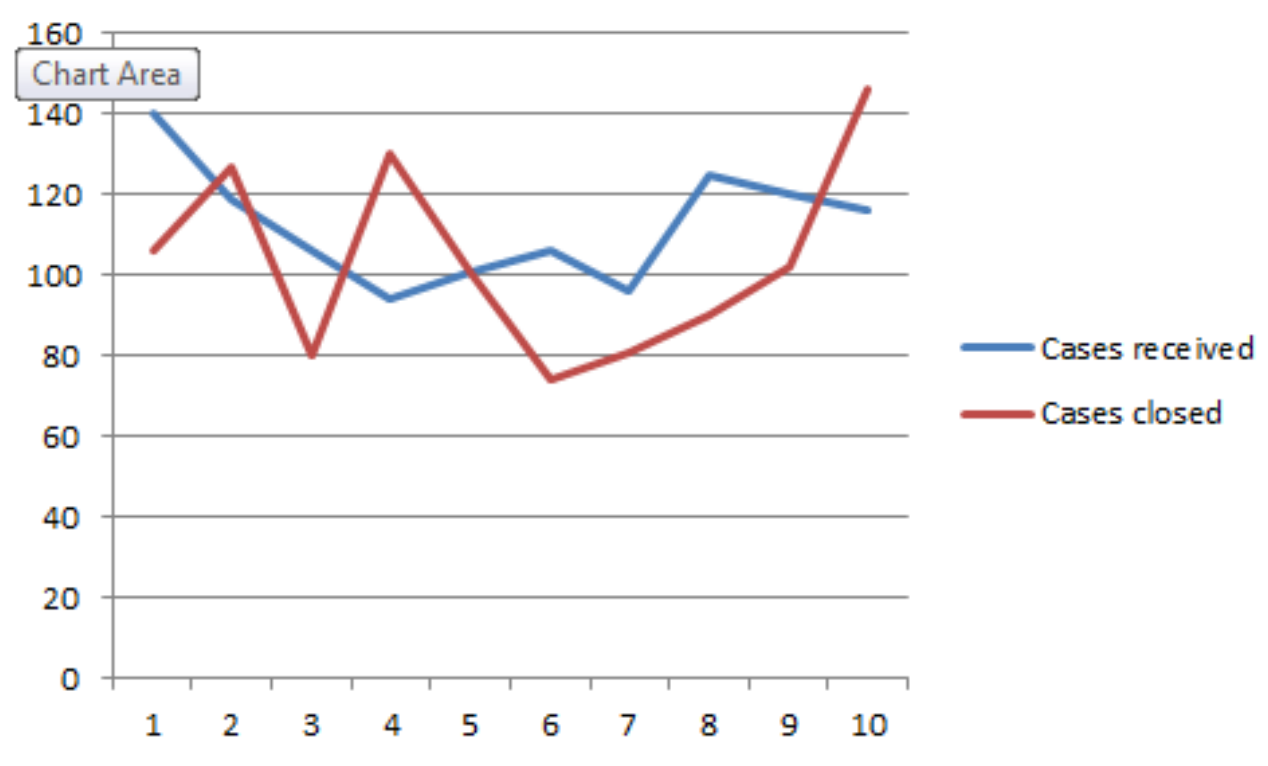
For further information please contact Clare Walker on extension 5834 or [planning@nsdc.info](mailto:planning@nsdc.info)



**Lisa Hughes**  
**Business Manager – Planning Development**

**SCHEDULE B - ENFORCEMENT PERFORMANCE REPORT – PERFORMANCE BY QUARTER**

	Q1 - 2017/18 1 April to 30 June	Q2 2017/18 1 July to 30 September	Q3 2017/18 1 October to 31 December	Q4 2017/18 1 January – 31 March	Q1 2018/19 1 April – 30 June	Q2 2018/19 1 July – 30 September	Q3 2018/19 1 October – 31 December	Q4 2018/2019 1 January to 31 March	Q1 2019/2020 1 April to 30 June	Q2 2019/2020 1 July to 30 September
Cases Received	140	119	106	94	101	106	96	125	120	116
Cases Closed	106	127	80	130	101	74	81	90	102	146



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

Document is Restricted