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**Monday, 18 March 2019**

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

**Members of the Committee:**

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

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

**MEETING: Planning Committee**

**DATE: Tuesday, 26 March 2019 at 5.00 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

### Page Nos.

- |    |   |        |
|----|---|--------|
| 1. | Apologies for Absence                               |        |
| 2. | Declarations of Interest by Members and Officers    |        |
| 3. | Declaration of any Intentions to Record the Meeting |        |
| 4. | Minutes of the Previous Meeting                     | 5 - 12 |

### **Part 1 - Items for Decision**

- |    |   |           |
|----|---|-----------|
| 5. | Newark Working Mens Club, 13 Beacon Hill Road, Newark On Trent<br>19/00305/FULM (MAJOR)           | 13 - 28   |
| 6. | Hazelford Weir, Hazelford Lock, Bleasby 18/01515/FULM (MAJOR)<br>Site Visit: Between 9.20am – 1pm | 29 - 86   |
| 7. | St Nicholas's Church, Newark Rd, Hockerton 18/01902/FUL<br>Site Visit: Between 9.20am and 1pm     | 87 - 100  |
| 8. | 7 Landseer Road, Southwell 19/00124/FUL<br>Site visit: Between 9.20am and 1pm                     | 101 - 111 |
| 9. | Wharf Cottage, Carlton Ferry Lane, Collingham, Newark On Trent<br>19/00304/FUL                    | 112 - 126 |

### **Part 2 - Items for Information**

- |     |                                       |  |
|-----|---------------------------------------|--|
| 10. | Appeals Lodged<br>There are none.     |  |
| 11. | Appeals Determined<br>There are none. |  |

### **Part 3 - Statistical and Performance Review Items**

There are none.

### **Part 4 - Exempt and Confidential Items**

There are none.

- |     |                                   |  |
|-----|-----------------------------------|--|
| 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 Paragraphs 1, 2, 3 and 7 of part 1 of Schedule 12A of the Act.

NOTES:-

A Briefing Meeting will be held in the Castle Room - First Floor, Castle House at 4.00 pm on the day of the meeting between the Director – Growth & Regeneration, the Chairman and Vice-Chairman of the Committee to consider late representations received after the Agenda was published.

For awareness you are advised to be in attendance at the commencement of the meeting as the Planning Committee Chairman may change the order of business on the agenda.

# Agenda Item 4

## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 5 March 2019 at 4.00 pm.

### PRESENT:

Councillor P Handley (Vice-Chairman)

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

APOLOGIES FOR ABSENCE: Councillor D Payne (Chairman) and Councillor P Duncan (Committee Member)

### 208 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor R. Crowe declared a Personal Interest in agenda Item No. 7 – Land at Sunny View, 2 Grassthorpe Road, Sutton on Trent (18/02292/FUL) as the applicant was known to him.

Councillor R.V. Blaney declared a Personal Interest in agenda Item No. 9 – Land To South of Station Road, Rolleston (18/02001/FUL) as he was the church warden within that diocese.

Councillor I. Walker declared a Personal Interest in agenda Item No. 9 – Land To South of Station Road, Rolleston (18/02001/FUL) as he had worked in the past with the farm owner.

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

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

### 210 MINUTES OF THE PREVIOUS MEETING

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

### 211 FIELD REFERENCE 7600 OFF, NORTH SCARLE ROAD, WIGSLEY, NOTTINGHAMSHIRE (17/02043/FULM (MAJOR))

The Committee considered the report of the Director of Growth & Regeneration, which sought full planning permission to create a fish farm. The fish farm would breed and rear freshwater species of fish to supply the ornamental and sport fishing market. The applicant had advised that once fully operational, at year 6 the facility would be capable of supplying around 11,500kg of live fish per annum.

Members considered the application and some Members felt that the development

was too large, given that the first application in 2008 was a third of the size for the fishing lake. Concern was raised that the site flooded and flood water collected on the road. Concern regarding the number of lorries going onto site was also raised. It was commented that the Parish Council had raised concern regarding dust and noise from the site which would take four years to develop. It was suggested that if the Committee were minded to approve the application the local ward Member would look at the routing plan in conjunction with the Planning Committee Chairman and Director of Growth & Regeneration.

Other Members commented that the development was not large in comparison to Smeaton Lakes. Concerns were raised regarding the proposed volume of material to be removed and the accuracy of those figures given the various comments and proposals from the applicant throughout the life of the application. Concern was also raised regarding inconsistency with the leisure element for sport fishing on-site which was reported as significant within the report. It was questioned whether Highways had been assessed on the leisure use. Concern was also raised regarding the planned phase of construction and the inability to properly phase given the need for the growing ponds.

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

- (i) concerns regarding the credibility and enforceability of the amount of material to be removed from site and associated lorry movements;
- (ii) the impact of the sports fishing on-site and whether regard had been had to this in the cumulative assessment of traffic and disturbance impacts;
- (iii) the applicants submission failed to demonstrate that the scheme could be phased appropriately, or its implementation be guaranteed in order to avoid part-completed and avoid visual harmful development; and
- (iv) the inability of the scheme to demonstrate how the scheme passed the sequential flood risk test.

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

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

Mrs L.M.J. Tift	For
I. Walker	For
B. Wells	For
Y. Woodhead	For

212 CO OP SUPERMARKET, HIGH STREET, COLLINGHAM, NEWARK ON TRENT, NOTTINGHAMSHIRE, NG23 7LB (18/02236/FUL)

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the change of use of the one large unit from A1 into three independent units, to be used for A1 (Retail), A2 (Professional Services), B1 (Business) and A5 (Hot Food and Takeaway). End users for the units had not been secured.

Member considered the application and whilst there was no objection to the change of use apart from the A5 (hot food and takeaway). The current fish and chip shop was commented upon which was in front of the proposed units. The need for a further takeaway was considered not necessary and by not granting that use would prevent obesity and environmental problems. It was further commented that this site was ideal for commercial use as it had a large car park to support the shops. It was suggested that one unit be limited to A5 use. It was further suggested that the A5 use be conditioned out of the planning permission.

AGREED (with 12 votes For and 1 Abstention) that planning permission be approved subject to the conditions and reasons contained within the report and an amendment to condition 4 which would exclude the ability to accommodate an A5 use on the grounds that this would lead to an unacceptable concentration of such a use (alongside the existing chip shop) which was likely to give rise to unhealthy eating and environmental issues by reason of littering and the comings and goings of patrons.

213 LAND AT SUNNY VIEW, 2 GRASSTHORPE ROAD, SUTTON ON TRENT (18/02292/FUL)

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the erection of one three-bedroom detached dwelling and a detached workshop/outbuilding to the rear of Sunny View.

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

Councillor Mrs S Michael local ward Member for Sutton on Trent spoke in support of the application and also in support of Sutton on Trent Parish Council. She commented that there had been no objections from neighbouring properties. The Lead Local Flood Authority would not be making comments in relation to flood risk as it fell outside of the guidance set out by Government. It was commented that due the land levels three quarters of the site was above the flood level and only a four metre length would flood. Back land development policy DM5 was quoted, Members were informed that this site was the former site of a coal store and had never been the garden of Sunny View. The conservation area was one of mixed development and contained numerous back land development, as in the character of the conservation

area, setting a precedent for back land development. The removal of the Sycamore tree was due to the height and spread and was not visible from the front of the site. The applicants ran two successful businesses in Sutton on Trent and the proposed application incorporated a workshop, office/study for those businesses and would allow them to stay in the village.

Members considered the application and it was suggested that the application be deferred to allow negotiations to take place regarding bringing the proposed dwelling further forward in order to save the Sycamore tree. Other Members commented on the spectacular trees in that area and the re-siting of the development may have an impact on those trees. Concern was also raised regarding the application being back land development with part of the access in a flood zone.

The Director of Growth & Regeneration asked Members to consider whether the suggested negotiations with the applicants regarding the design and siting of the units would be helpful. If the proposed changes did not resolve the sequential test and flooding issue, that would not be helpful to the applicants. If the dwelling was moved forward there would still be harm from a planning prospective as there would be privacy issues for the host dwelling Sunny View and would likely have a greater impact in the conservation area.

A vote was taken and lost to defer the application, with 6 votes For, 6 votes Against, 1 Abstention and the Chairman exercising his casting vote against deferral.

AGREED (with 6 votes For, 5 votes Against and 2 Abstentions) that planning permission be refused for the reasons contained within the report.

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

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the erection of one affordable dwelling.

Members considered the application and some Members considered the dwelling acceptable given that the dwelling was in alignment with the neighbouring dwellings, was not intrusive and provided affordable housing. Other Members commented that the proposal would have significant impact on the open countryside and harm views from within the conservation area was not acceptable.

AGREED (with 7 votes For, 4 votes Against and 2 Abstentions) that planning permission be refused for the reasons contained within the report.

215 LAND TO SOUTH OF STATION ROAD, ROLLESTON (18/02001/FUL)

The Committee considered the report of the Director of Growth & Regeneration, which sought the change of use from grazing land to burial ground.

Councillor Mrs Salter representing Rolleston Parish Council spoke in support of the application in accordance with the views of Rolleston Parish Council.

Members considered the application and it was commented that this small parcel of

land which was adjacent to the current church yard would provide a burial ground for the residents of Rolleston for up to 200 years. It was considered a basic human right to be buried where a resident had worshipped and lived.

Members considered whether archaeological works were necessary given the cost involved. The Parish Council representative had indicated that the Church had given their word that if any archaeological find was discovered whilst the ground was being prepared for burial, they would stop work and notify the relevant authority. It was suggested that Officers take forward and encourage academic or other voluntary groups to look at archaeology for this site on an informal basis, but this should not be a planning condition or informative.

AGREED (unanimously) that contrary to Officer recommendation 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>
Mrs K. Arnold	For
R.V. Blaney	For
Mrs A.C. Brooks	For
R.A. Crowe	For
Mrs M. Dobson	For
P. Duncan	Absent
G.P. Handley	For
J. Lee	For
D.R. Payne	Absent
Mrs P. Rainbow	For
F. Taylor	For
Mrs L.M.J. Tift	For
I. Walker	For
B. Wells	For
Y. Woodhead	For

*(Councillor F. Taylor left the meeting at this point).*

216 LAND TO THE REAR OF THE STABLES, KIRKLINGTON ROAD, HOCKERTON, SOUTHWELL (19/00041/FUL)

The Committee considered the report of the Director of Growth & Regeneration, which sought full planning permission for the erection of two x 3 bedroom dwellings on land rear of Highgate and would involve the creation of a new access to serve the development from Kirklington Road.

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

A Member sought clarification regarding the two properties that had been granted



planning permission and whether they were in the village envelope. The Planning Case Officer confirmed that the dwellings to the North and West had both been determined as within the village envelope.

Members considered the application and concern was raised regarding massing within that development and one member felt that just one unit would have been preferable. Another Member commented on the ménage was located in the countryside and was open. The ménage had been allowed but should not be built upon.

AGREED (with 11 votes For and 1 vote Against) that planning permission be refused for the reason contained within the report.

217 BROOKLYN, LOWER KIRKLINGTON ROAD, SOUTHWELL (19/00084/RMA)

The Committee considered the report of the Director of Growth & Regeneration, which sought reserved matters approval for three dwellings on this site where outline permission had been granted upon appeal. Matters to be considered were the appearance, landscaping, layout and scale.

All three dwellings were 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.

Members considered the application and it was commented that this development was not liked from the application stage and was granted on appeal. One Member commented they did not like the design of the houses and others felt that given their substantial size and scale the internal configuration could easily be converted to larger units that would not meet the need or mix for Southwell.

A vote was taken to approve planning permission and lost with 6 votes For and 6 votes Against.

AGREED (with 6 votes For, 5 votes Against and 1 Abstention) that planning permission be refused contrary to officer recommendation on the basis that the units were too easily converted to larger units that would not meet the need/mix of Southwell.

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

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

G.P. Handley	Abstention
J. Lee	For
D.R. Payne	Absent
Mrs P. Rainbow	Against
F. Taylor	Absent
Mrs L.M.J. Tift	For
I. Walker	Against
B. Wells	Against
Y. Woodhead	For

218 ANNUAL REPORT DETAILING THE EXEMPT REPORTS CONSIDERED BY THE PLANNING COMMITTEE

The Committee considered the report of the Chief Executive listing the exempt items considered by the Committee for the period 6 March 2018 to date.

The Committee agreed that the reports considered on the 3 July and 24 July 2018, relating to Residential Development at Epperstone Manor, Main Street, Epperstone, should both remain confidential.

The Committee also agreed that the report considered on the 2 October 2018, relating to Future Fishing Ltd, Unit 17, Hardy's Business Park, Hawton Lane, Farndon, should remain confidential.

AGREED (unanimously) that:

- (a) the reports considered on the 3 July and 24 July 2018, relating to Residential Development at Epperstone Manor, Main Street, Epperstone, should remain confidential and exempt; and
- (b) the report considered on the 2 October 2018, relating to Future Fishing Ltd, Unit 17, Hardy's Business Park, Hawton Lane, Farndon, should remain confidential and exempt.

219 APPEALS LODGED

AGREED that the report be noted.

220 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 6.16 pm.

Chairman

## PLANNING COMMITTEE – 26 MARCH 2019

<b>Application No:</b>	<b>19/00305/FULM (MAJOR)</b>	
<b>Proposal:</b>	<b>Application to vary condition 16 (to enable the construction of all new build dwellings in one phase) and to vary Condition 8 (relating to the pedestrian access to Lindum Street) attached to planning permission 18/00125/FULM; (Proposed conversion of Hatton House (formerly Newark Working Mens Club) Beacon Hill Road Newark, to form 8 apartments. Remainder of building to be demolished. To include erection of 8 new cottages and associated access and landscaping works.)</b>	
<b>Location:</b>	<b>Newark Working Mens Club, 13 Beacon Hill Road, Newark On Trent NG24 1NT</b>	
<b>Applicant:</b>	<b>Northgate Lettings - Mr K Templeman</b>	
<b>Registered:</b>	<b>15 February 2019</b>	<b>Target Date: 17 May 2019</b>

This application is being presented to the Planning Committee as Newark Town Council has objected to the varying of conditions which is at odds with the officer recommendation. It also comes before Members because the Planning Committee determined the previous scheme in July 2018. It was previously brought before the Committee by the Business Manager under his powers set out in the Scheme of Delegation due to the difficult balance that needed to be struck between heritage benefits and highway harm.

### The Site

The site lies on the northern side of Beacon Hill Road in Newark and contains a Grade II listed building that was formerly the Newark Workings Men's Club. The list description states:

*“Formerly known as: Hatton House School BEACON HILL ROAD. House, now working mens' club. Mid C19, with mid and late C20 alterations. Stucco with hipped slate roof and 4 coped external gable stacks, each pair with a shaped gable between them. Chamfered quoins, dentillated eaves. 2 storeys plus garrets; 3 window range. Projecting hipped central bay with central French window and fanlight, flanked by plain sashes and resembling a Venetian window. On either side, a tripartite plain sash. Tetrastyle Doric portico with dentillated cornice, covering a plastered doorcase with multiple keystones and 2-leaf fielded panelled door, flanked by single plain sashes. Single small sashes in each return angle. Beyond, single C20 French windows with sidelights. In each gable, a round headed margin light sash and above, a paired sash to the garrets. Interior altered late C20.”*

The building is set amongst hardstanding which was last used for car parking and can, according to the applicants accommodate c54 cars. The building is currently vacant and in a relatively poor state of repair.

Vehicular access to the site is located from Beacon Hill Road between No. 11 Beacon Hill Road and

No. 1 The Close. The driveway is defined on either side by walls/fencing. There is an existing mono pitch garage (at the northern end of the drive) which appears to take its access from the driveway but which isn't the application site.

The application site also includes a small part of the garden of a property to the west which was erected under a permission granted in 1993 (FUL/93/0905) and is known as 26 Lindum Street. This part of the site until recently accommodated a single storey modern outbuilding which appears to have been demolished. This part of the site is bound by weathered fencing.

To the north of the site is the blank gable end of the two storey Victorian terraces of Lindum Street. No. 21 (the end terrace) takes its rear access via a passageway further along the row of the terraces albeit its garden bounds the site. Also to the north is the side elevation of Lindum Mews (a two storey mews terrace) which sits approximately 1 metre from the boundary (comprising relatively new timber fencing with laurel bushes planted in front of these). No. 1 Lindum Mews, (planning ref. 86/0217) which is the nearest dwelling, has a window at first floor level which appears to serve a bedroom.

To the south of the listed building are two storey modern dwellings known as numbers 1 to 7 The Close. These dwellings front the highway but vehicular access to these dwellings is between numbers 2 and 3 (which provides a view of the listed building from the roadside) and leads to its parking/garage court.

A Chapel of Rest/Funeral Directors has its buildings forming part of the eastern boundary with its single storey blank elevation facing the application site.

The site lies within the 'Newark Urban Area' as defined within the Allocations and Development Management DPD. The site also lies within an area that is prone to surface water run off according to the Environment Agency Maps.

### Relevant Planning History

18/00125/FULM – 'Proposed conversion of Hatton House (formerly Newark Working Mens Club) Beacon Hill Road Newark, to form 8 apartments. Remainder of building to be demolished. To include erection of 8 new cottages and associated access and landscaping works'. This was approved by the Planning Committee in July 2018 contrary to officer recommendation and the highways advice. The permission has been implemented and construction is well underway on site.

18/00126/LBC – Listed building consent is sought for the 'Proposed conversion of Hatton House (formerly Newark Working Men's Club) Beacon Hill Road Newark, to form 8 apartments. Remainder of building to be demolished. To include erection of 8 new cottages and associated access and landscaping works.' This application was approved by the Planning Committee as recommended in July 2018. The consent has been implemented with works progressing on site.

PREAPP/00199/17 – Pre-application advice was sought for the conversion of the existing listed building to residential use and its extension by way of the erection of a new apartment block and some new dwellings; totalling 17 dwellings. Advice was offered in November 2017.

## The Proposal

This application is made under section 73 to vary conditions 8 and 16 of the implemented permission; 18/00125/FULM.

Condition 08 stated:

*No development shall be commenced until a scheme for the provision and implementation of the pedestrian link from the site to Lindum Street as shown on drawing number 17.3410.16D has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include the timescales for its provision and include details of any temporary pedestrian link whilst plots 15 & 16 are under construction. The approved link shall thereafter be provided in accordance with the Scheme and retained or the lifetime of the development.*

*Reason: In the interests of ensuring that pedestrians have a sustainable alternative access to the wider area than along the driveway to Beacon Hill Road, in the interests of highway safety and sustainability.*

At the Council's request, the applicant is applying to vary the condition to either install a keypad security system on the approved pedestrian gate (for the use of residents only) or alternatively, if Members prefer, to delete the requirement for the pedestrian link altogether. This request was made to the applicant given that the issue of the gate was not a matter that residents on Lindum Street had been given the opportunity to comment upon during the original application which has led to several complaints being received.

The other condition that is sought to be varied is Condition 16 of the original permission which states:

*The construction of not more than four out of eight of the new build dwellings hereby approved (Plots 9 to 16 on the approved plans) shall be commenced prior to the completion of Plots 1 to 8 inclusive (the conversions) unless otherwise agreed in writing by the Local Planning Authority.*

*Reason: To ensure the listed building is brought back into use in order to safeguard its special architectural or historical appearance in accordance with Policy CP 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD) without which the Authority would not have been prepared to grant planning permission.*

The need to amend this condition has arisen due to issues with the developer's bank funding which will stall the developer's ability to progress with the development unless this is remedied. The application is seeking to amend the condition such that the condition would only prevent occupation rather than construction.

As a reminder, the previous (original) application related to the conversion (and change of use) of the former working men's club to 8 residential apartments and the erection of 8 new build dwellings within its grounds; totalling 16 dwellings. Car parking for 19 vehicles was proposed on-site having been amended from 16 in an attempt to address highway concerns. A pedestrian access route was proposed via a passageway at the north-west corner of the site linking the site to

Lindum Street to the north.

The S73 application is accompanied by a short supporting statement received 14<sup>th</sup> February 2019 and an email dated 20<sup>th</sup> February 2019 along with the application form.

#### Departure/Public Advertisement Procedure

Occupiers of 21 properties have been individually notified by letter. Site notices has also been displayed near to the site (at Beacon Hill Road frontage and Lindum Street) and an advert has been placed in the local press with the consultation period ending on 21<sup>st</sup> March 2019. Representations received following the printing of this agenda will be reported to Members on the Late Items Schedule.

#### **Planning Policy Framework**

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

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 7 - Sustainable Transport

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 1 – Affordable Housing Provision

Core Policy 3 – Housing Mix, Type and Density

Core Policy 9 -Sustainable Design

Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 14 – Historic Environment

NAP1 - Newark Urban Area

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

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

Policy DM2 – Developer Contributions and Planning Obligations

Policy DM5 - Design

Policy DM7 - Biodiversity and Green Infrastructure

Policy DM9 - Protecting and Enhancing the Historic Environment

Policy DM12 - Presumption in Favour of Sustainable Development

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

National Planning Policy Framework 2019

Planning Practice Guidance 2014

Newark and Sherwood Developer Contributions SPD

##### **Consultations**

**Newark Town Council** – (28.02.2019) Members felt that there was no reason to vary these conditions and that they should be sustained.

**NCC Highways Authority** – No response received to date.

**Representations have been received from 10 local residents/interested parties during the course of this application which can be summarised as follows:**

- Object to the pedestrian access which is unnecessary;
- Residents of Lindum Street currently benefit from low crime and anti-social behaviour rates due to the street being a cul-de-sac which would change as a result on the new access;
- Fearful that opening the access up will put houses and vehicles at risk from anti-social behaviour and cause disturbance to neighbours;
- The changes will alter the appearance of the street to its detriment;
- Loss of privacy; lounges are directly onto footpath with no front garden;
- The pedestrian access only advantages the new residents not those on Lindum Street;
- Could increase/exacerbate existing litter problem that the street has;
- Already a big parking problem that this could add to and affect road safety;
- The cottage built is huge and overshadows the street;
- The lack of access to the street will not stop people buying the new properties; Equity and house prices would be affected;
- Question if the footpath is wide enough to the proximity of the front door of no.21 Lindum Street, suggesting that the opening of the door so close is disrespectful to privacy and intrusive;
- Disappointed with the notice time residents have been given and that is a pointless application;
- Concern that visitors for the new development will park on Lindum Street.

**6 objections were received post the decision** of 18/00125/FULM in respect of the proposed pedestrian access which Members have not previously seen. The issues raised mirror those set out above but other issues raised have been summarized below for completeness:

- Lindum Street could be used as a car park for visitors for those living at Lindum Street, affecting on-street parking for Lindum Street residents which is already difficult;
- Loss of value to houses on Lindum Street;
- Passageway immediately adjacent to no. 21 Lindum Street is not fair on the owner/occupier;
- It would act as a shortcut for non-residents and would be open to mis-use;
- Question if the pavements would cope with additional footfall;
- Concerns were raised at the lack of consultation with residents to the passageway.

#### Comments of the Business Manager

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. In determining such an application the local planning authority is only able to consider the question of the conditions subject to which planning permission should be granted, and—

- (a) if the authority decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it



should be granted unconditionally, the authority shall grant planning permission accordingly, and

- (b) if the authority decides that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, the authority shall refuse the application.

Whilst the application has defined which conditions are sought to be removed, the local authority has the power to vary or remove other conditions if are minded to grant a new planning consent, particularly where conditions have since been discharged or are no longer required.

Full planning permission was granted in July 2018 by the Planning Committee subject to a number of conditions which officers were tasked with drafting. The conditions to be varied are numbers 8 and 16 which will be discussed in turn.

#### Condition 8 – Pedestrian Link to Lindum Street

This variation has been made at the Council's request in response to complaints made by residents of Lindum Street post the original decision as they were not specifically consulted on the proposal to insert a pedestrian link from the development site to Lindum Street. This link was a late amendment from the applicant in an attempt to address NCC Highway concerns that the lack of a pedestrian access (to the site frontage) would encourage car dependency. This stemmed from the fact that given the width of the vehicular access, it was not possible to provide a separate pedestrian access to Beacon Hill Road hence the applicant added a link instead to Lindum Street. As the application was recommended for refusal at that time no further consultation was undertaken which was an oversight for which I apologise.

In response to the amended plan that detailed the pedestrian link, NCC commented at that time that:

“This proposal does not change our views. The new pedestrian link is not an attractive option for people accessing the town centre and not on the shortest desire line. No further comment.”

In overturning the officer recommendation, Members delegated the imposition of suitable conditions to officers and Condition 8 was added. This states:

*No development shall be commenced until a scheme for the provision and implementation of the pedestrian link from the site to Lindum Street as shown on drawing number 17.3410.16D has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include the timescales for its provision and include details of any temporary pedestrian link whilst plots 15 & 16 are under construction. The approved link shall thereafter be provided in accordance with the Scheme and retained or the lifetime of the development.*

*Reason: In the interests of ensuring that pedestrians have a sustainable alternative access to the wider area than along the driveway to Beacon Hill Road, in the interests of highway safety and sustainability.*

The condition has subsequently been discharged detailing that the link would be provided prior to first occupation of the site, which is expected later this year.

What is clear from the consultation process (and indeed the complaints received since the granting of the original approval) is that the proposed pedestrian link is unpopular with existing residents of Lindum Street. Residents have raised concerns regarding fear of crime and disorder and that the link would encourage members of the general public to use it as a shortcut which would be a nuisance as the Street is currently a cul-de-sac.

I understand these concerns. However as the link would allow for a second wheelie bin collection point which would disperse the number of bins being put out on Beacon Hill Road, I consider that this is of some benefit to residents who could also use this for easier access to the north, including to the One Stop shop at the end of Lindum Street and Northgate Railway Station.

On this basis, fitting a keypad security system to the gate which still allows access but for residents only would seem to me to be an appropriate compromise.

I note that there are also concerns that visitors could park their cars along Lindum Street using it as a car park due to the development site have only one parking space per unit. However whilst the planning system is unable to prevent this, this type of occurrence is unlikely to be frequent when considering that users would need the security code to enter the site and there is on-street parking available at the site frontage of Beacon Hill Road which is the more obvious place for visitors to park.

I therefore suggest that the condition is amended to require that a security pad system is installed to prevent unrestricted access. However it is open to Members to not require the pedestrian access to be provided at all having considered the residents' comments and bearing in mind that this didn't address NCC Highways concerns in any event.

#### Condition 16 – Restrictions to Construction of New Build Dwellings

In considering whether the planning condition should be removed, it is necessary to look at the reasons it was imposed in the first instance. Condition 16 sought to limit the number of dwellings from being constructed until the conversion of the listed building was completed. The reason for the condition was stated as:

*To ensure the listed building is brought back into use in order to safeguard its special architectural or historical appearance in accordance with Policy CP 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD) without which the Authority would not have been prepared to grant planning permission.*

In imposing the condition, officers were keen to ensure that the developer was unable to just build out the new build elements and mothball the listed building. Rather, it was seen as a mechanism to ensure that the listed building was given priority or at least to provide an incentive to implement the conversion scheme.

The developer however is having issues with bank funding and therefore has requested the condition be varied. The developer has chosen to develop out the site in one phase. In terms of on-site progress, all of the new build units are actually at an advanced stage of build, with doors and windows being fitted ready for internal fit out. This is technically in breach of the condition as is imposed at present. Officers have also been on site in connection with discharging the relevant conditions associated with the detailing of the listed building consent. I can confirm that good

progress has been made internally and the works undertaken so far are to a very high specification. I am satisfied that the works are progressing on site and that it is not the developer's intention (who has a proven track record of working on heritage buildings in the area) to mothball the listed building.

On this occasion, I consider that amending the condition such as to prevent occupation of the new build units until such time as the listed conversion is complete is reasonable and enforceable and would allow the developer to continue with the important renovation project which has the public benefit of bringing back into use a neglected building which would (and indeed already is – in terms of on-site progress) see some real heritage gains.

#### Assessment of the remaining conditions

The NPPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this case as the development has begun, the time condition does not need to be re-imposed.

For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with ~~striketrough~~ text used to represent parts of the condition no longer required and **bolded text** used to indicate new wording. The conditions have been reworded where details have been provided through a discharge of condition application. Commentary is also provided where this is considered necessary to assist Members.

#### Planning Balance and Conclusion

The officer recommendation to the original application was a very finely balanced (and reluctant) refusal based purely on highway safety advice received from NCC Highways Authority. Members attached more weight to the conservation and heritage benefits of the scheme and took the view that the inadequate highway width to Beacon Hill Road would be inadequate for whatever use came forward for the site. I attach significant weight to Member's previous view on the matter.

As decision makers, Members are only entitled to consider the very narrow scope of the matter of varying the conditions imposed and not reconsider the principle of the original scheme. The officer recommendation in respect of Condition 8 is that Members agree to the installation of a pedestrian link accessible only by a security keypad (albeit if Members are minded to conclude it is not required at all the condition could be deleted in its entirety). In respect of Condition 16, it is recommended that preventing occupation of any of the new build dwellings gives the Authority sufficient comfort and control to require the completion of works to the listed building and the applicant's suggested amended condition is acceptable.

Approval is therefore recommended subject to the conditions as set out below.

#### RECOMMENDATION

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

## Conditions

For ease of reference the conditions are originally imposed are listed in full below (in the recommendation section) with ~~striketrough~~ text used to represent omissions and **bolded text** used to indicate new wording. The conditions have been reworded where details have been provided through the discharge of conditions. Commentary is also provided where this is considered necessary to assist Members.

~~01~~ (This condition is no longer necessary as the development has already commenced)

~~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~~ (This condition is no longer necessary as all new build dwellings are substantially complete in terms of their external shell)

~~The new dwellings hereby approved shall be constructed from the Weinberger Oast Russet facing brick unless otherwise agreed in writing by the Local Planning Authority.~~

~~Reason: In accordance with the proposed bricks advanced as part of the application (by email on 18th July 2018) in the interests of visual amenity.~~

~~03~~ **01** (Modified, to reflect the fact that elements of the condition have already been agreed and implemented on site)

No development shall be commenced until samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Facing materials (other than bricks which are approved ~~as part of Condition 2~~)

**Roofing tiles**

**Cladding**

**Render (colour, finish and specification)**

Reason: In order to safeguard the special architectural or historical appearance of the listed building and its setting and in the interests of visual amenity.

~~04~~ **02** (Modified to reflect that some details have been previously agreed)

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority.

Development shall thereafter be undertaken in accordance with the approved details and retained in situ unless otherwise agreed in writing by the local planning authority.

- o All windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars;
- o ~~Treatment of window and door heads and cills;~~
- o ~~Rainwater goods;~~
- o Plinths;
- o Extractor vents;
- o Flues;
- o Meter boxes;
- o Airbricks;
- o ~~Soil and vent pipes;~~
- o Enclosures around basement windows;
- o Retention of a downstand where historic walls are to be widened out;
- o The specification for the tanking of the cellar (which shall follow the broad details as set out in the agent's email of 1st March 2018);
- o Height specification of 'robes' at first floor as shown on drawing no. 17.3410.19A;
- o ~~External lighting;~~
- o ~~Letter boxes;~~
- o Any new fireplaces and surrounds;
- o ~~All architectural details of the reinstated staircase from ground to first floor including, but not limited to, the decorative metal stair rods, the risers, hand rail etc;~~

Reason: In order to safeguard the special architectural or historical appearance of the listed building and in the interests of visual amenity.

~~05~~ **03** (Whilst good progress has been made in negotiating the details of this, a final version is yet to be signed off so the condition should remain)

No works shall be commenced in respect of the features identified below until a scheme of restoration and repair in respect of the proposed conversions has been submitted to and been approved in writing by the Local Planning Authority in respect of the following:

- o All internal joinery and plasterwork including but not limited to decorative coving, moulding to the ceiling, skirting boards, picture rails, treatment of floor tiles including any replacement or new within the hallway at ground floor and brick pavers in basement.
- o Retained Fireplaces
- o Where new materials are identified as being necessary their specification shall be fully detailed.

The approved scheme of restoration and repair shall be implemented in full on site prior to first occupation.

Reason: In order to safeguard the special architectural and historic interest of the building.

~~06~~ **04** (Whilst good progress has been made in negotiating the details of this, a final version is yet to be signed off so the condition should remain)

Prior to first occupation of any of Plots 1 to 8 (the conversions) a scheme detailing the specification for upgrading the thermal and sound insulation between floors shall be submitted to and shall be approved in writing by the Local Planning Authority. The approved specification shall be implemented in full prior to first occupation.

Reason: In order to ensure that sound insulation is satisfactory in the interests of amenity and in order to safeguard the special architectural and historic interest of the building.

~~07~~ **05** (To remain unaltered)

No part of the development shall be brought into use until the boundary fencing around the sites periphery as shown on the approved drawing number 17.3410.16D have been stained in a dark brown finish.

Reason: In the interests of residential and visual amenity and to protect the setting of the listed building.

~~08~~ **06** (Amended)

~~No development shall be commenced until a scheme for the provision and implementation of the pedestrian link from the site to Lindum Street as shown on drawing number 17.3410.16D has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include the timescales for its provision and include details of any temporary pedestrian link whilst plots 15 & 16 are under construction. The approved link shall thereafter be provided in accordance with the Scheme and retained for the lifetime of the development.~~

**Prior to first occupation of any of the dwellings hereby approved, the pedestrian access link to Lindum Street (as indicated on drawing no. 17.3410.30 (Site Plan & Specification)) shall be provided on site with a gate fitted with a keypad security system to allow pedestrian access for residents of the development only. The installed gate including the security keypad system shall be retained on site for the lifetime of the development.**

Reason: In the interests of ensuring that pedestrians have a sustainable alternative access to the wider area than along the driveway to Beacon Hill Road, **whilst preventing the unrestricted use of the access**, in the interests of highway safety and sustainability.

~~09~~ **07** (To remain unaltered)

Plots 1 to 8 (the conversions) shall not be occupied until the bin store as shown on drawing number 17.3410.16D has been provided. The bin store shall then be retained for the lifetime of the development.

Reason: In the interests of residential and visual amenity.

~~010~~ (Details have been discharged so this condition is no longer necessary)

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

~~a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.~~

~~means of enclosures;~~

~~hard surfacing materials;~~

~~Reason: In the interests of visual amenity and biodiversity and in the interests of protecting the setting of the listed building.~~

~~011 08~~ (Amended to include details of the approved landscaping scheme)

The approved soft landscaping (**as shown on drawing no. 17.3410.30 (Site Plan & Specification) submitted as part of the application to discharged conditions attached to 18/00125/FULM**) shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping (including boundary treatments) shall be completed prior to first occupation unless otherwise agreed in writing by the Local Planning Authority.

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

~~012 09~~ (To remain unaltered)

Prior to first occupation of any of the dwellings hereby approved, the parking spaces and turning areas shown on drawing number 17.3410.16D shall be provided and marked out on site unless otherwise agreed in writing by the Local Planning Authority. The parking and turning areas shall be retained for the lifetime of the development.

Reason: In the interests of highway safety.

~~013 010~~ (To remain unaltered)

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 D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse.

Or Schedule 2, Part 2:

Class C: The painting of the exterior of any building.

Or Schedule 2, Part 14 of the Order in respect of:

Class A: The installation, alteration or replacement of microgeneration solar PV or solar thermal equipment.

Class B: The installation, alteration or replacement of standalone solar for microgeneration within the curtilage of a dwelling house or block of flats.

Class C: The installation, alteration or replacement of a microgeneration ground source heat pump within the curtilage of a dwellinghouse or block of flats.

Class D: The installation, alteration or replacement of a microgeneration water source heat pump within the curtilage of a dwellinghouse or a block of flats.

Class E: The installation, alteration or replacement of a flue, forming part of a microgeneration biomass heating system, on a dwellinghouse or a block of flats.

Class F: The installation, alteration or replacement of a flue, forming part of a microgeneration combined heat and power system, on a dwellinghouse or a block of flats.

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

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any amending legislation) in order to protect the setting of the listed building and in the interests of amenity.

~~014~~ **011** (To remain unaltered)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking, re-enacting or modifying that Order), no windows including dormer windows (other than those expressly authorised by this permission) shall be constructed on the north elevations of Plots 14, 15 or 16, or the western elevation of Plot 16, or the north elevation of Plot 13 or the south elevation of Plot 9 of the development hereby permitted.

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

~~015~~ **012** (To remain unaltered)

The first floor en-suite window to Plot 15 on the north elevation shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

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

~~016~~ **013** (Amended)



~~The construction of not more than four out of eight of the new build dwellings hereby approved (Plots 9 to 16 on the approved plans) shall be commenced prior to the completion of Plots 1 to 8 inclusive (the conversions) unless otherwise agreed in writing by the Local Planning Authority.~~

**None of the eight new build dwellings hereby approved (Plots 9 to 16 on the approved plans) shall be occupied until Plots 1 to 8 inclusive (the conversions) have been completed and are capable of residential occupation.**

Reason: To ensure the listed building is brought back into use in order to safeguard its special architectural or historical appearance in accordance with Policy CP 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD) without which the Authority would not have been prepared to grant planning permission.

~~017~~ **014** (To remain unaltered)

There shall be no works or repairs to the soffits of the listed building during bat activity season (April to September) unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with the suggested mitigation measures outlined in the Protected Species Survey by CBE Consulting that accompanied the planning application.

~~018~~ **015** (To remain unaltered)

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

- o 17.3410.16D - Detailed Planning Sheet 1 of 8 (Proposed Block Plan, Site & Roof Plans) received 01/06/2018
- o 17.3410.17B - Detailed Planning Sheet 2 of 8 (Proposed Elevations for Plots 1 to 8)
- o 17.3410.18B - Detailed Planning Sheet 3 of 8 (Proposed Floor (Basement & Ground) Plans for Plots 1 to 8)
- o 17.3410.19B - Detailed Planning Sheet 4 of 8 (Proposed Floor (First & Second) Plans for Plots 1 to 8)
- o 17.3410.20 - Detailed Planning Sheet 5 of 8 (Elevations for Plots 9 to 13)
- o 17.3410.21 - Detailed Planning Sheet 6 of 8 (Floor Plans for Plots 9 to 13)
- o 17.3410.22A - Detailed Planning Sheet 7 of 8 (Elevations for Plots 14 to 16)
- o 17.3410.23A - Detailed Planning Sheet 8 of 8 (Floor Plans for Plots 14 to 16)

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

Reason: To define this permission and for the avoidance of doubt.

#### Notes to Applicant

01

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-

actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

This application should be read in conjunction with the listed building consent issued under reference 18/00126/LBC.

~~03~~ (This matter is sufficiently controlled by the implemented original scheme 18/00125/FULM and doesn't need to be re-imposed)

~~This application is accompanied by a Unilateral Undertaking that secures a financial contribution in respect of off-site affordable housing.~~

~~04~~ 03

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

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

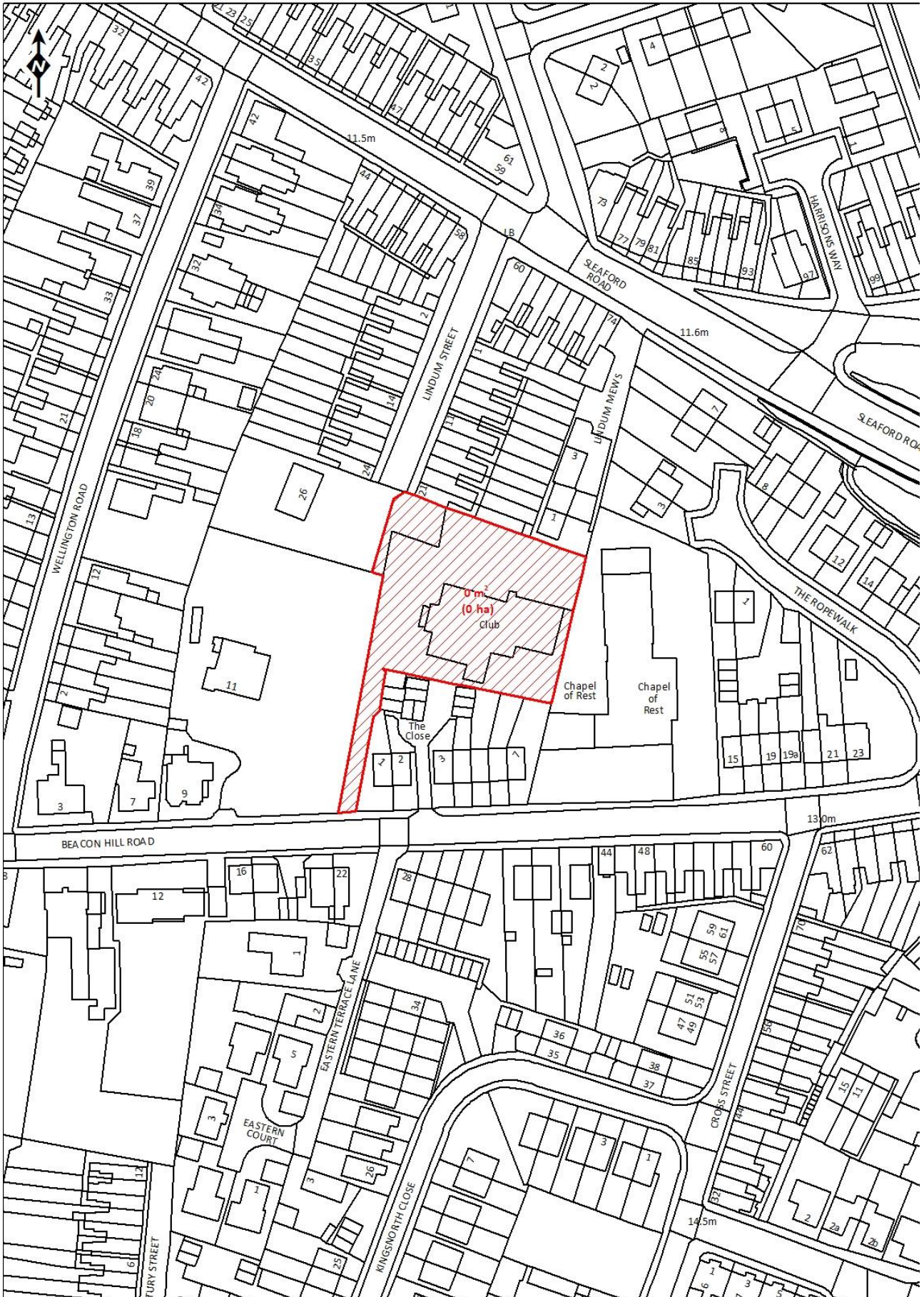
#### BACKGROUND PAPERS

Application case file.

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

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

**Matt Lamb**  
**Business Manager – Growth and Regeneration**



## PLANNING COMMITTEE – 26 MARCH 2019

<b>Application No:</b>	<b>18/01515/FULM (MAJOR)</b>	
<b>Proposal</b>	<b>Hydroelectric generation plant and associated infrastructure including Kaplan turbine, adjustable weir crests, new multi-species fish passes, turbine house building, hydraulic channels, screening, crane pad, electrical substation and underground cabling.</b>	
<b>Location:</b>	<b>Hazelford Weir, Hazelford Lock, Bleasby Nottinghamshire</b>	
<b>Applicant:</b>	<b>H2O Power Ltd - Mr Ewan Campbell-Lendrum</b>	
<b>Registered:</b>	<b>8<sup>th</sup> August 2018</b>	<b>Target Date: 7<sup>th</sup> November 2018</b>
	<b>Extension of time agreed in principle</b>	

The recommendation for this application is for REFUSAL based on an Environment Agency holding objection. Given the recommendation (and the caveat of the host Parish Council's comments to only support if flood risk is deemed acceptable) whilst there is no requirement under the scheme of delegation for this application to be determined by the Planning Committee, officers are mindful that the EA could remove their objection prior to the committee meeting which could change the recommendation and trigger the requirement for committee determination. In the event that officers are minded to approve the scheme, the application has been referred to the planning committee by Cllr I Walker on the grounds of the impact on water levels, impact on fisheries and impact on adjoining land uses and landowners rights. If the application is to be recommended for approval, the applicant requires a decision before the end of March 2019 due to incentives offered by OFGEM tariffs expiring on 31<sup>st</sup> March 2019. Officers have therefore sought to bring this before the planning committee at the earliest opportunity in order that in the event the recommendation does change and Members resolve to approve the scheme, the applicant would still be in a position to take advantage of the tariffs.

### The Site

This application relates to a section of the River Trent c1.3km from the settlement of Bleasby to the north-west and 1.4km from the settlement of Fiskerton to the north east. The site lies within Fiskerton parish.

At this section of the river it divides into 2 separate channels and two weirs (which control water levels for navigation between Hazelford and Gunthorpe to the south west) and which are divided by an island (Nabbs Island) and the Hazelford Lock. The two channels diverge approximately 1km up stream and converge c350m downstream. A floating boom (a string of floats that catch debris) is positioned some 45m upstream of the main weir.

The site is accessed from Boat Lane (east) which runs from Main Street and serves The Bungalow a dwelling immediately adjacent to the site and a public car park (with detached prefabricated garage) on the left hand bank of the river. This property is a single storey dwelling which has a private garden area to the eastern side and is predominantly screened from the river by mature

trees and hedgerow

Other than the river and The Bungalow the site on the left bank is adjoined by agricultural fields.

On the opposite side of the lock on the island and to the north east of the second weir there is a detached residential property (The Lock House) a two storey property which has some screening from the waterway by mature trees.

The site lies within Flood Zones 2 & 3 in accordance with Environment Agency mapping.

Public rights of way traverse the site along the river bank from Fiskerton and the agricultural fields to the north east passing to the front of The Bungalow along the river bank towards Hazelford Ferry.

A small section of the site to the south west falls within Rushcliffe Borough Council.

### **Relevant Planning History**

18/SCR/00014 - Request for screening opinion for the development subject to this application. Screening opinion issued that an EIA is not required.

17/SCR/00004 – a formal EIA screening was requested in December 2017 for a proposed hydroelectric scheme. The LPA determined that the development did not constitute a Schedule 1 development.

Rushcliffe Borough Council planning application reference 18/02762/FUL - Hydroelectric generation plant and associated infrastructure including Kaplan turbine, adjustable weir crests, new multi-species fish passes, turbine house building, hydraulic channels, screening, crane pad, electrical substation and underground cabling. – yet to be determined.

### **The Proposal**

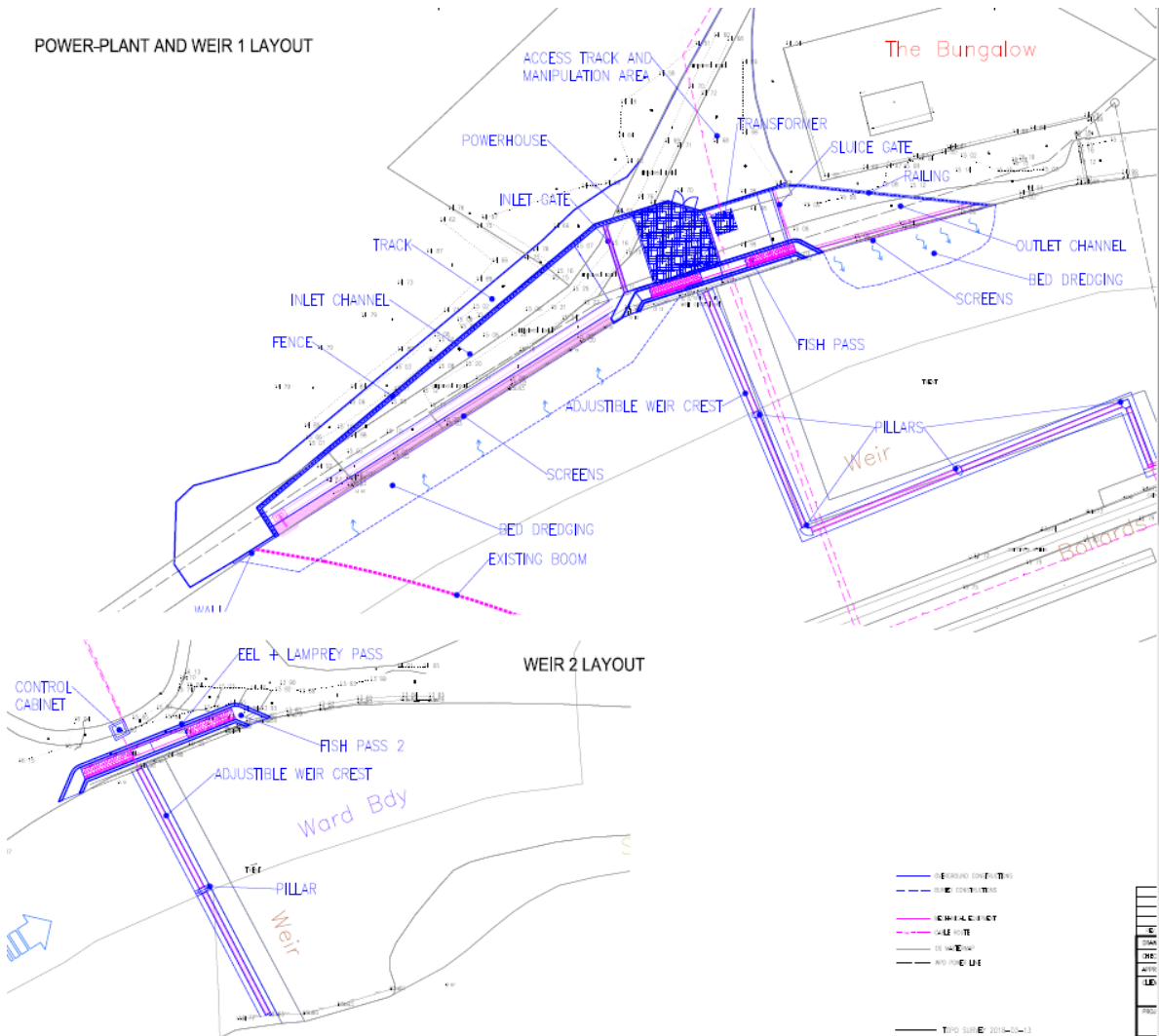
Full planning permission is sought for the erection of a hydroelectric generation plant (HEP) to generate electricity that will feed in to the national grid.

The scheme is expected to generate a peak power of 0.9mw of energy and an average annual energy production of 6.0GW which would be sufficient to power 1,540 homes and would save circa 3,120 tonnes of CO2 emissions. It is estimated that that the infrastructure would be in place for a minimum of 40 years.

This would comprise a single Kaplan Turbine (a propeller type turbine) two adjustable weir crests (that go up and down depending water levels), two multi-species fish passes (a man-made channel that allows fish to move from one part of the river to another around the weir), a turbine house building, hydraulic channels (where water will enter to move the turbine), fish screening (to prevent fish from entering), access improvements, an electrical substation and underground cabling. A new intake channel would be created approximately 78 metres long and 13 metres wide at its maximum. A screen cleaning unit would be positioned at each end of the fish screen on the northern bank. These would have a similar height to that of the turbine house.

The hydropower channels, turbine and fish screening would be sited within the northern bank of the main river channel.

One fish pass would be constructed between the hydropower scheme and weir crest on the main channel and a second between Nabbs Island and the southern bank of the river bank and the weir crest on the secondary channel.



The adjustable weir crests would be installed across both weirs; on the main weir this would consist of 3 sections supported by small pillars between each section and at each end. This would be set 0.6m above the existing crest level. On the secondary channel the adjustable crest would be set at circa 0.57m above the existing crest level and would be supported by pillars at each end. The pillars would be 400mm wide.

The weir crests will include fail-safe mechanisms to ensure that they automatically deflate, in a controlled manner, during loss of power or communications.

The adjustable weir crests would operate automatically to maintain an even weir crest.

As flow increases the hydropower scheme will gradually increase its abstraction rate to maintain an upstream water level of 13.2m until it reaches its maximum abstraction rate. As flow increases further, the weirs will gradually deflate to maintain, as far as possible, a water level equal to approximately 13.39m AOD, which is the existing mean level plus 0.3 m. The applicant proposes to monitor water levels.

The scheme would be expected to operate at full capacity for around 50% of the year and at partial capacity for the remainder. During very high flow conditions the plant would shut down to prevent flood damage.

A turbine house is proposed to the northern bank of the river to enclose the turbine, drive system and electrical equipment which would have maximum dimensions of 14m depth, 14.5m width and 6.5m height. This would be connected to an electrical substation which would have maximum measurements of circa 6.2m x2.8m and a maximum height of circa 2.3m to the north east by underground cabling.

Underground electrical cabling will also run between the turbine house and along the main weir crest across the lock approach to the secondary weir.

Access is to be created from Boat Lane passing to the rear of The Bungalow behind a copse of mature trees to serve the construction site and the operational development.

The HEP scheme would be enclosed by green mesh fencing.

By virtue of the positioning of the turbine house the existing public right of way would require diversion.

The construction period has not been specified though would involve 3 phases; comprising enabling works, the main civils phase and the main mechanical and electrical phase.

*The application is supported by the following plans and documents:-*

- Access and Construction Plan/Aerial Photo – 2110006 (07.08.18)
- Access and Construction Plan/ OS Master map – 2110007 (07.08.18)
- Site Layout – 2110008 (07.8.18)
- Power Plant Plan and Section – 2110009 (07.08.18)
- Power Plant Views - 2110010 (07.08.18) (07.08.18)
- Development Boundary Plan - 2110016 (07.08.18)
- Tree Constraints RPA Plan - TCP RPA 01 (07.08.18)
- RPA App 4 (2) (05.10.18)
- Revised Sub Station Detail - WPD\_TPY\_GRP\_HV (14.02.19)
- Flood Analysis For Weir Malfunction – Remains inflated deposited 18.02.19
- Weir Adjustment Rubber Dam – 2110017
- Weir Adjustment Rubber Dam – 2 18.02.19)
- Site Location Plan - 2110005
- Artist Impressions (07.08.19)
- Additional Flood Modelling drawings(04.02.19)
  
- Full Planning Statement and Assessment including Sections Landscape, Heritage, Noise, Ecology and Flood Risk and other users (07.08.18) (Updated with LIVA and Heritage 20.12.18)
- Ecological Appraisal and Protected Species Surveys June 2018 (07.08.18) (Updated 05.10.18 and 20.12.18) (Addendum 08.02.19)
- Fisheries and Geomorphology Assessment (07.08.18) and (17.01.19)
- Flood Risk assessment deposited (07.08.18)(Updated 20.12.18 and 15.02.19)
- Updated Hydraulic Modelling of Inflatable weir (12.03.19)
- Hydraulic Data Revisions (dated 20.12.18)(18.02.18)
- Initial Method Statement (07.08.18)

- Tree Survey and Arboricultural Implications (07.08.18)(Updated 05.10.18)
- Water Framework Directive (07.08.18) (Updated 17.01.19)
- Details of Construction Traffic (16.11.18)
- Assessment Of Cumulative Impacts (17.01.19)
- Shadow HRA deposited 08.02.19 (Addendum 18.02.19) (Update 08.03.19)
- Hydraulic Data Revision (15.02.19) (21.02.19)
- Weir Malfunction Flood Extent and low Flow Analysis Plots (27.02.19)

### **Publicity**

8 neighbours have been notified by individual letters. Site notices have been posted in proximity to the site and a notice displayed in the local press.

### **Planning Policy Framework**

#### **The Development Plan**

*Newark and Sherwood Amended Core Strategy Adopted March 2019*

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

*Newark and Sherwood Allocations and Development Management DPD Adopted July 2013*

Policy DM4 – Renewable and Low Carbon Energy Generation  
 Policy DM5 – Design  
 Policy DM7 – Biodiversity and Green Infrastructure  
 Policy DM8 – Development in the Open Countryside  
 Policy DM9 – Protecting and Enhancing the Historic Environment  
 Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework 2019  
 Planning Practice Guidance 2014 including updates 2018  
 Newark and Sherwood Amended Core Strategy DPD 2017  
 Newark and Sherwood Landscape Character Assessment SPD  
 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017  
 The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations)  
 The Climate Change Act 2008

### **Consultations**

**(Host Parish) Fiskerton Parish Council - comments received 18.09.18**



No objections providing that conservation, flooding and wildlife concerns are fully and appropriately considered and managed and addressed.

**Bleasby Parish Council – comments received 11.09.18**

Bleasby Parish Council supports the application subject to there being no increased flood risk for surrounding areas. The Council would like to see facilities for educational purposes.

**Syerston Parish Council – comments received 04.09.18**

Thank you for the opportunity to comment on the above Planning Application. Syerston Parish accepts that a low impact scheme to produce HEP should be supported providing that conservation, flooding and wildlife concerns, are fully and appropriately addressed and managed.

**Rushcliffe Borough Council – comments received 05.11.18**

I write to you in relation to your consultation request regarding the above referenced planning application. Rushcliffe Borough Council have been consulted given the sites location directly adjacent (and partially within) the authorities border with Newark and Sherwood District Council. I note this developer has applied for several schemes along the River Trent, some of which lie within the Rushcliffe Authority Area. With regard to this scheme I note from the records available to me there appears to be a section at the centre of the southern weir which falls within Rushcliffe Borough Council Authority. Although you may be at liberty to determine this application as it stands, I would advise you to make the developer aware that should permission be forthcoming, they would not be able to implement until such time as permission has also been granted by Rushcliffe Borough Council for the works.

In general I note there are no sensitive receptors in proximity to the site on the south side of the river within the RBC boundary. I further note limited works to the southern extents, with the main alterations the raised weir crest. The project lies within an engineered section of the river as viewed from the southern boundaries and therefore the works proposed would not likely alter the visual character and amenity of the wider area as viewed from the south.

Other aspects largely revolve around the considerations of technical consultees for which RBC will not be providing comment. You will of course be required to conduct a screening opinion as to whether the development requires an Environmental Impact Assessment.

Given the above, there are not considered to be any fundamental objections from an RBC perspective should technical issues be resolved. It is considered that RBC will have full opportunity to consider the development when any subsequent application for the works to be submitted to the Borough Council for consideration.

**Environment Agency - Comments received 21.02.19**

1. The Environment Agency (EA) Objects to this application.
2. This is because the applicant has not provided a flood risk assessment (FRA) in accordance with the specifics first detailed in the EA's correspondence with the applicant dated 22/02/2018.

3. The FRA as required would clearly demonstrate the impact of the increase water height in the water channel due to the raised weir height. It would also determine the impacts of various flood events and what mitigation measures would need to be taken.
4. Having looked at the issue, the EA considers that the risk posed by increasing the water level up to 37cm is low (The adjustable weir will only increase water levels during low and medium flow conditions), but cannot remove the objection until the modelling has been carried out, properly assessed and the impact is fully understood. The EA will do all it can to assist and will fast track the assessment (normally a 4 week process to be carried out in 15 working days) to determine the actual risk and effect of raising the weir. As yet, the FRA model has not been received from the applicant.

### **Previous comments received 19.02.19**

Please note the following response is in regards to the most recent Flood Risk Assessment (Hazelford Weir HEP: Flood Risk Assessment, Dec 2018, Renewables First) as provided by the applicant. This is not the current Flood Risk Assessment (Hazelford Weir HEP: Flood Risk Assessment, July 2018, Renewables First) that is currently present on the Newark and Sherwood planning website for this application. Today's date is 18/02/2019.

In the absence of an acceptable Flood Risk Assessment (ref: Hazelford Weir HEP: Flood Risk Assessment, Dec 2018, Renewables First) we object to this application and recommend that planning permission is refused.

Reason(s)

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the development's flood risks. In particular, the FRA fails to;

- Consider how people will be kept safe from the identified flood hazards,
- Consider how a range of flooding events (including extreme events) will affect people and property.

### Overcoming our objection

The upstream reach of Hazelford Weir extends roughly 7.2km to Gunthorpe Weir. The Dover Beck which is a main river tributary is present within this reach. It should also be noted there is also a number of ordinary watercourses, drainage channels and flood defence infrastructures along this reach.

### Modelled Outlines, Model Review

In previous comments provided to the applicant we requested for modelled outlines for the River Trent and the Dover Beck for a range of flooding events. We still haven't yet received these outlines. The models should be adjusted to imitate the proposed changes (installation of infrastructure, weir alterations) and run for the whole range of return periods from the 20% Annual Exceedance Probability (AEP) event or lower, up to the 0.1% AEP event (including 1% AEP plus climate change scenarios). We require this information to review the extents which will be flooded more frequently after the proposed HEP scheme has been introduced.

Hydraulic models are available from the Environment Agency for the River Trent, River Trent and Tributaries at Newark SFRM2, Halcrow, July 2011 and for the Dover Beck, Nottingham Tributaries SFRM, JBA, January 2014.

Any models produced for this application will need to be reviewed by the Environment Agency. They are reviewed to ensure they meet the required standards. It takes 4 weeks for a model to be reviewed. The applicant has been previously informed of this in pre app correspondence (Water resources, pre application enquiry letter, dated 22/02/2018 to Matthew Lomax).

#### Backwater Effect, Long Profile

The Flood Risk Assessment (FRA) and the Assessment of Cumulative Impacts Report (ref: River Trent HEP Schemes: assessment of cumulative impacts, APEM P000003266, January 2019) fails to consider the back water effects from the proposed Hydroelectric Power (HEP) Scheme at Hazelford Weir.

The FRA and assessment of cumulative impacts states water levels are expected to rise during low or moderate flows by 0.30m – 0.37m. The applicant has failed to provide the distance which will be impacted by the raised water. Previous comments provided by the Environment Agency have requested for the long profile from the proposed Hazelford Weir. We require the long profile for the Q9 flow condition and a range of flow conditions. The assessment of cumulative impacts report identifies the effects of raised water levels during low or moderate flows as being “relatively minor” but no substantial evidence has been provided to support this.

The smaller watercourses and drainage channels upstream respond more quickly to intense rainfall events which may result in flooding of upstream communities before any change in water level is recorded on the River Trent at Hazelford Weir. With the reduced capacity in the channel due to the backwater effect, these flood events could occur more frequently and depths of floodwater could be increased.

In order for the adjustable weir to react to upstream events we would require the scheme to incorporate a network of monitoring gauges upstream at key locations to be agreed with us in writing.

The FRA should assess this risk and demonstrate appropriate mitigation.

To overcome our objection, please re-consult us with an FRA which addresses the points highlighted above. We will respond within 21 days of receiving the revised FRA.

#### Informative:

The Local Planning Authority, as the decision-maker, should also consult with the Lead Local Flood Authority (Nottinghamshire County Council) to satisfy themselves of localised changes to land drainage patterns impacting upon river users and infrastructure providers as a result of the raising of Hazelford Weir.

#### Flood warning and emergency response

In a weir malfunction scenario, a number of additional properties will be flooded; 2 in a 5% AEP event, an additional 1 in a 1% AEP event, an additional 30 in a 1% AEP plus climate change event

and an additional 5 in a 0.1% AEP event, making a total of 38 properties at increased flood risk. However, the adjustable weir contains fail safes (Float deflation system, Blow-off tank and Pressure relief valves). It is not in our remit to judge if this adequate and advise for you to consult your emergency planners and the emergency services.

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The planning practice guidance to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

#### Environmental permit - advice to applicant

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

It is noted that a permit application has been submitted for this proposal.

#### **Comments received 25.09.18**

In the absence of an acceptable Flood Risk Assessment (FRA) we object to the proposal as currently submitted for the following reasons.

Reasons:

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning

practice guidance. The FRA does not therefore adequately assess the development's flood risks. In particular, the FRA fails to:

- Consider how people will be kept safe from identified flood hazards;
- Consider how a range of flooding events (including extreme events) may affect people and property.

The current FRA fails to consider the impact that the proposals would have on the modelled flood outline extents for the River Trent and the Dover Beck. To overcome this, we would expect a revised FRA to fully model the various flood events, up to and including the 1 in 100 year event plus an allowance for climate change, for the post development scenario.

We require more detail on the back water effects from the proposed Hazelford Weir. Please provide the long profile of the back water along the River Trent (WFD ID: GB104028053110) and the Dover Beck (WFD ID: GB104028053370). Please supply the long profile for both the pre development and post development scenarios.

We also require a table showing the different stages (operational modes) in operating the adjustable weir. Each mode should include the flow range (cubic metres per second), flow exceedance range, water level (metres above ordnance datum), and bladder status (inflated/deflated).

We also require confirmation of the time it would take for the adjustable weir to deflate under emergency conditions. It may be appropriate to have a separately controlled section of the adjustable weir that can act as a flood gate. This would allow greater control of the water level while the adjustable weir is deflating. The introduction of a separately controlled section would help in dropping the water level quickly if a fast response is required. The separately controlled section can also be used as a failsafe if the adjustable weir was to remain fully inflated. The FRA should also consider residual risk scenarios such as a sudden failure of the bladder.

The current FRA states that the proposed development would have a negligible effect on flood risk as it will only remove a small section (200 cubic metres) of the functional flood plain. None the less, this doesn't mean the development is exempt from having to provide flood plain storage. We expect further investigation into whether or not this is required. However, we are mindful that the excavations of the inlet/outlet channel may contribute to increasing flood storage within the flood plain. It is suggested to calculate the extra volume that would be produced from the excavations of the channels, to demonstrate the exact net gain/loss that would be provided.

Finally, the FRA should confirm the flood risk vulnerability classification of the development, referring to the planning practice guidance (PPG) for confirmation. This will ultimately determine which climate change allowances should be used for the development's FRA (40%, 50% etc.), particularly when defining the levels for the control house infrastructure.

#### Overcoming our objection

To overcome our objection, the applicant will need to submit a revised FRA which covers the deficiencies highlighted above and demonstrates that the development is safe without increasing risk elsewhere. Where possible, it should reduce flood risk overall.

If this cannot be achieved, we are likely to maintain our objection. Please consult us with the revised FRA and we'll respond within 21 days of receiving it.

## Informative advice to the applicant and LPA – Permitting requirements

The proposed hydropower scheme will require one or more of an FRA permit under the Environmental Permitting (England and Wales) Regulations 2016, an impoundment licence under Section 25 of the Water Resources Act 1991, an abstraction licence under Section 24 of the Water Resources Act 1991, and a fish pass approval under the Salmon and Freshwater Fisheries Act 1975.

At this moment in time, our permitting teams have requested additional information to meet these permitting requirements and to assess any impact upon the aquatic ecology. We are mindful that the planning system is not the appropriate place to address or resolve these matters which will be regulated under separate legislation, i.e. the environmental permitting regulations.

In determining the various permits and licences that will be required for this development, we will consider how the development affects water biodiversity and the aquatic environment, in line with the relevant European and domestic law. We'll also assess its compliance with the Humber River Basin Management Plan (RBMP).

Additionally, there is significant conservation and fisheries value along the River Trent valley, especially at this site. This will be considered when reviewing the application. We would like to point out that where evidence shows there will be potential impacts on known protected species, a Habitats Regulations Assessment (HRA) would be required.

Finally, we would like to take this opportunity to highlight that we do not consider issues such as local amenity etc. Your Authority will need to satisfy yourselves that the applicant has taken adequate measures to reduce the impacts on amenity matters such as angling. This is not for the Environment Agency to consider in our role as a statutory consultee.

## **Nottinghamshire County Council Policy – comments received 17.09.18**

### National Planning Context

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

### Waste

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

Paragraph 8 of the NPPW states that:

'When determining planning applications, all planning authorities should ensure that:

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

- new, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development, and, in less developed areas, with the local landscape. This includes providing adequate waste storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service;
- the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities and minimises off-site disposal.'

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

#### Minerals

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

Paragraph 204 states that planning policies should:

- 'safeguard mineral resources by defining Mineral Safeguarding Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);
- set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place'.

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

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

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

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

#### Transport

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

capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree’.

#### Healthy communities

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

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

#### Transport and Flood Risk Management

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

#### Minerals and Waste

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

#### Minerals

In relation to the Minerals Local Plan, the site is within a Minerals Safeguarding and Consultation Area for sand and gravel. Given that the subject of this application is hydroelectric generation plant, it is unlikely that the proposed development would pose a sterilisation risk to a potential future extraction area. Therefore there are no safeguarding concerns in respect to this site and the County Council does not wish to raise any objections to the proposal from a minerals perspective.

#### Waste

In terms of the Waste Core Strategy, there are no existing waste sites within the vicinity of the site whereby the proposed development could cause an issue in terms of safeguarding existing waste management facilities (as per Policy WCS10). As set out in Policy WCS2 ‘Waste awareness, prevention and re-use’ of the Waste Core Strategy, the development should be ‘designed, constructed and implemented to minimise the creation of waste, maximise the use of recycled



materials and assist the collection, separation, sorting, recycling and recovery of waste arising from the development.’ In accordance with this, as the proposal is likely to generate significant volumes of waste through the development or operational phases, it would be useful for the application to be supported by a waste audit. Specific guidance on what should be covered within a waste audit is provided within paragraph 049 of the Planning Practice Guidance.

It is noted that application is supported by a WFD Assessment and a Fisheries and Geomorphology Assessment. However, NCC does not have the expertise to comment on either of these, and would suggest that the LPA appoint someone who does to give the application the necessary level of scrutiny. Consultation with the Environment Agency fisheries officers should also be carried out.

### 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.

### **Natural England – Comments received 12.03.19**

#### **Objection withdrawn**

Following receipt of further information on 08/03/2019 Natural England is satisfied that the specific issues we have raised in previous correspondence relating to this development have been resolved.

We concur with the shadow Appropriate Assessment and therefore consider that there will be no adverse effect on integrity on the Humber Estuary Special Area of Conservation (SAC).

The Shadow Habitat Regulations Assessment for Hazelford Weir (March 2019) which includes an Appropriate Assessment, was prepared on behalf of the applicant and shows that the proposal will not result in adverse effects on the integrity of the site Humber Estuary SAC. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority

### **Comments Received 21.02.19**

Thank you for your consultation on the above dated 12 February 2019 which was received by Natural England on the same date.

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

## SUMMARY OF NATURAL ENGLAND'S ADVICE

### FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on Humber Estuary Special Area of Conservation. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

#### **Appropriate protection for lamprey ammocoetes**

Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained.

Natural England's advice on other issues is set out below.

#### **Additional Information required**

Natural England notes the submission of the document "*Review of Hazelford Weir Shadow Habitats Regulations Assessment*" which was received by your authority on 20/02/2019. We agree with this report's conclusion that the Shadow HRA, which was submitted by the applicant, is procedurally correct in so far as it recognises that HRA is a staged process with a range of tests that have to be applied.

**However we note that the report explains that it does not extend to a detailed ecological analysis of the Shadow HRA or the proposed mitigation proposals. We therefore reiterate the concerns set out in our email of 18/02/2019 that, based on the ecological information provided within the Shadow HRA, Natural England advises that it is not possible for you to conclude no impact on the integrity of the Humber Estuary SAC as a result of the proposed development.**

Natural England's advice with respect to this application is based on the requirement to protect the lamprey population i.e. river lamprey, *Lampetra fluviatilis*, and sea lamprey, *Petromyzon marinus*, that form part of the interest for which the Humber Estuary Special Area of Conservation (SAC).

The outcome that Natural England advises in this proposal (and other Hydropower proposals along the River Trent) is to ensure that the fish pass options and lamprey passage improvements provide unhindered migratory passage for lamprey at all stages of their life cycle. Our particular concern with the proposal at Hazelford Weir is the risk of entrainment within the Kaplan turbine of lamprey ammocoetes as they move downstream back to the Humber Estuary SAC following spawning. We have therefore advised in our previous correspondence that adequate protection could be provided with an intake screen of an appropriate mesh size to prevent the ammocoetes entering the turbine with the risk of injury or mortality.

We note that in the application (APEM Fisheries & Geomorphology document) that a 9mm mesh size for the intake screen has been proposed. However we have advised that the appropriate mesh size should be significantly finer and the maximum of 3mm is recommended, based on the Environment Agency best practice screening document<sup>1</sup>. Further to this advice we can

recommend that it is important for the screen to be of 3mm mesh at the bottom of the river up to ~50 (TBC) centimetres high from the substrate. This will reduce the risk of entrainment to elvers and juvenile lamprey who predominantly live in the substrate. We suggest that the rest of the screen could be of 6mm mesh size.

A deviation from a 3mm mesh screen would only be considered if a combination of other specific site features were in place to give a comparable high level of protection to the lamprey. The applicant would need to provide you with an assessment backed up by sound evidence of why this scheme will not impact lamprey populations if a larger mesh screen is used. We advise that the applicant follows technical advice from the Environment Agency Fisheries team for such an assessment.

### **Comments received 28.01.19**

#### SUMMARY OF NATURAL ENGLAND'S ADVICE

#### FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on the Humber Estuary Special Area of Conservation. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

Habitat Regulations Assessment - to include confirmation of details to prevent significant effects on lamprey ammocoetes including entrainment risk and habitat loss.

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained. Natural England's advice on other issues is set out below.

#### Internationally and nationally designated sites

The application site affects the Humber Estuary Special Area of Conservation (SAC) which is a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations').

Special Areas of Conservation (SACs) are designated for rare and vulnerable habitats and species. Many SAC sites are designated for mobile species that may also rely on areas outside of the SAC boundary. These supporting habitats may be used by SAC populations or some individuals of the population for some or all of the time. These supporting habitats can play an essential role in maintaining SAC species populations, and proposals affecting them may therefore have the potential to affect the SAC. In this case there is the potential for impacts on mobile species, i.e. river lamprey, *Lampetra fluviatilis*, and sea lamprey, *Petromyzon marinus*, that form part of the interest for which the Humber Estuary SAC is designated, but such impacts may occur outside the site boundary.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup>. The Conservation objectives for each European site may be helpful in assessing what, if any, potential impacts a plan or project may have.

### Additional Information required

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

We recommend you obtain the following information to help undertake a Habitats Regulation Assessment:

Confirmation of details of exclusion provisions to prevent entrainment of lamprey Ammocoetes

We acknowledge that the submitted document “Hazelford Weir Hydroelectric Project Water Framework Directive (amended)” recognises that the Hazelford weir is currently a barrier to the upstream movement of lamprey (and other fish species) and the proposed multi fish pass, which includes provision for lamprey, would allow for greater fish passage which is welcome. We note that the fish pass would adhere to best practice guidelines. We note that at paragraph 3.17 bullet point 8 of this assessment, that intake screening with a 9 mm mesh size is mentioned which is considered would be sufficient to prevent entrainment of larger resident yellow eels and downstream migrating silver eels. In Chapter 8 of the Fisheries and Geomorphology Assessment (amended) Intake Screening is discussed and it concludes that a 9mm mesh size is sufficient given the low intake approach velocities and that the proposed eel pass which would provide the primary route of upstream passage is located on the opposite bank to the intake. We also note that in section 4.3 of this assessment that lamprey habitat is discussed and that it concludes that no significant changes in the quality and extent of available habitat are expected after commencement of the HEP scheme. Natural England’s concern with the proposal is the risk of entrainment of lamprey ammocoetes as they move downstream back to the Humber Estuary SAC following spawning.

We would wish to ensure that, as the population of lamprey increases, there is adequate protection with a screen which will be of an appropriate mesh size to prevent the ammocoetes entering the turbine with the risk of injury or death. We would also wish to ensure that habitat for lamprey has been fully considered by the application.

### **Comments received 25.01.19**

Further to our recent correspondence and conversations with regards to the above current applications we are writing to clarify the situation with respect to the need for a Habitat Regulations Assessment for these proposed developments.

### **Impact on Humber Estuary SAC**

The potential for offsite impacts needs to be considered in assessing what, if any, potential impacts the proposal may have on European sites. Special Areas of Conservation (SACs) are designated for rare and vulnerable habitats and species. Many SAC sites are designated for mobile species that may also rely on areas outside of the SAC boundary. These supporting habitats may be used by SAC populations or some individuals of the population for some or all of the time. These supporting habitats can play an essential role in maintaining SAC species populations, and proposals affecting them may therefore have the potential to affect the SAC. In this case there is

the potential for impacts on mobile species, i.e. river lamprey, *Lampetra fluviatilis*, and sea lamprey, *Petromyzon marinus*, that form part of the interest for which the Humber Estuary Special Area of Conservation (SAC) is designated, but such impacts may occur outside the site boundary.

#### Advice on Habitats Regulation Assessment

We advise that your authority has a record of its own Habitats Regulations Assessment of the potential impacts of these mobile species.

You may wish to refer to evidence that has been submitted with these applications. If you do so you should take account of the potential difference in the scope of these documents and the requirements for an HRA.

Since the recent ruling made by the Court of Justice of the European Union (the CJEU)<sup>1</sup> any “embedded” mitigation relating to protected sites under the Habitat Regulations 2017 Regulation 63 (1) should no longer be considered at the screening stage. Any element of a plan or project requiring mitigation should be taken forward and considered at the Appropriate Assessment stage with an assessment of effect on site integrity.

As a result of the ruling you will need to come to your own view and, if Likely Significant

Effects are identified then this should be followed through to Appropriate Assessment. You should seek your own legal advice on this.

Licensing Natural England will also need to be consulted under the Habitat Regulations by the Environment Agency regarding the licencing process (Abstraction Licence, Impoundment Licence and Transfer Licence).

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

#### **Comments received 10.09.18**

##### SUMMARY OF NATURAL ENGLAND’S ADVICE

##### NO OBJECTION

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

Natural England’s advice on other natural environment issues is set out below.

##### Other advice

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

Should the proposal change, please consult us again.

#### **Tree Officer – Comments received - 12.10.18**

The amended details still give little clarity as to which trees are to be removed, the potential impact of proposals on the remaining or any propose mitigation planting.

Recommend any approval has attached conditions:

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

This scheme shall include:

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

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

### 3. Prohibited activities

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

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

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

5. The approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is soonest, unless otherwise agreed in

writing with the District Planning Authority. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted on written consent of the District Planning Authority.

Reasons.

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

### **Comments received 22.08.18**

Although a tree survey has been submitted to support this application it only covers trees adjacent to Weir 2.

No survey has been carried out for Weir 1 where this is also likely to be some impact on trees. The submitted tree survey plan and any other submissions need to show an overlay of trees and RPAs onto the proposed layouts in order to evaluate potential constraints/impact of trees.

### **Nottinghamshire Wildlife Trust – Comments received 28.02.19**

Having reviewed the Ecological Appraisal and Protected Species Surveys (Fauna Forest Ecology, June 2018) document Preliminary Ecological Appraisal and Protected Species Surveys Hazelford Lock (Fauna Forest Ecology Limited, February 2019) we have the following comments. The application site includes two Local Wildlife Sites (LWS): River Trent, Gunthorpe to Fiskerton (LWS 2/694) and The Nabbs (LWS 2/695) designated for its gravel colony habitat.

Local Wildlife Sites are afforded protection due to their substantive nature conservation value. Their selection takes into consideration the most important, distinctive and threatened species and habitats within a national, regional and local context, making them some of our most valuable urban and rural wildlife areas. N&S Policy DM7 requires consideration of sites of regional or local importance, including justification for the development outweighing the nature conservation value of the site, as well as use of the 'mitigation hierarchy' Careful consideration should be given ahead of development to prevent adverse impacts on these sites, including appropriate mitigation measures and preconstruction anti-pollution management plans.

### **Impacts**

The River Trent (Gunthorpe to Fiskerton) LWS 2/694

We fully support therefore, the statement in Section 4.4 with regard to nesting birds. Negative impacts to nesting birds (particularly waterfowl) could occur if water levels were to suddenly increase during the breeding season (February - late August). The scheme should be operated so that increased water levels during this season do not exceed the maximum water level experienced naturally earlier in the same season. Ideally, the increased water levels would begin outside the breeding season. Operation across the full range of proposed water levels should only begin once outside the breeding season, or if the maximum controlled water level associated with the scheme has been experienced naturally earlier in the same season.

Given that water levels are predicted to annually increase for the majority of the year, there is less risk of nest-building birds being impacted post-development in subsequent breeding

seasons.

*Section 4.10 states that 'The majority of impact in and around Areas 1 and 2 does not fall within the LWS. Provided that all recommendations/RAMs are strictly adhered to in this report, The River Trent (Gunthorpe to Fiskerton) LWS will not be impacted by the scheme during or after the construction phase. We are satisfied with this assessment and we recommend that the recommendations / Reasonable Avoidance Measures (RAMS) are secured by way of a suitably worded condition.'*

### **The Nabbs (LWS 2/695)**

*Section 4.11 states that: 'There is no gravel colony habitat within or close to Areas 3 and 4 (areas of impact). The north bank of the island at this point is a hard bank and the south bank is relatively steep with scrub habitat extending to the edge on the upstream side of the weir and more open on the downstream side. Scrub habitat to be removed during the operation mostly includes dog rose, bramble and hawthorn. However, this represents a relatively small proportion of the overall area of this type of habitat on the island. Section 4.21 states 'Provided that all recommendations / RAMs are strictly adhered to in this report, only a small proportion of relatively common habitat will be impacted on the island known as The Nabbs LWS. No gravel colonists would be impacted by the proposals'. We are satisfied with this assessment and we recommend that the recommendations / RAMS are secured by way of a suitably worded condition.'*

Adverse impact on The Nabbs LWS will be largely temporary, occurring during the construction phase, however, part of the hydro-scheme development will lead to the permanent loss of part of the LWS. With regards to mitigation hierarchy, we have taken into account that due to the nature of the scheme (utilising the rivers weir system) restricts the development from being installed outside of the LWSs.

### **Compensation**

Due to the permanent loss of part of The Nabbs LWS and for the clearance of habitat north of Area 2 we advise that compensation should be sought. Upon completion, losses of scrub habitat should be compensated for in the Habitat Creation Areas referred to as HCA1 and HCA2.

**Habitat Creation Area (HCA1)** Section 4.23 states '*Upon completion of the construction phase, after all machinery and tools have been removed from site, a wildflower meadow combined with a mixed hedgerow will be planted around the periphery of the area which badger are known to exploit for the purpose of commuting and foraging (Figure 4). At present, much of this region is predominantly covered with a substantial stand of blackthorn and other associated scrub. The hedgerow margins that bound the west and northern region of the scrub are to be retained. The new hedgerow will run for approximately 120m adjacent to the existing path in a south-west to north-easterly direction.'*

Habitat Creation Area (HCA2) Section 4.32 states: '*Once the construction area has been cleared of all tools and machinery, species-rich mixed scrub will be planted in Areas 3 and 4 (The Nabbs LWS). Suggested species would be hazel, hawthorn, blackthorn, dog rose, at 2m spaces. Maintenance would involve coppicing at 10-15 years.'*

We take the view that tree planting is unnecessary if no trees on the island were negatively impacted. Another option could be to enhance areas of amenity grassland on the island.



## **Additional Comments**

Ideally, the oak tree (TN1) supporting the barn owl box should be retained. If this tree is to be removed, it should be surveyed for its potential to support roosting bats and the persons responsible for monitoring the barn owl box should be consulted.

Our default position where adverse impacts to LWS occur would be to advise the LPA to refuse planning permission. In this instance however, we consider impacts on LWS to be minor and when the proposed package of mitigation and habitat restoration/creation is taken into account we are satisfied that the benefits of this planning application outweigh the negative impacts. The finished scheme will also significantly improve passage for fish around what is currently a significant obstacle to fish movement. We recommend that Environment Agency are consulted with regard to the design of the fish pass.

## **Following the submission of an updated ecology survey the following comments received 28.11.18**

Whilst it is preferable to agree all mitigation details prior to determination, on this occasion we would be satisfied with the below pre-commencement condition.

A Construction Environmental Management Plan including pollution mitigation, habitat compensation measures and landscaping shall be submitted to and be agreed with LPA prior to construction commencing.

It appears to cover the key points that we raised. A thorough, detailed CEMP would be vital in ensuring protection of the LWS and appropriate mitigation/compensation for loss of habitat as well as protection of species during construction.

## **Comments received 28.08.18**

Having reviewed the Ecological Appraisal and Protected Species Surveys (Fauna Forest Ecology, June 2018) document, we are concerned that the potential impact of the proposal on Local Wildlife Sites (LWSs) has not been assessed. The report provides a list of LWSs within 2.5km, but does not give any further information or discussion on this matter.

From the documents submitted and a review of Nottinghamshire Insight Mapping, we believe that the application site includes 2 x LWSs:

River Trent (Gunthorpe to Fiskerton) LWS 2/694  
The Nabbs LWS 2/695

Local Wildlife Sites are afforded protection due to their substantive nature conservation value. Their selection takes into consideration the most important, distinctive and threatened species and habitats within a national, regional and local context, making them some of our most valuable urban and rural wildlife areas. N&S Policy DM7 requires consideration of sites of regional or local importance, including justification for the development outweighing the nature conservation value of the site, as well as use of the 'mitigation hierarchy'. We therefore recommend that the report is amended to include consideration of potential impact on these sites of county

importance, including measures to avoid, mitigate and/or compensate any identified ecological impacts. This work should be undertaken before the application is determined

**NCC Lead Local Flood Authority – Comments received 28.01.19** - reiterate previous comments dated 29.08.18

**comments received 29.08.18**

Having considered the application the LLFA will not be making comments on it in relation to flood risk as it falls outside of the guidance set out by Government for those applications that do require a response from the LLFA.

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

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

**NSDC Environmental Health Contamination – comments received 30.10.18**

No observations in relation to contaminated land.

**NSDC Environmental Health – comments received 30.11.18**

Having considered the noise data there should be no issues.

**NCC Highway Authority – Comments received 27.11.18**

Assuming these figures (provided in the construction traffic details) cover the 6 month period previously mentioned, there are no highway objections based on the information submitted. The applicant should note that any temporary signage will need to be approved by VIA/NCC Co-ordination Team prior to works commencing on site.

**Previous comments received 30.10.18**

This proposal is for the installation of a hydropower scheme. The application site is to be accessed from Main Street and the works are expected to take up to 6 months to complete. The lane leading to the site is unadopted, however, it is recommended that further details be submitted prior to works commencing providing details of the number and size of vehicles expected as part of the construction phase.

It is recommended that NCC/Via Rights of Way section are consulted for advice/comments as a Footpath may be affected by this proposal.

Therefore, the Highway Authority would not wish to raise objection subject to the following condition being imposed:

Prior to commencement on site, the applicant shall submit a Construction Management Statement providing details of the expected vehicle size and numbers during the construction phase over a daily or weekly period. Reason: In the interests of highway safety.

#### **Archaeology Consultant – Comments received 07.11.18**

This site is in an area surrounded by archaeology which sadly was not all identified in the 'Heritage Statement' with a battlefield to the east as well as the remnants of medieval earthworks and to the north there is a prehistoric/Roman settlement.

However it is unlikely that these proposals will have a significant detrimental impact on these remains and so no further archaeological input is required into this scheme.

#### **Canals and River Trust – comments received 18.02.19**

Firstly we note and welcome the details provided concerning the boom and notice served on neighbouring landowners, and clarification regarding the red line boundary and have no further comment to make on these matters.

With regards to the wharf facility, as outlined in my letter of 5 November, we would wish to see a replacement wharf provided as part of any planning application to mitigate the loss of the existing facility.

We consider that a hard edge of approximately 70ft will be necessary and that this is capable of being provided within the application site redline boundary. We would therefore ask that notwithstanding the submitted plans a condition is imposed on any planning permission requiring submission of further details of the replacement wharf including siting, specification and timescale for the completion of the works.

Suggested policy wording is as follows:

Condition:

Notwithstanding the plans submitted, details of a replacement wharf facility shall be submitted to and approved in writing by the Local Planning Authority prior to the loss of the existing facility, and thereafter implemented in accordance with the agreed details unless otherwise agreed in writing."

Reason: To ensure the provision of a replacement wharf facility necessary to support the use of the River Trent for navigation, in accordance with the aims of Spatial Policy 7 'Sustainable Transport' from the adopted Newark and Sherwood Core Strategy.

#### **Following discussions with regards to the wharf the riverside path the following comments were received on the 12.02.19**

I have passed this on to our engineers to check whether they are OK with the operational wharf and position of the boom, in case this is not an issue, and will seek to get back to you on this matter.

The riverside path provision seems fine. However, the applicant would require an agreement with our estates section as this would affect a property we lease (not so much of a planning issue, but

this could affect its deliverability, so I have asked our utilities section to make the applicant aware of this).

Regarding the design of the power house building, we do believe that the external design should be secured, to ensure that its visual impact can be mitigated as far as practical.

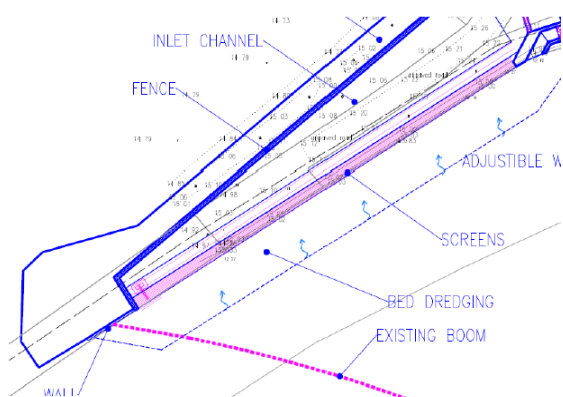
Given that no precise specification has been provided of the external appearance, we do believe that the use of conditions to secure its external appearance may be required.

I would recommend that the provision of the path and wharf are secured by condition if any permission is given.

**Following ongoing discussions with the applicant the following response has been received on the 12.02.19**

With regards to the wharf, this is used primarily as an operational wharf to allow access for dredging boats etc. It is not used continuously, but provision of a replacement wharf would be required to allow for continued maintenance of this section of river.

If a replacement wharf is to be provided, then that would be acceptable. Looking at the plans, I presume that a new access track and wharf are shown as below:



However, the plans do raise a few concerns as to whether it would be provided. As such, it would be best if the following matters could be ironed out. Notably:

- The plans show a boom crossing the wharf, which would compromise the ability to utilise the wharf.
- The plans show the access track and wharf on 3rd party land, upon whom I don't believe notice of the application has been served.
- It would be best practice if the wharf could be labelled as such to avoid confusion.

On the other points, we'd be satisfied with the riverside path being routed as described below. On Heritage Matters, we'd be happy for you to come up with a judgement, using your own expert advice, whether the information submitted is sufficient to take account of undesignated heritage assets associated with the weir.

On the Site Location Plan, I think there is still some confusion over why the red line boundary crosses the curtilage of the bungalow, and whether any works are proposed here. However, they

have served notice on us, and we would have an input as landowner in any case. As such, if this cannot be clarified prior to the permission being given, we could manage this by other means.

#### **Comments received 04.02.19**

Based on the information available our substantive response (as required by the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) is that the Trust has no comment to make on the revised information provided. Please note, however, that our original comments made in November 2018 still apply to this application.

#### **Comments received 01.02.19**

Based on the information available our substantive response (as required by the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) is that the Trust has no comment to make on the revised information provided. Please note, however, that our original comments made in November 2018 still apply to this application.

#### **Comments received 05.11.18**

The Trust has reviewed the application but is unable to make a substantive response under the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended) due to the absence of the following information:

- . A Heritage Impact Assessment taking account of non-designated heritage assets affected by the development.
- . Clarification with regards to the provision of alternative wharf facilities,
- . Information detailing alterations to the riverside path.
- . Elevations of the proposed power house building, and
- . Clarification over the site location plan.

#### **Heritage**

Although the application includes an assessment of the impact of the development on designated heritage assets, no assessment has been undertaken with regards to non-designated assets in proximity to the site.

There is the potential that remnants of the original Jessop engineering technologies associated with the canalisation of the river and remnants associated with a former ford and ferry crossing at Hazleford could be present in proximity to the weir. Other heritage features including the lock cottage on the non-towpath side of the river and clapper gates beside 'the bungalow' are also present.

As a result, we advise that a desktop heritage assessment should be carried out to accompany the current application to include an assessment of the likely presence of non-designated heritage assets, and the likely impact of the development upon these.

We believe that this request would be in line with the aims of paragraph 189 of the National Planning Policy Framework. This states that there is a requirement for applicants to describe the significance of any heritage assets affected by the development; which should be proportionate to the assets' important and sufficient to understand the potential impact of the proposal on their

significance.

### **Impact on an Operational Wharf**

The submitted plans show that the location of the proposed spillway could result in the removal of a riverside wharf presently sited to the west of the weir. The wharf is used by craft to carry out essential operations on the River Trent to aid navigation, including dredging works.

The removal of the wharf would reduce the ability of the Trust to carry out activities to maintain navigation on the Trent; which could harm the ability of the river to handle navigation traffic.

The Trust has been advised by the applicant that an alternative wharf will be provided to the west of the site accessed by a new track to the rear of the proposed spillway. This is not however made sufficiently clear on the submitted layout plan and the Trust would therefore request further details of the proposed replacement wharf facility and its siting, which should be included within the application site boundary.

The Trust would also wish to see the provision of the alternative wharf facility secured by planning condition prior to the commencement of any works to construct the proposed spillway .

### **Impact upon the Riverside Path**

The submitted plans show that the spillway and power plant building would be sited upon the existing riverside path. There is therefore a risk that the development could sever existing walking routes along the River Trent, which would discourage public access along the river. This could run counter to the aims of Spatial Policy 7 from the Core Strategy, which seeks to ensure that footpath and bridleway networks will be safeguarded, and the aims of paragraph 102 from the National Planning Policy Framework, which seeks to ensure development proposals identify opportunities to promote walking.

Although existing access tracks lie behind a neighbouring property ('The Bungalow'), and could provide an alternative route, these are used by vehicular traffic, which could result in additional hazards for pedestrian users without the provision of appropriate segregated refuges.

We therefore request that additional information is provided to detail a safe alternative footpath for users to pass the hydro-electric site along the river.

The Trust has been advised that the applicant may be considering the installation of a replacement path next to the river. If this is the intention, we request that this is indicated upon the submitted plans, so that its provision can be guaranteed as part of the scheme.

### **Design and Appearance of the Proposed Power House Building**

The supplied cross sections reveal that the power house building would form a relatively large structure, covering 192 square metres at up to 7.5m in height. It therefore could form a prominent structure upon the waterway.

We believe that full details of the external appearance and materials are necessary in order to enable a judgement to be made as to whether the building would adequately protect the local distinctiveness of the District's landscape and character. This would be in accordance with the aims Policy DM5 from the adopted

Allocations and Development Management Development Plan Document, and the aims of Core Policy 9 'Sustainable Design' from the adopted Core Strategy.

We therefore request that full elevations of the building should be provided, including details of the proposed facing materials, so that a full assessment can be undertaken with regards to its external appearance and the impact the structure could have upon the appearance of the waterway corridor.

#### Site Boundary

We note that the two separate location plans have been provided, labelled 'Site Location Plan' and 'Development Boundary Plan' which include alternative red line boundaries. We request that clarity is provided from the applicant with regards to which site plan is subject to the application. We also advise that the final red line boundary should include all parts of the proposed development, including any new wharf facility.

Both submitted plans show a red line boundary that intercepts the curtilage boundary of an adjacent property ('The Bungalow'), which is owned and leased by the Trust. We request that details of any works to be carried out within the curtilage of this property are provided. Should no works be proposed in this area, then we request that the site location boundary is amended so that it does not intercept the curtilage of this property to avoid any confusion.

In addition to the above, we also wish to raise the following additional matter, which we advise could be dealt with via the submission of additional information of the use of an appropriately worded condition.

#### **Navigational Safety**

The proposed hydro-electric scheme is likely to result in changes to the water flow of the River Trent for which the Canal & River Trust is navigation authority. Alterations to water flows can impact on the navigational safety of the waterway. For example, the draw and discharge of water from hydro-electric schemes can have impacts upon craft using the waterway and may also result in the additional deposition of silt or debris that could affect the ability of the river to carry waterborne traffic and increase liabilities in terms of dredging etc.

We therefore request that a detailed navigational risk assessment is submitted for approval prior to the commencement of development on site to assess the scheme's impact on navigational safety and identify any necessary mitigation measures. This should include details of how navigational safety will be maintained in the event of an emergency shut down of the scheme.

#### **Suggested wording is provided below:**

*Prior to the commencement of development, a detailed and comprehensive Navigational Risk Assessment shall be provided to and approved by the Local Planning Authority. The Risk Assessment shall include modelling data to identify how the proposals will affect water flows during both normal operation and during an emergency shut down of the scheme; and shall include mitigation measures to respond to any risks identified. Thereafter, the scheme shall be carried out in accordance with the approved details.*

*Reason: To ensure that the development will not result in hazards for navigation that would harm the ability of the river to handle navigational traffic; and to promote and support the use of the River Trent in accordance with the aims of spatial policy 7 of the Newark & Sherwood Core Strategy. It is essential that details are provided prior to the commencement of development, so that any risks identified can be fully addressed.*

**Inland Waterways** – no comments received

## **Nottinghamshire County Council Rights of Way – Comments received 04.03.19**

Thank you for the consultation. I am commenting on the application as a statutory consultee as public rights of way form part of the highway network

I have checked the Definitive Map for the area and can confirm that Fiskerton cum Morton Footpath No. 22 crosses the site edged in red on the site location plan. I attach a plan showing the definitive routes of the footpaths. The applicant has acknowledged the existence but possibly not the exact location of the public rights of way.

The public right of way is affected by the development during construction and after completion.

The applicant has stated that the path can be temporarily diverted to enable the construction and that it can be restored to its current line on completion. However the plans indicate that the powerhouse will in fact be situated over the footpath. If this is the case then the applicant will need to apply for a diversion of the path (see notes below). Construction cannot start until such time as a confirmed order has been made. It is recommended that the application be submitted as soon as possible to prevent time delays in construction.

The applicant is recommended to make contact with the RoW team to discuss the implication of construction, temporary closure and confirm that a diversion is required

Please note the following general points

The footpath should remain open, unobstructed and be kept on its legal alignment at all times. Vehicles should not be parked on the RoW or materials unloaded or stored on the RoW so as to obstruct the path (unless a temporary traffic regulation order is in place) .

There should be no disturbance to the surface of the footpath without prior authorisation the Rights of Way team.

The safety of the public using the path should be observed at all times. A Temporary Closure of the Footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting the Rights of Way section. The applicant should be made aware that at least 5 weeks notice is required to process the closure and an alternative route on highway should be provided if possible. Alternatively, a permissive route within the applicants control and at their liability can be offered to mitigate the effect on the publics use.

Structures cannot be constructed on the line of the right of way without the prior authorisation of the Rights of way team. It should be noted that structures can only be authorised under certain criteria and such permission is not guaranteed.

If the design of any proposed development requires the legally recorded route of the RoW to be diverted because it cannot be accommodated on the legal line within the scheme, then this should be addressed under the relevant provisions within the Town and Country Planning Act 1990 for the diverting/stopping up of public rights of way affected by development. An application way under this act should be made to the Planning authority and is a separate application to the planning permission



*For path which requires a TCPA diversion*

*Under Section 12 of the Growth and Infrastructure Act 2013, it is now possible for the planning authority to carry out preliminary consultations, draft and make the Order under the appropriate Regulations (Town & Country Planning Public Path Orders Regulations 1993) if an application has been made under Part 3, and before planning permission has been granted, if on granting it, it is necessary to alter a public path. The order can be confirmed if planning permission is then granted. This can avoid the previous delays caused by developers having to wait for planning permission to be granted before applying for a diversion.*

This team does not object to the application however the applicant must confirm the effects on the footpath and manage them appropriately in consultation with this team and a diversion proposal, if necessary, through the District Council

**Ramblers** - On behalf of Nottinghamshire Ramblers we have no objection to this scheme and are glad to see in the planning statement that the existence of the Trent Valley Way is noted.

This is one of the three long-distance trails in Nottinghamshire and is important for its links to heritage and tourism. If any temporary diversions are needed it is essential that these are managed correctly in consultation with the Highways Department of the County Council.

**Three representations have been received from 2 interested parties with regards to impacts on fish/angling. These have been set out in full below:-**

#### **Comments from Scunthorpe Amalgamated Anglers**

“Lease the waters above and below the weir on the south side of Nabbs Island for the purpose of angling. The lower section below the weir known as Lady Pitt is a prolific barbel water and wSit unique habitat and spawning grounds. Some 30/40 percent of our 2500 members join specifically for the fishery, therefor and major effect created by this proposal could result in loss of revenue. We are disappointed that as a stake holder we was not advised/consulted prior to the application. We would expect the applicant to provide assurance that the proposal will have no detrimental effect on the fishery and that adequate, undisturbed water flow over the weir will be maintained at all times and not compromised at the expense of power generation. We would advise that we would seek compensation if

- a) Access to and the capability to fish has to cease due to safety concerns during construction resulting in loss of revenue
- b) Loss of water over the weir during modification resulting in the fishery having to close to preserve fish welfare..resulting in loss of revenue
- c) Pro-rata claim against annual lease costs for the duration of any activity causing the fishery to be closed
- d) Claim for loss of revenue should there be a long term detrimental effect on the fisheries due to the project

Should this application be approved we would work/liase with the applicant to minimise effect and request that that communication should be made with our local fishery manager IN ADVANCE of ANY activity that could effect the fishery during construction.

After completion ADVANCE WARNING to be given before any adjustment is made to the weir

which could effect water flow. We have approached the applicant direct for written assurance there will no effect on the fishery and have been advised this will be forthcoming.(not received to date11/09/18) We respectively suggest this application is not approved until such assurance is received.

### **Comments from Fish Legal:**

#### **Received 04.02.19**

Further to our letter of 6 November 2018 with regard to the above application for planning permission, we have now seen that there have been some updates made to the documentation on the council's planning website.

#### General points

We note that despite the fact that this is a development which falls under schedule 2 of the EIA Regulations, there has been no screening for EIA purposes.

Additionally, given the presence of lamprey, the council is the appropriate authority charged with undertaking an HRA screening of the impact of the development on the Humber SAC. There is also still confusion over the area of the development and the site boundaries (see for instance the most recent letter from CRT).

#### APEM Report

We have seen the updated APEM Geomorphology and Fisheries Report. We believe that there are serious gaps in the report.

1. The report does not present hydrology data for each channel before and after the development.
2. A prolonged flow of <Q99 (including fish pass flow) is said to actually improve some elements of river habitat for rheophilic species and especially rheophilic spawning; that is despite the fact that expert opinion is that a depleted reach will have a detrimental effect on a fishery.
3. Fish passes are planned for both channels but individual flows are not shown for each pass and so it is difficult to see how the report can reach its optimistic conclusions.
4. Furthermore, it is stated that the "total fish pass discharge" is 2.20 cumecs.  
However, the recommended minimum for single pass adjacent to a turbine of 55 cumecs is 2.78 cumecs (5%) with an optimal flow of 10%. This needs to be clarified as the fish pass discharge appears to be lower than the acceptable limit.

Above all, full fish surveys ought to be undertaken before a decision is made on the application.

Two further representations have been received from 3<sup>rd</sup> parties which raise the following concerns:

- There are a natural and legal rights to water for permanent pasture for livestock and major concern is rased with the need to prevent interference with the natural flow and levels of water over the existing balancing weir such might result from adjustable machinery designed to maximise water to the turbine and lock apparatus and impact on this right together with concern in relation to loss of fishery and income due to changes in the water levels.
- Concern is rased with regards to with the quality of the information deposited which is

misleading and inaccurate.

### **Comments received 06.11.18**

As with other hydro scheme applications on the Trent we have been alerted to, it is obvious that the development will affect the hydro-dynamics of the water, the shape, form and location of the gravels and will disrupt the fishing.

Currently, downstream of the weir are gravel beds which provide habitat for coarse species. It is an important barbel spawning site as it contains clean, oxygenated gravels. We are also instructed that the same spawning site is used by the Environment Agency to recruit spawn for their Calverton Fish Farm.

A desk-top fisheries and geomorphology report prepared by APEM indicates a focus on geomorphology and flow over fisheries on the advice of the Environment Agency. We note that the Environment Agency's fisheries department does not appear to have been included in any discussions over the impact of the development on the fish and fishery. The APEM report relies on actual survey results but other sites "in close proximity" for an indication of what fish species are present at the weir. The report also seems to ignore the crucial fact that energy removed from flow means that the abstracted and returned flow of water will not have the same power to clean gravels.

The Planning Statement produced by the developer, Renewables First indicates that the council screened for EIA – but there is no evidence on the website that such a screening has been undertaken as no such screening is available on the planning website.

We note that there has been no response from the Environment Agency to the planning application on the basis of the impact on the fishery; the EA's focus is on flood defence.

Crucially, no surveys have been undertaken by the developer or by the council and its consultants in order to determine the actual presence of fish at the weir.

We understand that several other fishing clubs may own fishing rights within the red line area of the development but that these clubs with a legal interest in the land, whether corporeal or incorporeal, have not been notified of the development or asked directly for their opinion.

#### **HRA**

The EA letter to the council dated 25 September 2018, although virtually silent on fisheries issues, reminds the council that ". . . there is significant conservation and fisheries value along the River Trent valley, especially at this site. This will be considered when reviewing the application. We would like to point out that where evidence shows there will be potential impacts on known protected species, a Habitats Regulations Assessment (HRA) would be required."

The site in question here is the [Humber SAC – check???]. The principles in Waddenzee (Case c127/02) and other authorities apply.

Regulation 9 of the Conservation of Habitats and Species Regulations 2010 requires that the appropriate authority (here the LPA) "must exercise [its] functions. . .so as to secure compliance with the requirements of the directive."

This development is a "plan or project" for the purposes of Article 6 (2) and (3) are engaged. In

such circumstances the council, as the appropriate authority, must ensure that there is no deterioration to the natural habitat and disturbance to the species for which a site has been designated. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon shall be subject to appropriate assessment. The competent national authority shall agree to the plan or project only after having ascertained that it will not adversely affect the site concerned.

What the Council needs to do before making its decision

As the development is schedule 2 for the purposes of the EIA Regulations, the council must screen, giving notice of this and consult the Fisheries Department of the EA, Natural England and all other relevant bodies in doing so.

The Council is obliged to undertake a phase I HRA screening of the likelihood of significant environmental effects from the development on the protected site, produce a written statement of the same and make it publicly available.

The Council should require that a full fisheries survey of the weir and report be prepared before the application is further considered.

Then Council must also ensure that those holding an interest in the land by way of fishing rights at the site or nearby should be notified and consulted directly.

Given that the application is clearly controversial it is not appropriate for it to be decided under delegated authority and should therefore be called into committee.

### **Comments of the Business Manager**

#### *Preliminary Matters*

This proposal falls primarily within the Newark and Sherwood District jurisdiction albeit it should be noted that a small part of the site lies within borough of Rushcliffe. This means that the applicant requires planning permission from both authorities. Members will note from the site history section of this report that an application to Rushcliffe has been lodged and this remains (at the time of writing) undetermined. As the authority with the largest portion of the site we are the main determining Authority.

Members will also note that the application has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and it has been determined that an EIA is not required in this instance. The EIA is attached as Appendix 1 to this report.

An Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) has been undertaken by consultants on behalf of the LPA. The findings are agreed and this has been adopted which forms Appendix 2.

#### **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, unless material considerations indicate otherwise.

The site lies outside of any settlement and is therefore located within the countryside. Spatial Policy 3 seeks to protect the countryside and states that schemes to enhance heritage assets, to increase biodiversity, enhance the landscape will be encouraged. It also states that 'Development not in villages or settlement, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Policies to deal with such applications are set out in the Allocations and Development Management DPD...' Policy DM8 of the A&DM(DPD) provides that 'In accordance with the requirements of Spatial Policy 3, development away from the main built up areas of villages in the open countryside will be strictly controlled and limited to the following types of development.' It then lists a number of types of development that may be acceptable. The proposed development doesn't fall neatly into any of the development type exceptions listed. However this type of development by its very nature needs to be next to a river and a weir which are often in a countryside location. It is a logical step to consider policies related to renewable development set within the Development Plan.

The District Council's commitment to tackling climate change is set out in Core Policy 10 of the Core Strategy. This provides that the Council will encourage the provision of renewable and low carbon energy generation within new development. The policy seeks to mitigate the impacts of climate change through ensuring that new development proposals minimize their potential adverse environmental impacts during construction and eventual operation including the need to reduce the causes and impacts of climate change and flood risks. New proposals should ensure that impacts on natural resources are minimized and the use of renewable resources are maximised and be efficient in consumption of energy water and other resources.

Policy DM4 also reflects the NPPF and provides that permission shall be granted for renewable energy generation schemes unless there are adverse impacts that outweigh the benefits.

Whilst the development plan takes primacy, the policies in respect of climate change are consistent with the NPPF, which is a material consideration. Chapter 14 of the NPPF (2019) 'Meeting the Challenge of climate change, flooding and coastal change' at paragraph 148 requires that the 'planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources.....; and support renewable and low carbon energy and associated infrastructure.

Paragraph 153 states that in determining planning applications, local planning authorities should expect new development to comply with development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable and take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

The scheme is expected to generate a peak power of 0.9mw of energy and an average annual energy production of 6.0GW which would be sufficient to power 1,540 homes and would save c3,120 tonnes of CO2 emissions from entering the atmosphere.

As such the proposal will accord in principle with both local and national policy aspirations. In determining an application it would be necessary to balance the policy presumption in favour of applications for renewable technologies against any specific adverse impacts discussed below.

## **Impact on Landscape Character**

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Core Policy 13 requires the landscape character of the surrounding area to be conserved. Policy DM5 states that the rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design materials and detailing of proposals for new development.

Core Policy 13 of the Core Strategy addresses issues of landscape character. It states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area.

The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

The part of the site that would be developed falls within the Trent Washlands Policy Zone TW PZ 52 (Thurgarton River Meadowlands) which identifies the key characteristic visual features as being flat low lying field landscape with linear stretches of pasture against the river Trent, open views from the Trent to the wooded hills in the north and south abandoned gravel works with establishing scrub vegetation and some strong hedgerows. The landscape condition is identified as being moderate and landscape sensitivity low. The landscape sections for this policy zone are to create and reinforce.

Having considered the proposals and accompanying assessments, officers consider that there is no conflict with environmental policies in the National Planning Policy Framework or the Development Plan.

The applicant has included within the updated Planning Statement, a Landscape and Visual Impact assessment. This has identified 6 key visual impact receptors.

### *Receptor 1 - The Bungalow immediately to the north of the weir*

The LVIA concludes that there would be some disruption to this receptor during construction by virtue of tree removal, civil works, vehicle movements and plant installation. One operational visual screening of the proposed scheme would be provided by replanting of trees. The main visual impact would be from partial views of the outfall channel and screen, although these are largely below ground. There would be distant views of the small control cabinet on the far bank.

### *Receptor 2 - Hazelford Old Lock House*

The LIVA concludes that although the HEP and weir would be partly screened by trees there would be visibility from this property. The main visual impact from this receptor would be the turbine house screen and screen cleaning equipment. However these are adjacent to The Bungalow and

do not impact rural views from this property. The LIVA concludes that visual impact would be relatively minor.

*Receptor 3 - Residential and leisure properties at Hazelford*

Given distances and vegetation the visual impact would be relatively minor

*Receptor 4 - Residential properties on Main Street*

The LIVA concludes limited impact during construction. No visual impact would be experienced at operational stage.

*Receptor 5 – Trent Valley Way*

The LIVA concludes that this runs along the north bank. The HEP will be highly visible from this receptor, the most notable feature being the turbine house, the intake screen, hydraulic channels and fencing enclose the development together with some new stone access tracks. This impact is considered to be significant to footpath users but given the length of the track affected this would be relatively short.

*Receptor 6 - Bridleways along the south bank of the river*

There would be some glimpses of the HEP from the bridleway within the extent of the western area of the historic battlefield to the south of the site but these would be distant and screened by trees. Direct views will be possible from the bridleways on the southern bank as they pass through the battlefield. However the north weir and HEP scheme would not be visible from this area. Visual impact along the rest of the bridleways would be limited to the weir crest, the fish pass and the small control cabinet.

AECOM the consultants commissioned by the Council to provide advice with regards to the EIA have concluded that although the LIVA submitted by the applicant is limited, they consider that although the development would clearly impact on both landscape and visual receptors particularly during construction, the scale of the development is relatively small and given the proposed external materials (secured by condition) it is unlikely the proposal would constitute a significant effect.

Overall the LIVA concludes that visual impact is relatively minor and the development design is in keeping with the existing weir and buildings at the site. I consider this to be a fair assessment and in any case I have been able to form my own judgment on the impacts. In assessing all matters I would concur with the conclusions of the LIVA. It is acknowledged that the addition of a number of incongruous and urbanising elements into the landscape will give rise to landscape and visual impacts. These include elements such as the proposed turbine house, substation, cleaning equipment etc. However the only significant visual effects are from close viewpoints on the residential receptor (The Bungalow) and the adjacent public footpath on the northern bank and only over a short distance, and these effects will reduce after the construction stage and over intervening years it is likely to reduce further given landscaping and planting which can reasonably be secured by robust conditions. In conclusion whilst some adverse impacts will occur these are not so significant as to warrant a reason for refusal and in any event can be largely mitigated.

## **Impact on Trees**

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

The application has been accompanied by Tree Survey Arboricultural Implications Assessment (AIA) dated May 2018 and updated in October 2018 together with tree constraint plans.

In appraising the scheme a small section of the island located on the river upstream from the lock and riverbank to the north of the Trent has been surveyed. In making recommendations the AIA notes that the trees on the island are categorised as C1/B2 grade trees (moderate to low value). A dual category has been assigned to a number of trees which are of moderate low value but taken as a group do make a significant contribution to the landscape and provide valuable habitat. Although the Assessment considers that the loss of individual trees within the group might not be significant, the loss of a large proportion of the trees within the group could result in a significant impact.

The latest AIA identifies that the development could result in the loss of trees, and pruning and tree felling is likely to be required to enable construction and that the installation of services within root zones would impact on the long term survival of retained trees.

The applicant has confirmed by email that the number of trees to be removed across the site has been reduced from 14 to 12 and now includes 9 no. category B trees (poplars and ashes in the approximate area highlighted areas A and B in the aerial photograph A below) and 3 no. category C (Alders and Silver Birch in the approximate area highlighted in the aerial photograph B below).

There were 2 no. Category A Field Maple trees proposed to be removed at the northern boundary of the site in aerial photograph B. These are now proposed to be retained which is welcomed.

There is also a category B1 Willow tree on the edge of the area surveyed which it is recommended should be coppiced (indicated in the approximate area C on aerial photograph A below).





**AERIAL PHOTOGRAPH A - NABBS ISLAND**



**AERIAL PHOTOGRAPH B – NORTEHRN BANK OF THE RIVER**

The comments of the Tree officer in assessing the updated AIA are noted. I am satisfied that the subsequent email from the applicant, which identifies the trees to be felled, when read in conjunction with the Tree Constraint Plan allows an assessment to be made in terms of tree removal. The trees to be felled are either within or are in close proximity to groups of trees on the northern bank of the Trent or on the southern bank of a section of Nabbs Island.

The loss of trees on the northern bank would be limited to 3 and of low amenity value. Their loss is not considered to be unduly unacceptable and can be compensated through replacement tree planting.

The trees to be removed on Nabbs Island are on the edges of two wooded areas immediately behind the proposed fish pass located at the second weir between the island and the southern banks of the Trent and are category B and C trees which are not identified as mature species. The loss of these trees would further open up an area of land to the rear of the fish pass and weir. Given that there would remain a large proportion of woodland to the east and west of this part of the site, it is considered that the loss of these trees would not have such a significant impact on the visual amenity of the area to justify refusal on these grounds. Furthermore the loss can be adequately compensated for through replanting of native trees which can be secured by condition.

A landscape condition is therefore considered reasonable requiring that precise details of replacement trees and the protection of existing trees during the construction phase are to be submitted to and approved in writing by the LPA and to ensure that robust and appropriate replacement planting takes place. Subject to this I consider that the impact is acceptable.

### **Impact on Ecology and Biodiversity**

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment.

A Preliminary Ecological and Protected Species Survey has been deposited with the application which has been updated during the lifetime of the application. The assessment identifies the potential impacts on biodiversity. This has been reviewed by an independent consultant Ecologist, AECOM commissioned by the Council.

The desk assessment found that the site lies within 2 local wildlife sites; the River Trent (Gunthorpe to Fiskerton) and Nabbs Island and within 2.5km of a further 19 local wildlife sites. Consultation with the local records centre also found a number of biological records within 2.5km of the site. These records include badger, brown hare, otter, water vole and bat. No records of reptiles or amphibians were found.

The field assessment undertaken found limited signs of the presence of protected species within the application site with no evidence found for white clawed crayfish, otter, water vole, reptiles or amphibians. Nevertheless the application site does provide habitat that could be suitable for protected species.

The Survey concludes that land adjacent to the River Trent LWS does provide some habitat suitable for otter and water vole but that the proposed development would not impact on this area. The habitats also have some value for nesting birds.

On land at Nabbs Island the area of impact is considered to be small given that it is predominantly amenity grassland and some scrub of low ecological value. The Survey does not consider that any gravel colonies would be affected during construction.

The ecological appraisal recommends a number of mitigation measures for the loss of any habitat which include the creation of a wild flower meadow, hedgerow and species rich mixed shrub planting together with native tree planting and the provision of replacement grass. The retention of a mature oak tree to the northern boundary of the site is also recommended. It also recommends the implementation of a low level lighting scheme and adoption of a series of Method Statements during construction. These measures are all considered reasonable and necessary and it is considered appropriate to secure these matters by means of conditions in the event of an approval.

The Survey has been assessed by the Nottinghamshire Wildlife Trust and Natural England whose comments are detailed within the consultation section of this report and by the Council's commissioned ecology consultant.

NWT has confirmed that they consider the impacts on the LWSs to be minor and given the proposed mitigation measures together with habitat restoration/ creation recommendations outlined in the Ecology Survey, they consider the benefits of the proposal outweigh any negative impact. This is subject to conditions to secure such recommendations/RAMs (recommended avoidance measures) and a condition requiring the submission and written approval of a detailed Construction Environmental Management Plan prior to any commencement of development.

The Council's consultant has considered that the information provided and consider that the impact upon ecology is acceptable. They recommend that the RAMs put forward by the applicant include matters of storage of materials, pollution avoidance and incident response methodologies. These can be secured by condition.

An Appropriate Assessment under the Habitat Regulations has been undertaken by Lepus Consulting which the Council has adopted. This is included as Appendix 2. It concludes that the scheme will have no adverse effect on the integrity of any European site, either alone or in combination with any other plan or project.

In terms of impacts on fish, the application is also supported by Fisheries and Geomorphology Assessments undertaken by APEM which have also been updated during the life time the application.

The fisheries assessment considers the potential impacts of the proposed development on a number of matters including fish habitat and fish passage. With regard to fish habitat, the assessment notes that there are likely to be differing effects on and between species in the northern and southern channels. The assessment concludes that spawning salmon and lamprey, juvenile lamprey and adult rheophilic species (such as chub, dace, barbel and gudgeon) habitat would remain largely unchanged in the northern channel although there is likely to be a decrease in junior rheophilic habitat. In the southern channel, spawning and juvenile rheophilic coarse fish as well as adult roach in the southern reach are likely to see an increase in habitat availability after commencement of the HEP scheme. Spawning salmon and lamprey and adult rheophilic habitat suitability is predicted to decrease slightly due to reductions in flow and mean velocities through the channel.

The assessment also finds that the weirs at Hazelwood currently pose a complete barrier to upstream passage of coarse fish species and lamprey as well as a high impact barrier to the passage of salmon and sea trout. The proposed development incorporates into the design a multi species fish pass and lamprey fish pass on both the north and south channels and an eel pass on

the southern channel. This is considered to provide a significant increase in the overall upstream passability at this location.

The fisheries assessment and addendums deposited with the application have been reviewed by the professional ecologists commissioned by the Council. Their Technical Note review of the APEM assessment is attached as Appendix 3. The commissioned consultants have raised no undue concerns with the methodology or content of the fisheries assessment. However they have raised the issue that the proposed mesh size of the intake screen as originally proposed at 9mm did not meet the relevant guidelines. Natural England has also raised this as an objection. However the applicant has subsequently revised the mesh size to be 3mm to the front and 6mm to the back which falls within the EA and NE guidelines. NE have subsequently withdrawn their objection and I am now satisfied that the concerning element has been resolved to a satisfactory manner. This would need to be conditioned in the event of an approval.

With regards to noise impact on fish, AECOM on behalf of the Council have assessed the noise assessment deposited by the applicant and have concluded that it is not considered that the noise expected from the proposed scheme would significantly impact on fish populations given the existing base line of the noise produced from the weir and its close proximity to the development.

It is therefore considered that the proposal would give rise to no unacceptable adverse impacts on the watercourse, its habitats or protected species. Currently, Hazelford Weir acts as a barrier to the upstream movement of fish. The planning application proposes the installation of fish passes into the hydro-electric scheme which it is considered will result in betterment of improved upstream fish passage and will therefore give rise to significant benefits to the resident fish population, particularly to eel, lamprey, sea trout and salmon. Again, these measures can be secured by way of condition.

Notwithstanding the comments of Fish Legal, it is considered that the proposed development is likely, according to our commissioned consultants and consultees (to whom I attached significant weight) to not have any significant impact on fish habitat and would bring about benefits to biodiversity over the longer term. The proposed development is therefore consistent with adopted planning policy, the NPPF and Section 40 of the Natural Environment and Rural Communities Act 2006 which places a duty on public bodies to have regard to the conservation of biodiversity when carrying out their functions.

### **Impact on Highways**

Spatial Policy 7 provides that proposals should be appropriate for the highway network in terms of volume of traffic generated and ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected and should avoid highway improvements that might harm the environment and ensure that appropriate and effective car parking provision should be made. Policy DM5 mirrors this.

The site would be accessed from Boat Lane off Main Street to the north west of the site. The planning statement deposited with the application considers that impacts on traffic and transport will be short term and minor during the construction phase of the development. The applicant has also submitted additional information with regards to the construction phase of the development. This includes:-

- Hours of construction will be between 0800-1800 Mon-Fri and 800-1300 Saturdays no working on Sundays of Bank Holiday);and
- Expected traffic volumes during each phase of construction – which ranges between 7 and 12 per day;
- Provision of parking and turning areas;
- Delivery instructions to be issued to drivers;
- Road cleaning and signage.

The Highway Authority has raised no objections to the scheme based on the information provided subject to their recommended conditions being attached should permission be granted in relation to the provision of signage and the submission and written approval of a detailed CMP.

I agree that the overall vehicle movements associated with the development would be relatively limited during construction and once operational, limited movements would be associated with maintenance. Therefore I am satisfied that subject to appropriate conditions that the proposal would not result in highway safety concerns and therefore would accord with the requirements of Spatial Policy 7 and DM5.

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

A public right of way crosses the application site (Fiskerton Cum Morton footpath 22) to the front of The Bungalow. The site layout plan deposited with the application shows that this would be affected by the development by virtue of the positioning of the proposed turbine house over the footpath and as is acknowledged by NCC Rights of Way Officer. Although NCC do not raise any objection to the proposal, the applicant will need to apply for the permanent diversion of the footpath post decision should permission be granted (and in pre application consultation with the Rights of Way team) and prior to the commencement of any works on the site. This can reasonably be secured by condition.

### **Impact on Flood Risk and Drainage**

The Planning Practice Guidance outlines that planning applications for hydropower should be accompanied by a flood risk assessment and notes that advice on environmental protection for new hydropower schemes has been published by the Environment Agency.

Core Policy 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD state that the Council will aim to steer new development away from areas at highest risk of flooding and that development proposals will only be considered in Flood Zone 2 where it constitutes appropriate development and it can be demonstrated, by application of the Sequential Test, that there are no reasonably available site in lower risk Flood Zones. Where development is necessary within areas at risk of flooding, it will also need to satisfy the Exception Test by demonstrating it would be safe for the intended users without increasing flood risk elsewhere.

The site is designated as being within Flood Zone3 as shown on the Environment Agency's (EA) Flood Map. The proposal could be viewed as falling within water compatible development or essential infrastructure which has to be located in a flood risk area in terms of flood risk vulnerability.

In considering whether the Exception Test needs to be applied, I refer to Table 3 within the NPPG

on Flood Vulnerability Classification. The proposal could be considered to fall into either the 'water compatible' or the 'essential infrastructure' category where in both zones 2 and 3 development is considered appropriate. The Exception Test only has to be applied in the event that it is considered to be essential infrastructure and not for water compatible. The EA have advised that it falls within both categories in which case I have considered it as the worst case scenario and have applied the Exception Test.

The NPPF sets out that for the exception test to be passed it should be demonstrated that:

(a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

(b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both elements of the exception test should be satisfied for development to be allocated or permitted.

I consider that Part A of the Exception Test is passed. In reaching this conclusion I give considerable weight to fact that the scheme would generate 8,000,000 kw hours of carbon free electricity via a renewable energy source which is a significant public benefit and is in my view a wider sustainability benefit that outweighs the (minimal) flood risk which is discussed further below.

I turn now to whether the scheme would be safe for in flood risk terms. It is noted that the Lead local Flood Authority raise no objection to the proposal.

However, the Environment Agency raised objection to the Flood Risk Assessment (FRA) deposited with the application in August 2018 which failed to consider how people would be kept safe from identified flood hazards and how a range of flooding events (including extreme events) may affect people and property. Moreover this Flood Risk Assessment failed to consider the impact that the proposals would have on the modelled flood outline extents for the River Trent and the Dover Beck and a revised Flood Risk assessment was requested which covered the deficiencies identified in the EA comments noted in the consultation section of this report.

The EA have maintained this objection following the submission of a revised FRA deposited in December 2018. Given that it did not include the modelled outlines previously requested, it failed to consider the backwater effects including the provision of a long profile. Although the FRA report identifies the effects of raised water levels during low or moderate flows as being "relatively minor" no substantial evidence has been provided to support this.

The applicant has deposited to both the LPA and the EA the additional information requested by the EA in the form of Weir Malfunction Flood Extent Plans and Low Flow Analysis Plots. This information is currently being modelled by the EA who at the time of writing this report have maintained their objection, although their latest comments at point 3 note that they consider that the risk of increasing water levels (up to 37cm) during low and medium flows would be low, although they are unable to remove this holding objection until the submitted modelling information has been properly assessed and understood. The results of this modelling are expected by the 22<sup>nd</sup> March 2019.

## **Impact on Amenity**

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

Being mindful of the separation distances of the proposed scheme to the nearest residential properties noted below it is not considered that the proposal would raise any issues in terms of overlooking, overbearing or overshadowing impact. Although there would be some increase in activity during construction this would be time limited. Residential amenity can be further secured by condition restricting hours of work during the hours of construction which are noted in the additional information deposited by the applicant in November 2018. Once operational the level of activity would significantly reduce to circa once a month for maintenance purposes.

The applicant has submitted a noise assessment as part of the updated planning statement deposited in December 2018 which notes that the noise level expected within the turbine house would be 90dB(A). The building would be designed with a dense concrete block and associated cladding construction which would be heavy enough to suppress noise and ensure a 55 dB(A) attenuation. The doors and ventilation panels would also be designed to ensure that an overall minimum 30 dB(A) attenuation is achieved.

The nearest sensitive noise receptor is The Bungalow c45m east of the turbine house (the curtilage being 37m east of the building). The noise levels at this nearest receptor would be no greater than 12 dB(A) which is below the minimum background noise level. Environmental Health colleagues have assessed the proposal and have confirmed that no concerns are raised with regards to noise levels in view of the nature of the development and the distance to human receptors. Taking this into account it is considered that external noise levels from the turbine house when set against the background noise of the water flowing over the weir and the fish pass would not be audible from the nearest sensitive noise receptor, particularly given the separation distance.

Noise impacts associated with the scheme are considered to be negligible. Officers are therefore satisfied that the proposed development can be constructed and operated without giving rise to significant impacts on the environment, amenity or other interests of acknowledged importance. Furthermore, where local impacts have been predicted, mitigation measures are proposed to reduce those. The mitigation measures can be secured through the imposition of appropriate conditions.

## **Heritage Impacts**

A heritage Statement has been deposited with the application. There are no listed buildings or other heritage assets within the site or its immediate setting nor is there likely to be any surviving archaeological deposits. Officers are therefore satisfied that the proposed development would not raise any heritage issues and the proposal accords with heritage policies CP14 and DM9 of the Development Plan.

## Other matters

### *Impact on Angling Clubs*

Paragraph 182 of the NPPF introduces the concept of the “agent of change” and expects planning policies and decision to ensure that new development can be integrated effectively with existing business and community facilities. The policy goes on to require that existing businesses and facilities should not have unreasonable restrictions placed upon them and where the operation of an existing business or community facility could have a significant adverse effect on new development, the application should be required to provide suitable mitigation.

The applicant has reviewed the fishing pegs at Hazelford and confirms that the permanent works will have no direct impact on any fishing pegs, nor affect access to them. It is possible that access to one fishing peg near the upstream end of the site will be affected (unavailable) during construction. However this could be mitigated with the provision of a temporary replacement platform, details of which could be secured by condition.

Furthermore in reviewing the assessments deposited with the application the ecology consultants commissioned by the Council do not consider that there would be any significant changes in river levels and therefore fishery interest should not be significantly affected.

It is therefore considered that appropriate mitigation is proposed which can be secured by condition should Members be minded to grant permission and the application complies with the requirement of paragraph 182 of the NPPF.

### *Impact on the Operational Wharf*

The comments of the Canals and River Trust (CRT) are noted with regards to the potential loss of a riverside wharf on the northern river bank to facilitate the proposed intake channel which would prevent access for and the mooring of dredging boats and reduce the ability of the Trust to carry out maintenance to the river. Following lengthy discussions with the CRT the applicant has proposed a replacement wharf, although precise details are yet to be agreed. The CRT are however satisfied that the required circa 70ft hard edge required can be provided within the site. It is therefore considered that precise details of this together with its implementation could reasonably be secured by condition.

### *Navigational Impact*

The CRT has also raised concern with regards to navigational safety, in particular in relation to alterations in water flows as a result of the proposed development. They have requested that “a detailed navigational risk assessment is submitted for approval prior to commencement of development on site to assess the scheme’s impact on navigational safety and identify any necessary mitigation measures”. Provided that this risk assessment is submitted and any necessary mitigation measures incorporated into the proposed development, e.g. in the form of operational procedures, the Councils commissioned consultants do not expect there to be significant effects on navigational safety. This could also be controlled by condition.

### *Accuracy of plans and information deposited with the application*

The comments received with regards to the information deposited with the application are noted.



The ecology and fisheries and geomorphology assessments deposited with the application have been reviewed by Natural England and the Wildlife Trust and by the professional ecology consultants commissioned by the Council who have raised no concerns with the quality of the information nor the methodology undertaken and that there is no evidence before officers to dispute this.

#### *Land Ownership and Rights To Water From The River Bank*

Land ownership and rights to water are not a material planning matters but rather are private legal matters between the individual parties.

#### *Consultation*

Comments have been raised with regard to a perceived lack of consultation. Site notices have been displayed at various locations around the site including at the access to the southern bank of the river, at Hazelford Ferry and at Hazelford weir. Consultation letters were sent to 8 properties in the vicinity of the site and a notice placed in the local press. This meets (and indeed exceeds) the statutory requirements in terms of the publicity of planning applications.

#### **Planning Balance and Conclusion**

This renewable energy installation is considered to be acceptable in principle, subject to conditions, and in line with both national and local policy aspirations. Impact upon the landscape, trees, highways and noise are considered to be acceptable and adverse impacts can be adequately mitigated to an acceptable level by conditions. Ecology specialists have been engaged, alongside various specialist technical consultees, to assist officers with the assessment of the potential impacts of the proposed development. They have concluded, and I concur, that whilst it is acknowledged that the proposal may give rise to localised impacts these can be adequately mitigated. There is also some likely betterment in terms of the provision of fish and eel passages at the weir.

However at the time of writing this report, there is an outstanding objection from the Environment Agency in terms of the impact of flood risk posed by increasing the water level. Potential flood risk is a significant material planning consideration in the determination of this application and as matters currently stand the applicant has failed to demonstrate that the development would not give rise to unacceptable flood risk. Until the potential flood harm is fully understood it is not possible to undertake a proper reasoned planning balance whereby it could reasonably be concluded that the benefits outweigh the harm (when this isn't yet known).

It is acknowledged that by the time this application is considered by the Planning Committee the 'failed to demonstrate' reason for refusal that officers currently recommend may well have changed to either a positive flooding harm reason for refusal or, in the event that no harm is demonstrated and the EA remove their objection, the recommendation would be amended to one of approval. In this case an update report and an updated reason for reason or a revised conclusion and a list of recommended conditions would be provided to Members as part of the late items schedule.

#### **RECOMMENDATION**

**Refuse planning permission for the following reason:**

01

In the opinion of the Local Planning Authority the application has failed to demonstrate that the development would not have an unacceptable adverse impact upon flood risk contrary to Policy CP10 (Climate Change) of the Amended Core Strategy (adopted March 2019) and Policy DM5 (Design) of the Allocations and Development Management DPD which together form the Development Plan as well as the National Planning Policy Framework 2019, a material planning consideration.

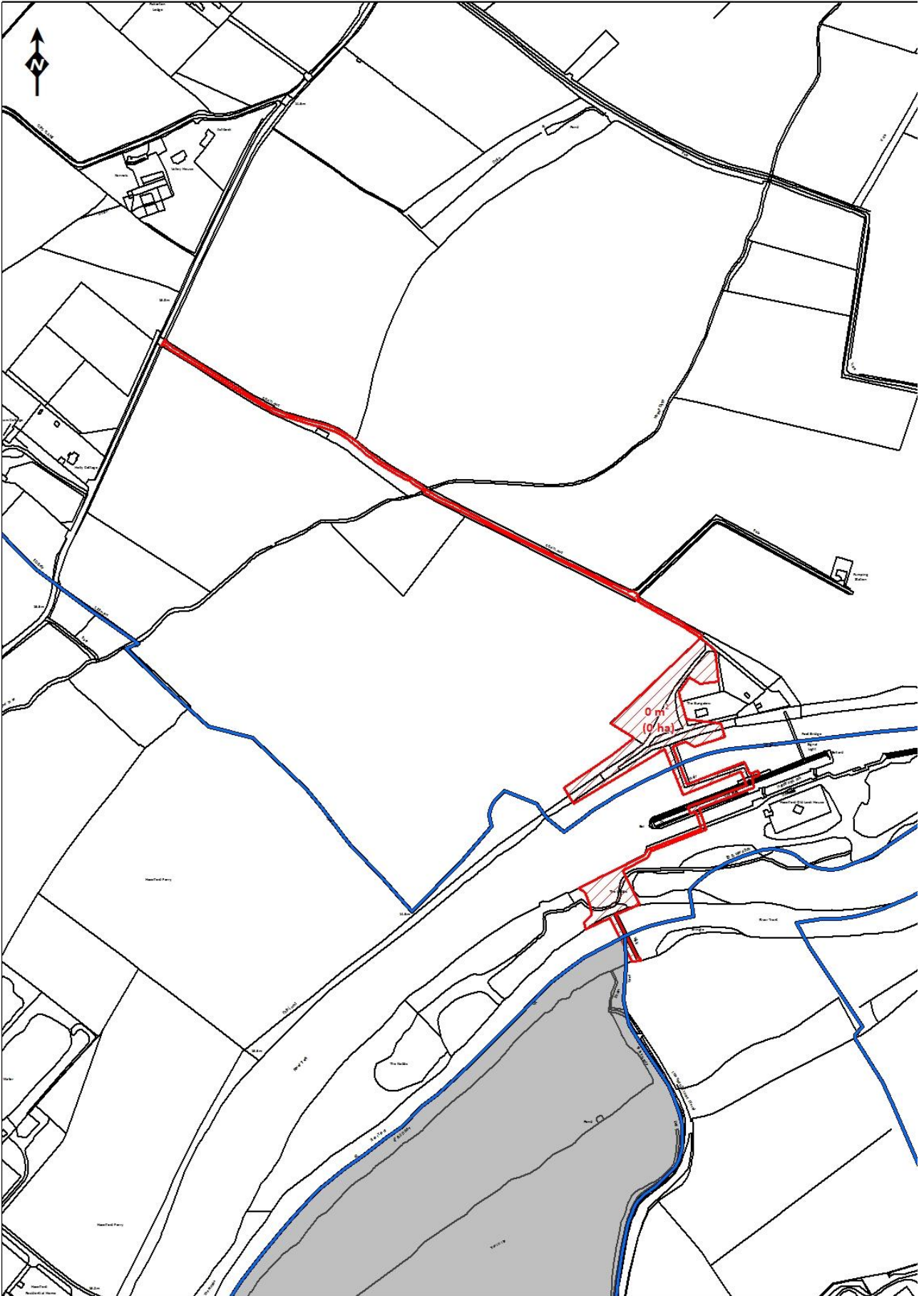
#### BACKGROUND PAPERS

Application case file.

For further information, please contact Bev Pearson on ext 5840.

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

**Matt Lamb**  
**Business Manager – Growth and Regeneration**



**TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND & WALES) REGULATIONS 2017 (“the Regulations”)**

**SCREENING OPINION (18/SCR/00014)**

**Proposal:** Hydroelectric generation plant and associated infrastructure including Kaplan turbine, adjustable weir crests, new multi-species fish passes, turbine house building, hydraulic channels, screening, crane pad, electrical substation and underground cabling.

**Site: Hazelford Weir Hazelford Lock Bleasby Nottinghamshire.**

**A. Is the development listed in Schedule 1 of the Regulations? No**

**B. Is the development listed in Schedule 2 of the Regulations? If so, which description in column 1 of the table in paragraph 2 of Schedule 2 of the Regulations applies?**

Yes

The development falls within:-

Schedule 2, Part 3a (Industrial installations of the production of electricity, steam and hot water).

Schedule 2, Part 3h (Installations for hydroelectric energy production) of Schedule 2 apply to the proposed development.

**C. Is the development in a ‘sensitive area’ as defined in Regulation 2?**

No

The closest sensitive area is a Scheduled Monument, which is located circa 1300m downstream on the right bank of the river

**D. Does the development meet any of the relevant thresholds and criteria in Schedule 2 of the Regulations?**

Yes

In relation to Schedule 2 Part 3(a) the area of development exceeds 0.5h

In relation to Schedule 2 Part 3(h) the installation is designed to produce more than 0.5 Megawatts of power.

**E. Taking into account such of the selection criteria in Schedule 3 of the Regulations as are relevant to the development , is this ‘Schedule 2 development’ likely to have significant effects on the environment?**

The selection criteria in Schedule 3 of the regulations and the Council’s comments on those criteria are set out below:

## **1. Characteristics of Development**

### **(a) the size of the development;**

No. Excluding the existing access lane, this is a considered a small scale development in terms of the actual developable area.

The largest component of the scheme is the hydropower station and associated equipment. This falls within Landscape Character Zone TW 52 Thurgaton River Meadow Lands. It considered that the proposal will not have a significant impact on the landscape as a resource. Nor will it have a significant visual impact.

The hydropower station, substation and associated equipment will be seen in conjunction with the existing infrastructure of the weir and lock and the existing Bungalow. It will be accommodated by and not be out of character or scale with the existing landscape nor significantly visually intrusive.

### **(b) Cumulative and combined impact**

There are no existing or approved developments in the vicinity within the meaning of Schedule 3 paragraph 3(g) that would, taken together with the proposed development and the existing weir and lock infrastructure, be likely to have a significant effect on the environment.

### **(c) the use of natural resources;**

The scheme will generate and store a source of renewable energy utilising the existing watercourse of Hazelford Weir. The hydropower station will sustainably provide up to 999 Kw of carbon free electricity using the natural resources of the River Trent, and is expected to power an average of 1,540 UK households. These are material environmental benefits.

### **(d) the production of waste;**

Not relevant

### **(e) Pollution and nuisances;**

The scheme will not pollute or otherwise give rise to nuisance that is likely to have a significant effect on the environment. A potential source of pollution is riverine noise and vibration affecting fish. However, relevant professionals have advised the Local Planning Authority that the noise generated by the turbine is likely to be lower than background noise levels. Therefore noise is unlikely to have a significant impact upon the fish population

The Council has considered whether building operations might have a significant effect on the environment. It has concluded that provided works take place in accordance with the Initial Method Statement and details of construction traffic deposited together mitigation measures which can be secured, such effects are very unlikely to occur.

**(f) the risk of accidents, having regard in particular to substances or technologies used.**

The risk of accidents associated with the scheme is not judged likely to give rise to significant environmental effects.

**(g) risks to human health**

It is not considered likely that there will be any risks to human health resulting from the development, specifically through air pollution, water contamination or an increased risk of flooding that would be more than of local importance.

## **2. Location of development**

**The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to—**

**(a) the existing land use;**

The existing land use is weirs along the River Trent adjacent Hazelford Lock and adjacent riverbanks. Neither lock nor weirs are defined as sensitive within the Regulations nor sensitive in any other way. The development would not have a significant impact upon the appearance of the site nor surrounding area.

**(b) the relative abundance, quality and regenerative capacity of natural resources in the area; .**

The scheme's potential impact on hydrology and water resources have been considered in the Fisheries and Geomorphology Assessments and Water Framework Directive Compliance Report. This indicates the scheme's use of water resources is unlikely to have a significant effect on the environment.

**(c) the absorption capacity of the natural environment, paying particular attention to the following areas—**

**(i) wetlands, riparian areas, river mouths;** The scheme is capable of being absorbed into the local riverine environment without giving rise to any significant effect on the environment.

**(ii) coastal zones;** Not relevant

**(iii) mountain and forest areas;** Not relevant

**(iv) nature reserves and parks;** Not relevant

**(v) areas classified or protected under Member States' legislation; areas designated by Member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;** Not relevant

**(vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;** Not relevant

**(vii) densely populated areas;** Not relevant

**(viii) landscapes of historical, cultural or archaeological significance.**

The proposed development is unlikely to have a significant environmental impact upon the identified historical or archaeological assets within the development site nor wider vicinity. Relevant professionals have advised the Council that it is unlikely that there are any surviving archaeological deposits that the proposal could impact. It is not considered likely that the scheme will have a significant environmental impact upon historical, cultural or archaeological assets.

There would be no impact on any statutory heritage designations, including Scheduled Monuments, Listed Buildings and Conservation Areas.

### **3. Characteristics of the potential impact**

**The likely significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to—**

**(a) the extent of the impact (geographical area and size of the affected population);**

**(b) the nature of the impact;**

**(c) the transboundary nature of the impact;**

**(d) the intensity and complexity of the impact;**

**(e) the probability of the impact;**

**(f) the duration, frequency and reversibility of the impact;**

**(g) the cumulative impact with other existing/approved development;**

**(h) the possibility of effectively reducing the impact**

#### **Summary in respect of paragraph 3(a) –(h)**

It is unlikely that the proposal will have a significant effect upon the environment. Therefore that the development does not constitute EIA development requiring a further Environmental Statement. Following the advice of AECOM, Natural England, the Environment Agency and Nottinghamshire County Council Archaeologist it is considered that the scheme will have a permanent but not a significant impact upon the receptors identified within Schedule 3 of the Regulations. Any identified environmental impacts are only anticipated to be

insignificant, localised, with ecological enhancements expected to result from the proposal further upstream.

It is not considered that there will be a significant environmental impact with regard to the historical or archaeological receptors within the vicinity of the site, nor on identified landscape receptors beyond the short-term construction phase.

The ecological impact (in terms of its extent, nature, and complexity) will not give rise to unacceptably permanent adverse environmental impacts on either the watercourse, habitats or protected species, both localised and in the wider vicinity. The scheme has incorporated identified ecological enhancements, including the betterment of upstream fish passage and habitat enhancements of benefit for the long-term management of this sensitive receptor.

The Council has received and relies on expert reports on the effect of the scheme on fish population. It is acknowledged that the proposal will affect the local weir pool hydrology and geomorphology and fish passage at Hazelford Weir. However, the development is not judged likely to have a significant effect on the environment (and upon the Humber Lamphrey population in particular). Indeed, when the fish passage has been installed it is likely to benefit the resident fish population.

The impacts upon the environment are anticipated to bring about lasting but localised beneficial changes. The proposed infrastructure is a source of carbon-free renewable energy generation which lends itself to being located alongside the existing weir, which in itself currently acts as an ineffective ecological barrier to upstream fish passage.

Impacts upon biodiversity through the necessary removal of trees and other vegetation both up and downstream of the development area are to be compensated for by planting upon completion of the development, and those trees which are to be retained appropriately protected throughout the construction phase.

No permanent significant environmental impacts are anticipated in relation to noise, pollution or nuisance. Short-term construction operations are to be managed in a way as to reduce the impact upon the environment as much as is practicable.

The Local Planning Authority has considered the potential significant impacts of development in relation to the criteria set out above having regard to the extent of the impact. It is concluded that the effects are not significant enough to require the submission of an Environmental Impact Assessment.

**Conclusion:** On the basis of the submitted information and the advice of relevant professionals, it is considered that the development required a Screening Opinion to be produced, on account of the development exceeding the thresholds as details within Schedule 2 Part 3(a), 3(h) and 10(f). The Local Planning Authority does not consider that there will be significant impacts on the environment when assessed against the criteria



set out in Schedule 3 sufficient to trigger a requirement for an EIA Environmental Statement being produced.

*Bev Pearson.*

**Officer:**

**Date:** 18th March 2019

*Clare Walker*

**Signed by**

pp. Matt Lamb  
Business Manager – Development

## External Memo: technical note

To	Bev Pearson, Newark and Sherwood DC
From	Neil Davidson CMLI CEnv CIEEM, Lepus Consulting
Subject	Habitats Regulations Assessment record of the Appropriate Assessment
Code	LC-506 Hazelford Lock
Date	14 <sup>th</sup> March 2019
CC	-



### Summary

*This note is a record of the Appropriate Assessment process followed by Newark and Sherwood District Council for a proposed HEP scheme at Hazelford Weir, Nottinghamshire. The assessment concludes that the scheme will have no adverse effect on the integrity of any European site, either alone or in-combination with any other plan or project. Monitoring measures are recommended in this note.*

### Introduction to the Habitats Regulations Assessment (HRA)

1. The HRA relates to a planning application for full planning consent of a hydropower scheme, adjustable weir crest and associated infrastructure at Hazelford Weir, Nottinghamshire. It has been prepared in accordance with the Conservation of Habitats and Species Regulations 2017 (SI 1012) commonly referred to as 'the Habitats Regulations'.

### Summary of the conclusion of the assessment

2. The assessment concludes that the scheme will have no adverse effect on the integrity of any European site, either alone or in-combination with any other plan or project.

### Information used for the assessment

3. The Shadow HRA submitted by the applicant dated March 2019.

### **The screening of the project**

4. The project identified the Humber Estuary SAC and likely significant effects on some of its qualifying features, namely sea and river lamprey, as the trigger for HRA. See Shadow HRA submitted by the applicant dated March 2019.

### **Mitigation measures**

5. See Shadow HRA submitted by the applicant dated March 2019.

### **Appropriate assessment**

6. See Shadow HRA submitted by the applicant dated March 2019.

### **Further mitigation measures**

7. Lamprey larvae (Ammocoetes) typically drift downstream in spring, within a few days of hatching and prefer low velocity sites (~0.2 ms<sup>-1</sup>), shallow depths (30 – 300 mm) and a sand or silt based substrate with a high organic content (Hardisty & Potter, 1971 from Maitland, 2003). As ammocoetes settle in soft sediments for long periods (can be for several years), there is a possibility that they may be within excavated material. To mitigate the impact of ammocoetes that have already settled in the sediment, the first 50cm depth of sediment excavated should be hand searched for ammocoetes. This could simply involve the presence of a fisheries biologist sieving sediment, removing ammocoetes and reintroducing them back into the river. Precise details should be agreed with the applicant's fisheries ecologist.

### **Integrity test**

8. It is considered that the planning application and submitted information allows Newark and Sherwood to ascertain that the scheme will have no adverse effect on the integrity of any European site, either alone or in combination with any other plan or project. In making that decision as

the competent authority, Newark and Sherwood has taken account of the potential of the planning application proposals to contribute to cumulative effects when compared to other plans and projects. See Shadow HRA submitted by the applicant dated March 2019 for more details.

9. Natural England have been consulted on the scheme proposals and do not object to the scheme (see letter dated 12<sup>th</sup> March 2019 from Ros Deeming).

### **Assumptions and limitations**

10. See Shadow HRA submitted by the applicant dated March 2019.
11. The applicant has made an informed assumption as part of the conclusions in the Shadow HRA and addendum (dated 12<sup>th</sup> March 2019), that *'the downstream migration route for Lamprey ammocoetes will be maintained during construction works by constructing the adjustable weir section by section and part of the channel will have flow over the weir crest at all times'*.
12. To confirm that this is in fact the case, water samples should be taken in the spring time to confirm that ammocoetes are passing safely through the weir. Numbers and ammocoete condition should be recorded. Precise details should be agreed with the applicant's fisheries ecologist.
13. Besides the focus on ammocoetes, given that the HRA relies in part on mitigation, e.g. the new fish pass, to overcome identified adverse effects, it would be prudent to consider conditioning any consent with the requirement to monitor lamprey populations in and around the location of the weir, including impacts of the HEP scheme before and after construction and operation. In other words, as soon as consent is given. And the monitoring condition ought to consider whether operations be reviewed if significant adverse effects are identified on river and sea lampreys or their habitat as a consequence of operation.

### **References and reports**

- The Habitats Regulations Assessment Handbook (2013, as updated) DTA Publications.
- Hazelford Weir: Shadow Habitats Regulations Assessment Final Report (2019) Version 3. JBA Consulting. March 2019.
- Addendum to the Shadow HRA, Note to File (12<sup>th</sup> March 2019). JBA Consulting.
- Letter from Natural England dated 12<sup>th</sup> March 2019.

**- End of note -**

## PLANNING COMMITTEE – 26 MARCH 2019

<b>Application No:</b>	<b>18/01902/FUL</b>	
<b>Proposal:</b>	<b>Change of use to a glassblowing studio with internal alterations.</b>	
<b>Location:</b>	<b>St Nicholas's Church, Newark Rd, Hockerton, Nottinghamshire</b>	
<b>Applicant:</b>	<b>Miss Ingrid Pears</b>	
<b>Registered:</b>	<b>08.11.2018</b>	<b>Target Date: 03.01.2019</b>

**This application is before the Planning Committee for determination given that the professional officer recommendation differs from the views of the Highways Authority. In any event, given the difficult balance that needs to be struck between safeguarding the longevity of a Grade II\* listed building and the highway impacts it is considered appropriate for the Committee to determine this scheme regardless of the recommendation.**

### The Site

The site is located within the main built up area of Hockerton and accommodates the former St Nicholas's church, a Grade II\* listed building set in grounds limited to the existing church yard. There is no parking area around the church and the site only comprises of the building and graveyard.

To the north is The Old Rectory with Manor Farm, Rectory Barn and the recent development of other residential properties to the south and west.

Church Lane is located to the west of the site which serves the new residential development at Manor Farm and where access is gained to the Church. This is a no-through road.

The site is raised from Church Lane by approximately 1.5m and is therefore significantly elevated from the surrounding area. The boundary is defined by a traditional red brick boundary retaining wall which links the site round to the A617.

### Relevant Planning History

18/01903/LBC - Internal alterations to include creating a mezzanine office, spiral staircase, and disabled toilet – Pending consideration.

### The Proposal

The application is for a change of use to a glass blowing studio, with internal alterations. The proposals include external works to the fabric of the building, internal works including the provision of an enhanced electrical power cable, potable water, internet and means of foul water disposal. The proposal is for the building to be used and visited by patrons and artisans in connection with glass blowing to work on commissions, educate and to allow observing of the

glass blowing by the public. The provision of a toilet, kitchen and office would be provided in the tower and adjacent area in the north-west of the nave. The glass blowing and work areas would be located in the chancel. The vertical tower space would be divided vertically by forming a mezzanine level with an office above for the sole use of the proprietor with a services/utility area below containing some storage. A spiral staircase would facilitate access to the mezzanine.

The following has been submitted with the application:

Location Plan  
Site Plan 1:100  
Mezzanine Office Details 1:20  
Floor Plan Sections 1:50  
Site Plan 1:100  
Stove and Flue Pipe Details  
Photographs  
Structural Engineers Report  
Schedule of Works  
Explanatory Note Mission and Pastoral Measure 2011  
Heritage Impact Assessment  
Design and Access Statement

#### Departure/Public Advertisement Procedure

Occupiers of eight properties have been individually notified by letter, a site notice posted and a press notice published.

#### **Planning Policy Framework**

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

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

Spatial Policy 1 Settlement Hierarchy  
Spatial Policy 3 Rural Areas  
Spatial Policy 7 Sustainable Transport  
Spatial Policy 8 Protecting & Promoting Leisure & Community Facilities  
Core Policy 6 Shaping Our Employment Profile  
Core Policy 7 Tourism Development  
Core Policy 9 Sustainable Design  
Core Policy 14 Historic Environment

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

Policy DM5 Design  
Policy DM9 Protecting and Enhancing the Historic Environment  
Policy DM12 Presumption in Favour of Sustainable Development

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

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014

## Consultations

**Hockerton Parish Council:** No comments received

**Historic England:** The medieval Church of St Nicholas, Hockerton is listed at Grade II\* placing it within approximately the top 8% of listed buildings in the country. It has phases of building from the C12, C13 and C14 and was restored in 1876 by Hodgson Fowler. The church consists of tower, aisleless nave and chancel and has a small south porch. Various interior fixtures, fittings and furniture survive including the font, pews - some of which have C16 bench ends, and memorial plaques dating from the C18. The church has since ceased use as a place of worship and has been redundant since 2014.

The proposal is for the change of use and conversion of the church to a glass-blowing studio. The conversion entails the horizontal sub-division of the tower along with the insertion of a mezzanine floor. A utilities area is proposed in the base of the tower; with the insertion of a pod containing a WC on the northeast return wall of the tower. The mezzanine will accommodate a small office area that will be accessed via a proposed spiral stair. The actual glass studio space is proposed in the chancel, where installation of a free-standing wood-burning stove is also proposed.

We believe that the proposed new use of the building as a glass studio would be compatible with its form and fabric, and is a use that is consistent with its conservation. We therefore have no objection in principle to this proposal. We note that the proposed scheme seeks to preserve much of the historic plan-form and spatial qualities of the church, and making efficient use of the tower seems a sensible and logical approach. However, we have some concerns and wish to suggest some revisions that we believe would help to further reduce the impact to significance of the heritage asset.

If the proposed WC was instead to be inserted into the base of the tower, and a more low-key utilities area - by way of discrete, free-standing units placed along the north wall that read as pieces of ecclesiastical furniture, with sink/ draining board that could be concealed beneath a neat fold-down worktop when not in use, the overall visual impact would be significantly reduced. This is the usual approach that we have taken with churches that have proposed similar schemes of reordering, and one that we have found to be successful in both heritage and operational terms. Also, the spiral stair could be moved further into the nave, which would allow some 'breathing space' between the stair and the wall and window.

**NSDC Conservation:** St Nicholas' Church is a Grade II\* listed building. To the northeast is the associated former rectory, a non-designated heritage asset. In the wider area, Bank Cottages to the north are Grade II listed, and Manor Farmhouse and associated former barns to the south are all Grade II listed.

The church appears has been formally closed and no longer in ecclesiastical use. As such, the building no longer benefits from ecclesiastic exemption from listed building control.

Conservation provided pre-application advice on this proposal in 2017 (ref PREAPP/00236/17). The proposal submitted is consistent with those discussions.

### Significance of heritage asset(s)

The Church of St Nicholas was designated in August 1961. The list entry advises: "Parish church. C12, C13, C14, restored 1876 by Hodgson Fowler. Ashlar. Plain tile roofs with decorative ridge.



Chancel, nave and porch with coped gables and single decorative ridge crosses. Tower, nave, south porch and chancel. Embattled diagonally buttressed tower of 2 stages with bands, upper stage C14, set on a chamfered plinth with moulded band over. Single worn gargoyle on each side. West side has a moulded arched doorway with hood mould and decorative label stops. Above is a single restored C14 arched 3 light window with cusped panel tracery, hood mould and human head label stops. Above is a single small blocked trefoil arched opening. There are 4 arched C14 bell chamber openings each with 2 arched and cusped lights. The west side has a single and the south side 2 rectangular lights. The north nave is set on a shallow chamfered plinth, the western most side with a moulded band continuing from the tower. Blocked moulded arched doorway with hood mould and label stops. Above and to the right is a single pointed arched light. To the left is a single C14 3 light window with arched and cusped lights under a flat arch with hood mould and human head label stops. The chancel is set on a chamfered plinth and has in the north wall a blocked arched doorway with hood mould and to the left a single C14 window with 3 arched and cusped lights under a flat arch. The east chancel has a single C14 window with 3 arched and cusped lights, mouchettes, flat arch, hood mould and label stops over is a flush relieving arch. To the right is a carved C14 grotesque head. The buttressed south chancel has a single restored window with 3 arched and cusped lights and tracery under a flat arch. The dressed coursed rubble south nave is set on a low ashlar plinth and is buttressed to the right. Single restored C14 window with 3 arched and cusped lights, tracery and flat arch. To the left is a single small chamfered arched C12 light. The porch is set on a chamfered plinth and has an arched entrance with hood mould and impost bands. The side walls each have single small arched lights. Inner Caernarvon arched doorway with stoup in the east wall and decorative wooden bench end inscribed "O M 1599". To the left of the porch is a single C13 lancet with hood mould. Interior. Double chamfered tower arch, chamfering to arch only. Unmoulded C12 chancel arch. The south chancel has an arched recess with hood mould and label stops, and inner worn decoratively carved C14 niche, probably the remains of an Easter Sepulchre. Restored C16 alms box. Some bench ends C16 decorated with carved indents with C19 replicas, font and remaining furniture C19. In the north chancel is an oval marble plaque to John Augustine Finch, 1780. The memorial to John Whetham, 1781, has an oval inscription plaque with fluted brackets supporting an entablature surmounted by a decorative urn with shroud draped over. The apron has a decorative shield. In the tower is a board detailing "Donation To The Poor of Hockerton" dated 1832." The building fabric dates principally from the 12th to the 15th century with some later alterations and phases (notably Fowler's restoration in 1876). The majority of the medieval fabric remains throughout. The chancel arch and south wall of the nave appear to be at least 12th century, whilst the tower is 14th with 15th century alterations. The churchyard is rectangular in shape with the church offset into the north-west corner. There are burials on all sides except the north where the boundary of the former rectory abounds the Church. Unsurprisingly, the potential for the survival of below-ground archaeology in the churchyard is considered to be high. Similarly, the potential for medieval and post-medieval interest below ground within the building interior is high to very high, and the stratigraphy is likely to be punctuated by burials.

#### Condition of building

The building is identified on the national heritage at risk Register (Historic England): "The church is in very bad condition. Previous historic movement is evident to the stonework, and it is possible this is still ongoing. Rainwater goods are defective and choked with vegetation and detritus. There are numerous slipped and missing slates to pitched roofs and some ridge tiles are loose. Mature trees in close proximity to the north elevations have branches brushing against roof coverings." The County Council Heritage Team has also surveyed the building and have noted: "Guttering damaged in all locations and full of vegetation. East chancel wall severe subsidence crack. West door - stone eroded. Vegetation growing from buttress on S. side of nave. S porch gutter failed

and causing deterioration of stone on west side of porch. Very overgrown to the north side of the church causing shade, walls here covered in algae and ivy. Moss to north inside of chancel roof. In a very sorry looking state.”

### Assessment of proposals

The proposal seeks to change the use of the Church to a glass-blowing studio with various associated works. Alterations to the interior of the building include a mezzanine floor running into the tower with a spiral staircase, window screens, new toilet facilities, kitchen/office area, seating area and glass blowing workshop space. Additional basic works also include utility, plumbing and electrical improvements. Externally, renovations to the existing steps are planned, along with significant restoration works to the building fabric and the installation of flues associated with the change of use.

We consider the change of use to be compatible with the fabric of the listed church. The internal works have been well-considered and broadly sustain the open qualities of the plan-form. The interventions are not unduly prominent and the legibility of the church is retained. The new use will help sustain the long-term future of the listed building. The repairs to the building fabric are welcomed, and we concur with the strategies proposed to address masonry defects and fabric maintenance.

Overall, we are content with the details submitted, and consider that the proposed alterations and change of use will cause no harm to the special interest of the listed building. The proposal causes no harm to any other heritage assets. The proposal therefore accords with the objective of preservation required under sections 16 and 66 of the Act, as well as heritage policies contained within the Council’s LDF DPDs and section 16 of the NPPF.

If approved, in accordance with the expert archaeological advice from Louise Jennings, a scheme for historic building recording should be agreed in addition to the Written Scheme of Investigation. An updated schedule of works which reflects the WSI, as well as general repairs and renovations, should also be agreed on the listed building consent only prior to commencement to ensure that the precise extent, method and specification of works to the listed building is clear (some of the assumptions made in the proposal are based upon visual inspection and may require refinement as the project evolves). In addition, further details of the window screens and external flue (including finish preference for black metal) should be agreed. Any other external accretions (if applicable) should also be agreed.

**Access and Equalities Officer:** It is recommended that the developer’s attention is drawn to Approved Document M and K of the Building Regulations, which are available online. Inclusive access to, into and around the proposal should be considered together with available facilities designed so as to be equally convenient to access and use.

It is recommended that the developer be advised to make separate enquiry regarding Building Regulations requirements and be mindful of the provisions of the Equality Act.

**Environmental Health:** No objections

**LCC Archaeology:** Any alterations and groundworks associated with this development are likely to disturb historic fabric and archaeological remains. I recommend that the building undergo historic building recording to record the present layout of the church before alterations are made. In addition, a scheme of monitoring and recording should be undertaken on all groundworks.

Recommend prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction. Initially I envisage that this would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features, and recording of the building prior to alteration.

'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) publicly accessible.' Policy 199 National Planning Policy Framework (2018)'. A brief will be produced by this department which will lay out the details above, and the specification for the work should be approved by this department prior to the commencement of works. Please ask the developer to contact this office for further details.

**NCC Highways: 27.02.2019 – Object:**

'It is understood there are no specific visitor times for this facility and the number of visitors at one time cannot be confirmed. Also, as stated in my previous comments, there is no parking provision for employees or visitors.

The concern is that this proposal could result in considerable on street parking in the vicinity of the church. Therefore, it is recommended that this application be refused for the following reason:

The proposed development fails to make adequate provision for the parking of vehicles within the site curtilage resulting in an increase in the likelihood of danger to other users of the highway due to the likelihood of vehicles being parked on the public highway, to the detriment of highway safety.'

**Previous comments** received on 17.12.2019 'This proposal is for the change of use of the former church building to a glassblowing studio. The information submitted states the proposed studio will be used for demonstrations, educational purposes and visits from tourists. The application form indicates that 2 full time and 3 part time employees are proposed.

The concern is that there are no parking facilities provided for this use for either employees or visitors. Could more information be submitted i.e. is this use a seasonal use and/or only open specific days at specific hours, and the maximum number of visitors that can be accommodated at one time.'

**Two letters of representations have been received from local residents or other interested parties objecting on the following grounds;**

- not clear as the nature of business operations,
- no indication of opening hours,
- new flue so EIA needed due to commercial nature,
- no parking provision,
- unsuitability and detrimental impact on Church Lane,
- previous church use had a car park which has now been built on with 8 houses, also using

- Church Lane;
- no turning,
  - no room for emergency vehicles
  - no contact from applicant with local community.

### Comments of the Business Manager

#### Principle of Development

The policy context is as follows. Policy SP3 supports local services in rural communities and supports tourism and rural diversification. Policy SP8 supports the provision of enhanced community/leisure facilities and states that the loss of facilities will not be supported unless it is demonstrated the continued use is not feasible and sufficient alternative provision has been made elsewhere. Policy CP6 supports the provision of new employment and encourages tourist development. Policy CP7 supports tourism and visitor-based development where appropriate to the settlement and includes supporting the re-use of buildings.

The proposal comprises the change of use of the building from a place of worship to a glass blowing studio. The church was closed to public worship in 2014 as the congregation numbered dwindled to three and remained at this for some time. The community of Hockerton were unable to raise monies for essential repairs and funding bids for grants were unsuccessful. This closure followed the Church Commissioners and the Deanery concluding in 2009 that keeping the church open for worship was unsustainable. It was noted in making this decision that Kirklington St Swithin and Winkburn St John of Jerusalem churches are located within 0.5 and 2 miles respectively to provide sufficient alternative provision for worship in the area. The building as a place of worship has therefore been deconsecrated and no longer benefits from ecclesiastical exemption for repairs and renovations and as such listed building consent is required for such works. An associated listed building application is currently being considered alongside this full planning application.

From the information provided it has been established that the church was no longer required and has been closed since 2014 with nearby churches offering alternative places for worship. I am therefore satisfied that the continued use as a church is no longer feasible that and there are sufficient provision elsewhere in accordance with SP8.

The applicant proposes to use the site as her studio to work on commissions and larger projects away from her main studio at Thoresby Hall Courtyard. However due to the nature of her work, visitors would still be welcome to the site and these would be encouraged by appointment mainly or at designated periods. The proposed use would generate new employment of 2 full time and 3 part time employees as well as sporadic visitors. It would also seek to bring back in to use a Grade II\* Listed building which is currently on the Heritage at Risk Register and is susceptible to further degrading in condition should a suitable use not be found.

It is considered that the principle of conversion with regard to its location and the use of building can be supported and complies with the policies stated above. Nonetheless the local planning authority should have due regard to other material considerations which are outlined in the following sections.

### Impact on heritage assets and design

Policy DM5 of the ADMDPD refers to the visual impact of development and the need to reinforce local distinctiveness. Policy CP9 of the Core Strategy seeks to achieve a high standard of design. CP14 seeks to secure the continued conservation and enhancement to the districts heritage assets which are mirrored by Policy DM9. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. It also states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they are enjoyed for their contribution to the quality of life of existing and future generations.

The NPPF in paragraph 192 states that in determining applications, LPAs should take in to account three considerations, one of which is the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Paragraph 193 of the same document states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The proposals would have little impact on the external appearance of the building other than implementing a schedule of works to sympathetically upgrade the building and to carry out necessary repairs. The proposal seeks to re-use the building which would secure the long-term use of the historic building and would include appropriate works to repair and safeguard the building. The specific details of the conversion, beyond repairs, are limited to internal works which are assessed more fully in the associated listed building application (18/01903/LBC).

As can be seen from the consultation section above, Historic England has suggested that they have some concerns and that the internal alternations could be done differently to further reduce the impact on the heritage asset and have helpfully made some suggestions as to how this could be done. Whilst these concerns are noted, the Council's Conservation Officer does not share the same concerns. They concur that the use would be compatible with the fabric of the building but that the internal layout has been well-considered and broadly sustain the open qualities of the plan-form. The interventions are not unduly prominent and the legibility of the church is retained. Therefore in considering the impact of the development it is necessary to weigh up the harm) if any id identified) caused by the proposed alterations against the benefits the scheme will deliver.

The building is a vacant former church which is on the heritage at risk register and is Grade II\* listed. There is no dispute that the proposed use will work within the existing fabric of the building however the alterations requested by Historic England I consider, are not fundamental to the acceptability of the application. I agree with the Council's Conservation Officer in that the proposal causes no harm to the significance of the Listed Building and the alterations suggested by Historic England would only seek to undertake the matters in a different way rather than negate any harm. Having put these suggested alterations to the applicant they are equally reluctant to make them as they do not consider it necessary. Historic England have not stated that without such alterations the proposal would cause harm in any way just that the "overall visual impact would be reduced". I therefore consider that in balancing the impact of the proposal, it is acceptable.

I therefore consider that the proposal would result in no harm upon the significance of the listed building and would have no detrimental impact upon the special architectural or historical interest

of the building. The proposal would therefore accord with Core Policy 14 of the Core Strategy and policy DM9 of the ADMDPD as well as the NPPF (2019).

The design of the external elevations of the building would be largely unchanged albeit apart from a new flue on the north elevation. The building requires some repair to which a report has been submitted however these would benefit the longevity of the building and would not prejudice the visual amenity of the building or the resulting design. As such I consider that the resulting appearance of the building would reinforce local distinctiveness and would accord with policy DM5 of the ADMDPD.

#### Impact on Neighbouring Amenity

Policy DM5 refers to residential amenity and states that proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. CP9 also require uses to remain compatible.

When considering the impact of the proposed use it is pertinent to note that the historic use of the building as a place of worship would have led to a number of visitors to the premises for weddings, funerals, christenings etc.; at times more frequent than are likely to visit the glass blowing business.

The site shares an existing vehicular access as do other residential properties on Church Lane. However the church is relatively separated from neighbouring properties and the proposed use would be confined to inside the building. The only likely noise generation would be limited noise from visitors arriving/leaving but this would not be at a harmful level and is unlikely to be excessive and frequent.

It is noted that comments have been received with regard to the presence of a flue and the likely impact from such an activity. Having consulted with the Council's Environmental Health Officer they raise no objections to the proposal. I therefore do not consider the proposal to cause a detrimental impact upon neighbour amenity from the activity proposed.

As such, it is considered the proposed use is compatible with its surroundings in terms of safeguarding the residential amenities of neighbouring properties and complies with policy DM5 and CP9 of the Development Plan.

#### Parking and Impacts on Highway Safety

Policy SP7 seeks to ensure development does not create new or exacerbate any existing on street parking and Policy DM5 states parking provision should be appropriate and adequate access provided. The NPPF (2019) states the development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (paragraph 109). In addition the NPPF states that applications should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles (paragraph 110).

The applicant has stated that the use would provide for 2 full time employees and 3 part time employees as well as generating visitors to the site as is the case at the applicant's other operation at Thoresby Hall Courtyard.

The proposal therefore has potential to generate some traffic and demand for parking. The site, due to the confined nature of the boundaries, does not have any parking provision and due to the small scale of the site, it does not have the ability to provide any parking. The access from Church Lane is also mainly limited to a single track with little space either side to accommodate parking which would not conflict with other users. Nottinghamshire County Council Highways have raised an objection on this basis and state that the concern is with no parking facilities there is likelihood that considerable on-street parking would be dispersed to the surrounding area which includes the A617, and would pose a danger to other users of the highway.

Conversely having taken this information on board it is also pertinent to mention that the previous use as a place of worship would at times, have generated a greater level of traffic and parking than the proposed use. Nonetheless this is a new visitor use which is being considered by the local planning authority with no guarantee on the number of visitors expected due to the nature of the facility. In addition with no designated places to park, it is likely that they would have to park on the highway which would potentially mean the unrestricted A617. In this regard the proposal would fail to accord with Spatial Policy 7 of the Core Strategy and Policy DM5 of the ADMDPD.

Members should also be aware that should this application not be successful, it could open up as a place of worship again or other such use falling within Use Class D1 (non-residential institution) which includes a day nursery, church hall, art gallery, under permitted development through the Use Classes Order, with no input or restriction from the local planning authority and indeed no parking provision.

It is accepted that due to the lack of parking provision and the lack of the ability to provide any parking within the site, the use could lead to an increase in the demand for parking in the area which would lead to on street parking which would be to the detriment of highway safety. However the use proposed is one of the least impactful uses that such a building could reasonably expect to secure, with two full time employees and 3 part time employees (presumably not all on site at the same time on a regular basis) plus the occasional visitor during the daytime. Conversion to a single dwelling for instance would likely require 3 parking spaces for a building of this size and cars would be parked on the highway during the evenings also. When looking at the realistic fallback position of using the building for other D1 uses which would not need any planning application I find that such uses would likely generate even more highway impacts.

### Overall Balance and Conclusions

This application requires a difficult balance to be struck between perceived highway harm and seeking to ensure the longevity of an important Grade II\* listed building, such that it is considered appropriate for this decision to be made by the Planning Committee. The proposal is indeed finely balanced and it is one which Officers have deliberated over due to the sensitive nature and the implications of any such decision.

In favour of the scheme, the proposal would provide for a compatible use within the fabric of the building and would seek to bring back into use a Grade II\* listed building which is also on the heritage at risk register without significant interventions in terms of external or internal alterations. Benefits also include that repairs would be carried out to the building supported by the Diocesan Office and the Council's own Conservation Officer, bringing the building back in to a viable use, providing employment (albeit limited number) and generating a small-scale visitor attraction which could benefit the local economy and allow members of the public to still enjoy its interior.

On the other hand it is acknowledged that the scheme would result in a potential highway conflict by not being able to provide for any off-street parking. The objection from NCC Highways Authority has not been taken lightly and it is rare for officers to recommend against their views given that highway safety is clearly of paramount importance.

However if determining that the scheme is unacceptable, there are a number of issues that the decision makers (Members in this case) need to take into account. Firstly, unless the church is to be demolished, a viable use needs to be found for the building. It is hard to foresee what use would have a lesser impact than the one proposed. For example uses falling within the same use class as the church (Class D1) would not need planning permission and therefore uses such as an art gallery or children's day nursery for example could be operated without further reference to the LPA. Even a single dwelling would require off-site parking provision for which there is none and would result in cars being parked on the roadside during the daytime and night-time which is also unlikely to be palatable to NCC Highways. Conversion to a dwelling would also likely require far more intervention to the fabric of the building to facilitate such a use. Secondly failure to secure a viable use for this Grade II \*listed building could result in the building having to be demolished for which planning permission is not required under Schedule 2 Part 11 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) subject to certain provisions.

I give great weight to the fallback position of a D1 use operating at the site and consider that this use is one that would have the least harm to highway safety. Taking all of the above matters into account, on a fine and difficult balance I conclude that this should tip the scheme towards an approval.

### **RECOMMENDATION**

Approve subject to the following conditions:

#### Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

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

02

The premises shall be used for glass blowing studio as detailed in the application submission and for no other purpose unless agreed through a separate planning application.

Reason: For the avoidance of doubt the use approved is considered to be sui generis (a use of its own) and therefore would need planning permission for any alternative use.



03

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

Location Plan  
Site Plan 1:100  
Mezzanine Office Details 1:20  
Floor Plan Sections 1:50  
Site Plan 1:100

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

Reason: So as to define this permission.

04

Prior to any internal groundwork taking place, a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) shall be submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented in the development.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the building.

05

No development shall take place within the building until the applicant or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted and approved in writing by the Local Planning Authority. The programme shall thereafter be carried out in accordance with the approved details, prior to the commencement of development, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

06

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken and retained for the lifetime of the development in accordance with the approved details.

Window screens

Rainwater goods

Extractor vents

Flues

Meter boxes

Airbricks

Soil and vent pipes

Reason: In order to safeguard the special architectural or historical appearance of the building and in the interests of the character and appearance of the area.

#### Notes to Applicant

01

With regard to Condition 5 above, it is envisaged that this would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features, and recording of the building prior to alteration.

02

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

03

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

04

The scheme also requires listed building consent and should be read in conjunction with listed building decision 18/01903/LBC.

#### BACKGROUND PAPERS

Application case file.

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

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

**Matt Lamb**  
**Director of Growth and Regeneration**

Committee Plan - 18/01902/FUL



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## PLANNING COMMITTEE – 26 MARCH 2019

<b>Application No:</b>	<b>19/00124/FUL</b>		
<b>Proposal:</b>	<b>Proposed erection of double garage/annexe building (resubmission of application no. 17/02136/FUL)</b>		
<b>Location:</b>	<b>7 Landseer Road, Southwell, NG25 0LX</b>		
<b>Applicant:</b>	<b>Mr And Mrs Colin Tilley</b>		
<b>Registered:</b>	<b>25.01.2019</b>	<b>Target Date:</b>	<b>22.03.2019</b>
	<b>Extension of time agreed until 03.04.2019</b>		

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

### The Site

The application relates to a two storey detached property with cream painted brick frontage situated within the main built up area of Southwell. The property has been historically extended to the rear with a flat roofed two storey projection. There is an existing single storey detached garage situated to the south side of the property set back from the public highway by approximately 4m. There is a generous sized west facing garden to the rear with a minimum depth of 17m enclosed by timber fencing panels to the west and north boundaries and hedgerow to the south boundary.

To the north is a row of traditional red brick terraced properties and to the south is a pair of mid C20 semi-detached properties.

The Southwell Conservation Area lies adjacent to the site to the western (rear) boundary of the garden but the site itself is not within it.

### Relevant Planning History

**17/02136/FUL** - Proposed erection of double garage/annexe building – REFUSED for the following reasons:

01

*In the opinion of the Local Planning Authority, the proposed building by way of its siting, scale and design fails to respond to the built character of the existing street scene and represents an alien, obtrusive form of development that is incongruous within its surrounding context. The design and scale of the building would not appear as subservient to the host property and would appear visually at odds due to its roof design and its set back position from Landseer Road. As such, as an independent dwelling, the proposal would fail to accord with policy DM5 (Design) of the Newark & Sherwood Allocations and Development Management DPD, Policy DH1 (Sense of Place) of the*

*Southwell Neighbourhood Plan and the NPPF, a material consideration. As an ancillary annexe the proposal would also be contrary to Policy DM6 for the same reasons.*

02

*In the opinion of the Local Planning Authority the proposed building by way of its scale and siting would result in an unacceptable degree of overbearing impact and resulting loss of light to the garden area of occupiers of No. 5 Landseer Road to the south. Furthermore, the proposed structure would result in a degree of overlooking and perception of overlooking of residential private garden areas of Nos. 5 & 9 Landseer Road located to the south and north of the application site respectively. The proposal would as an independent dwelling, fail to accord with Policy DM5 (Design) of the Allocation and Development Management DPD and the NPPF, a material consideration. As an ancillary annexe the proposal would also be contrary to Policy DM6 for the same reasons.*

**17/01602/FUL** - Householder application for proposed replacement of existing flat roof to pitched roof including the replacement of existing pitched roof surface to pantiles and removal of chimney stub. Granted Permission October 2017

### The Proposal

The application is a resubmission of a previously refused application, ref 17/02136/FUL, for the erection of a double garage/annexe building situated to the side of 7 Landseer Road in place of a single garage.

The building would measure approximately 11.9m in depth, 5.6m in width, 5.15m to the ridge and 2.85m to the eaves. It would have a pitched a roof with a gable fronting the road. There would be 2no. garage doors to the front and a decorative circular window to each gable. It would be built in red brick and the roof would be covered in red pantiles. There would be storage space within the roof accessed by an internal staircase within the garage. The annexe accommodation would be situated to the rear half of the building and would comprise open plan living space (including the bedroom area) and a separate bathroom.

The previous application (17/02136/FUL) included annexe accommodation to the first floor and the proposed ridge height of the building was 6.31m. The first plans submitted with this new application showed a reduction in overall height by omitting the first floor accommodation and positioning the annexe accommodation on the ground floor to the rear of the garage. The plans also showed a revised position within the site, abutting the shared boundary to no. 5. Further to negotiation the most recent plans show a further reduction in scale (measurements as detailed above) and the garage/annexe positioned a distance of approximately 1.2m from the shared boundary to no. 5.

The road has a higher ground level than the rear garden. The intention is to build the garage at the lower garden level and create a downward sloping drive from the road to the front of the garage.

### Submitted Documents

Drawing No: BC-029-17-05 (Existing Garage Plans and Elevations)

Drawing No: BC-029-17-06B (Revised Plans and Elevations)

## Departure/Public Advertisement Procedure

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

## **Planning Policy Framework**

### **The Development Plan**

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

Policy SD1: Delivering Sustainable Development

Policy DH1: Sense of Place

Southwell Design Guide

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

Spatial Policy 3 – Rural Areas

Core Policy 9 -Sustainable Design

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

DM5 – Design

DM6 – Householder Development

DM12 – Presumption in Favour of Sustainable Development

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

- National Planning Policy Framework 2018
- Planning Practice Guidance
- Newark & Sherwood LDF Householder Development SPD Adopted 2014

## Consultations

### **The Town Council objected to the application commenting:**

Southwell Town Council considered application 19/00124/FUL Landseer House and unanimously agreed to object to this application as it is in contravention of the neighbourhood plan

-policy E2 Flood Resilience Design pg. 28—there are no flood mitigation measures in place.

-planning history, having considered the original reasons for refusal by NSDC this recent application does not address sufficiently these issues.

### **The Conservation Officer commented:**

*This application is a resubmission of application 17/02136/FUL, in which no conservation harm was identified. I have looked at the revised plans and while I appreciate the difference in schemes, the revised design does not materially alter the nature of my comments and I so I am happy to reiterate these comments again now:*

*The application site sits adjacent but not within Southwell Conservation Area. It backs onto the large plot associated with number 142 West Gate, which is an attractive Victorian building (previously two cottages) which is in the Conservation Area. Landseer Road itself was laid out late C19/early 20 and the host building is a simple detached building of this age.*

*My comments consider the impact of the proposal on the setting of the Southwell Conservation Area, and specifically on the positive building at number 142 West Gate. There are no listed buildings which I believe will be affected by this proposal.*

*While I accept the proposed new garage is substantially larger and set further back into the plot (and therefore closer to the Conservation Area boundary) than the existing garage, I think the proposal will not harm the setting of Southwell Conservation Area or the setting of number 142 West Gate. The Conservation Area at this point is strongly suburban, and while not densely settled by any means, it has an urban form. The grounds of number 142 West Gate is already surrounded by later developments.*

*The proposed new garage will not go significantly closer to the Conservation Area boundary or the grounds of number 142 than the existing rear wings of numbers 9-19 Landseer Road, so will still be read as development associated with that road, and will not have a materially different impact on number 142 West Gate and the setting of the Conservation Area. The built form of number 3 Landseer Road and numbers 138-140 West Gate will mostly obscure the proposed new garage from the Conservation Area on West Gate. If there are to be glimpses of the new garage it would be seen layered against the existing built form going up the hill on Landseer Road and would not alter the sense of building density around the Conservation Area.*

*In conclusion I have no objection to this application. While the setting of a Conservation Area is not specifically covered in statute I am happy that the proposal will not harm the setting of the Southwell Conservation Area and its constituent parts and that the proposal is in line with paragraphs 129, 131 and 132 of the NPPF. In reaching this view I have also considered the Southwell Neighbour Plan which contains policies that seek to conserve heritage assets.*

**The Southwell Civic Society Planning Committee** has no objections to the proposal.

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

One comment queried the floor level on which the garage would be situated as the plans indicate that the new eaves height would be the same as the existing garage.

The second comment objected to the application raising concerns about a loss of privacy for no. 9; the large scale of the proposed building; overbearing impact; loss of light; and a negative impact upon the character of the street scene.

Comments of the Business Manager

Principle of Development

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

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

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

The application seeks to erect a single storey double garage with annexe accommodation to the side of the main dwelling for family members to occupy. The Council's SPD for householder development states that 'where an annexe includes all of the primary aspects of accommodation (bedroom/ living room, kitchen and bathroom) and the unit could be, or is being, lived in separately with limited or no relationship to the host dwelling either through a family member or the level of accommodation then it will be considered as a new dwelling and so not householder development. Accordingly full planning permission for a new dwelling would be required with relevant policies of the development plan being applied in its consideration.'

Given that the proposal seeks an annexe with all the amenities of an independent dwelling, the proposal falls within the statement above. It was established within the report for 17/02136/FUL that the application proposal would be assessed primarily against Policies DM5 and DM6 of the DPD in addition to supporting design and amenity guidance contained within the Householder SPD and SNP. The principle of the development remains unchanged therefore this application will be assessed against the same policies.

The site is located within the Main built up area of Southwell which in accordance with Spatial Policy 1 of the Core Strategy is designated as a Service Centre where the principle of new residential development is considered to be acceptable.

#### *Impact on Visual Amenity, Character of the Area, and the Conservation Area*

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments.

Policy DM5 of the DPD states that proposals should respect local distinctiveness, while Policy DM6, which relates specifically to householder development, requires that proposals should respect the design, materials and detailing of the host dwelling and the surrounding area.

Paragraph 127 of the NPPF requires that developments are visually attractive, sympathetic to local character, establish or maintain a strong sense of place, and function well not just in the short term but for the lifetime of the development.

The design is fairly traditional looking for a double garage. It would sit in place of an existing garage, albeit on a larger scale. I consider the height of the building at 5.15m to be subservient to the host dwelling. The existing garage has a gabled elevation fronting the road as does the proposed building. The street scene comprises a variety of house types with semi-detached mid C20 to the south and a row of Victorian terraces to the north of the site. The application dwelling



itself is a detached period property painted white. There is not a uniform appearance to the street therefore I do not feel that the proposal would look unsympathetic to the character of the area. The proposed materials would match many of the surrounding houses which are built in red brick. The gable frontage would be set back approximately 6m from the public highway, and on a lower ground level, therefore would not be overly prominent within the street scene.

The garage would be positioned a distance of 1.53m from the host dwelling and approximately 3.5m from the neighbouring property to the south, no. 5. There is an existing hedge along the shared boundary with no. 5 which would soften the impact within the street scene and its impact upon no. 5. It has been confirmed by the agent that the hedge is to be retained which can be secured by condition. Overall I do not feel that it would cause harm to the character of the area.

I concur with the comments made by the Conservation Officer. Any views of the proposed building from within the adjacent Conservation Area would be limited and would be mitigated by the existing urban form of the area. I do not consider that the proposal would change the existing relationship between the application site and the Conservation Area. As such, the proposal would meet the test set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that it would preserve the character and appearance of the Conservation Area.

#### *Impact on Residential Amenity*

Policy DM6 accepts householder development in principle providing that there is no adverse impact on the amenities of neighbouring users including loss of privacy, light, and overbearing impact; the host dwelling retains a reasonable amount of amenity space relative to its size; the proposal respects the design, materials and detailing of the host dwelling as well as the character of the surrounding area.

The annexe building would be situated 1.2m from the shared boundary line with no. 5. The height to eaves would be 2.85m with a pitched roof sloping away from the boundary to a height of 5.15m. Due to the lower ground level on which the garage would be constructed, the proposed eaves height would be at the same level as the eaves of the existing garage. Given that the garden of no. 5 is south of the application site, I do not consider that the proposal would cause a loss of light to it. The garden to no. 5 is approximately 15m in depth. The extension would project a further 3.2m than the rear elevation of no. 5. Given the generous garden size, the fairly modest eaves height, and the intervening boundary hedge, I do not consider that the building would have an overbearing impact. There are no windows proposed to the south elevation (facing the garden of no.5) therefore I have no concerns regarding a loss of privacy.

The building would be situated to the south side of the plot with a distance of 10m to the shared boundary with no. 9. The north elevation would include windows at ground floor level. Considering the distance, the intervening boundary treatment, and that no. 9 is on a higher ground level than the application site due to the upward slope of the street, I do not consider that the garage/annexe would cause any unacceptable loss of privacy, loss of light or overbearing impact to no. 9.

The bi-folding doors to the rear elevation would look into the garden of the application site. The rear boundary is enclosed by mature hedgerow, shared with the rear garden of a detached property fronting Westgate (142 Westgate). Given the intervening boundary treatment and indirect relationship between the properties, I have no concern that the proposal would impact negatively on the amenity of this property.

The circular windows to the front and rear elevations would serve storage space within the roof. There would also be 2no. rooflights to the north elevation. Given that the roof space would not be a habitable room, I do not consider that the windows or rooflights would cause a loss of privacy to any neighbouring properties.

#### *Impact on Amenity of Host Dwelling and Proposed Annexe*

The annexe part of the building is proposed to the rear of the garage. None of the windows serving the annexe would have a direct relationship with the host dwelling, therefore I have no concerns the annexe would cause a loss of privacy, and feel it would maintain its own privacy as well.

There is one window to the ground floor of the host dwelling which would face the garage. The minimum distance between the buildings would be 2.2m. The window serves the lounge which also has glazed doors to the rear elevation and a window to the front elevation. As such I do not consider that the garage/annexe would cause an unacceptable loss of light to the host dwelling. In any case the proposal would be in connection with the occupiers of the host dwelling and therefore this level of amenity is less sensitive in the overall planning balance.

The position and scale of the garage/annexe would allow the host dwelling to retain a generous garden size. Therefore I do not feel that the proposal would unacceptably impact the amenity of the host dwelling nor for any future occupants.

#### *Impact on Parking and Highways*

The double garage would provide further parking than the existing situation, and retain off street parking to the front. I have no concerns that the proposal would negatively impact parking provision or highway safety.

#### *Flood Risk*

In relation to the comments from the Town Council, it should be noted that the site does not fall within the Environmental Agency Flood Zones 2 or 3. I therefore have no concern that the proposal would increase the risk of flooding within the area and do not consider that a need for flood mitigation is a material consideration in relation to this application.

#### *Conclusion*

I have assessed the proposal on its own merits whilst bearing in mind the previous application. I consider this application to be an improvement from 17/02136/FUL in terms of overall scale, position and design and feel that the revised plans address the previous reasons for refusal. The design is similar in the fact that the gable fronts the road, however given the reduction in overall height and eaves height, and the existing variety within the street scene, I do not consider this design feature to be harmful to the character of the area.

In summary I consider the proposal to be in accordance with the policies set out within the Newark and Sherwood Development Plan and recommend that planning permission is granted.

## **RECOMMENDATION**

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

### **Conditions**

1. 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.

2. The development hereby permitted shall not be carried out except in accordance with the following approved plans, reference

Drawing No: BC-029-17-06B (Revised Plans and Elevations)

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

Reason: So as to define this permission.

3. No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing and roofing materials (including colour/finish) have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity

4. The boundary hedge along the south boundary of the site is to be retained for the lifetime of the development. If any part of the hedge dies, is removed, or becomes seriously damaged or diseased, it shall be replaced with hedge plants in the next planting season of a similar size and species.

Reason: In the interests of visual amenity.

### **Notes to Applicant**

1. You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)
2. This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

BACKGROUND PAPERS

Application case file. 19/00124/FUL

For further information, please contact Ellie Sillah on ext 5770.

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

**Matt Lamb**

**Business Manager – Growth and Regeneration**

Committee Plan - 19/00124/FUL



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## PLANNING COMMITTEE – 26 MARCH 2019

<b>Application No:</b>	<b>19/00304/FUL</b>	
<b>Proposal:</b>	<b>Proposed Erection of Garage Building with Residential Annexe Above (To be used ancillary to Wharf Cottage) [Re-submission of 18/01688/FUL]</b>	
<b>Location:</b>	<b>Wharf Cottage, Carlton Ferry Lane, Collingham, Newark On Trent, Nottinghamshire, NG23 7LZ</b>	
<b>Applicant:</b>	<b>Mr Mark Grocock</b>	
<b>Registered:</b>	<b>18.02.2019</b>	<b>Target Date: 15.04.2019</b>

**This application is referred to the Planning Committee in line with the Council's Scheme of Delegation as the recommendation is contrary to the view of the Parish Council. The previous application was also refused by the Planning Committee in December 2018.**

### The Site

The application site is located within the 'open countryside', away from the village envelope of Collingham. The site includes a residential dwelling and associated curtilage; further east on the wider site is an ancillary office as well as surrounding agricultural land. The dwelling is accessed from along Carlton Ferry Lane (E) some c2.06km from the turn off in Collingham which according to Nottinghamshire County Council is a publicly maintained road. The property is directly accessed via a shared private driveway (S) leading from Carlton Ferry Lane. Carlton Ferry Lane is a single width road with passing areas and is bound mostly either side by either open fields or the Besthorpe Quarry. Some farmsteads and dwellings are also located down this lane but the application site appears to be the last dwelling along the lane. The parcel of land to which this building is proposed is currently grassed.

The dwelling is positioned on a N-S alignment with its principal elevation facing E. The south side elevation has a single storey lean to garage attached to it which is open fronted. To the rear of the dwelling, there is a steel framed balcony area. In front of the dwelling to the east is an area which is being used as storage space with a shipping container, boat, a number of garden sheds, greenhouse and allotment planting area. From aerial photography it is not clear that this piece of land is part of the residential curtilage of the dwelling and as such is being investigated independently from this application.

To the west of the dwelling is the River Trent which is approximately 58m from the rear elevation of the hostdwelling. The rear garden to the property is c23m and the boundary with the River Bank is treated with a wall and planting. To the east of the dwelling is an agricultural field planted with orchard trees – the boundary between which is the gravel driveway and aforementioned informal storage area. To the north is an agricultural field, the boundary between which is treated with a c1.2m high post and rail fence. The land level here also reduces slightly towards the north.

To the south of the application property lies a small group of other residential properties. Further east, past the agricultural land is the former and current areas of Besthorpe Quarry.

The application property is crossed by two footpaths, one running from adjacent to north-west of the junction between the existing access and the north-west corner of the property (North Collingham FP21A); and a footpath to the west of the property along the River Trent embankment (North Collingham FP29).

The whole of the site is located within Flood Zone 3b which is functional floodplain and a highest flood risk from rivers.

### Relevant Planning History

**18/01688/FUL** – ‘Erection of Garage Building with Residential Annexe Above’ at the site. This was refused as recommended on 05.12.2018 by the Planning Committee. The reason for refusal was as follows:

*The Local Planning Authority does not consider the proposal building including the annex could reasonably be considered to be ancillary to the main dwelling given the level of accommodation proposed and the size of the building relative to the host dwelling. In addition, the scale of the building is not proportionate to the existing built form on the site and by virtue of its positioning, forward of the principal elevation of the dwelling, would result in a detrimental impact on the character and openness of the surrounding countryside, particularly when viewed from the nearby public footpaths. The proposal would constitute a significant increase in the overall scale of the property in the open countryside. In the opinion of the local planning authority, the proposal is not considered to represent sustainable development and is therefore contrary to Core Policies 9 and 13 of the Core Strategy (2011) and Policies DM5, DM8 and DM12 of the Allocations and Development Management DPD and the NPPF, a material planning consideration. There are no other material planning considerations which would outweigh this harm.*

**18/01495/FUL** - Proposed new driveway to serve Wharf Cottage – Refused 01.10.2018. This application is currently at appeal with statements recently exchanged.

**15/00565/FUL** - Change of use of stable block to office – Permitted 30.06.2015

**97/50486/FUL** - EXTENSION TO FORM GRANNY ANNEXE – Permitted 15.08.1997

**97/50485/FUL** - EXTENSION TO FORM GRANNY ANNEXE – Refused 18.03.1997

**96/50432/FUL** - ERECT SINGLE STOREY STABLE BLOCK – Refused 28.01.1997

**94/50419/FUL** - ERECT STABLE BUILDING – Permitted 30.01.1995

**2076677** - EXTENSION AND REPAIRS (NEW GARAGE WITH BEDROOM OVER) – Permitted 06.08.1976

### The Proposal

This resubmitted application seeks permission for the erection of a garage building with a residential annex above. The building is proposed to be sited within the NE corner of the plot with the NW side elevation positioned approx. 5.5m from the northern side out-shoot of the existing dwelling and 3m from the main body of the dwelling. There is no physical attachment proposed



between the two buildings. The building is proposed to be c13.3m wide and 6.9m deep. It is proposed to be two stories in height at 6.3m to the ridge and 4.4m to the eaves.

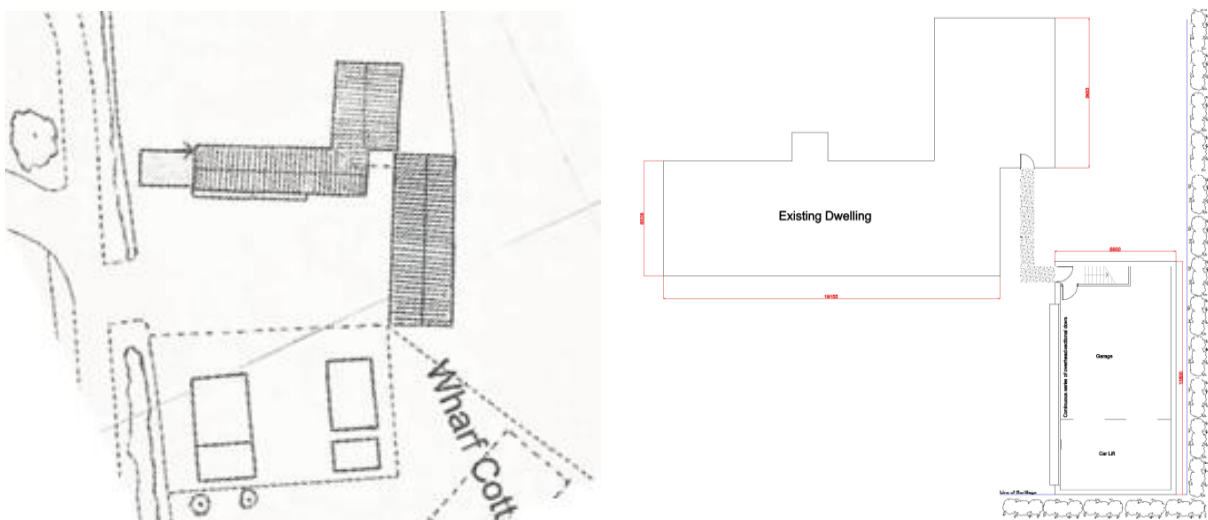
***There has been no change in height from the previously refused application; the length of the building has decreased by 5.3m and the width by 0.5m. The annex is now proposed to be separate from the main dwelling with no canopy link between the two.***

At ground floor the SE section of the ground floor is proposed to have a car lift pit with the NW open plan garage space. On the SW front elevation the building is proposed to have a continuous series of overhead sectional doors through two openings. The entrance door up to the first floor is also present on this elevation on the NW side. On the SE elevation at first floor, two windows are proposed with a 4 paned eaves flat roof dormer window spanning 3m. On the NE rear elevation no apertures are proposed at ground floor on the NW side. At first floor one large window is proposed along with one 4 paned eaves flat roof dormer window spanning 3m on the SE side. Two rooflights are also shown in the NE facing roof slope. The NW side is proposed to have one window at first floor and the SE side is proposed to be blank. The elevations plans do not show these two rooflights, an error which has been queried with the agent.

At first floor the building is proposed to have a residential annex – this is proposed to have a lounge, dining room, one bedroom, a bathroom and a store room. The entrance to the annex is proposed to be taken from the NW side through a pedestrian door and up a flight of stairs.

Materials proposed are off white render to the façade of the building to match the hostdwelling, brown uPVC windows, a concrete tiled roof, overhead sectional roller shutter doors and flat roof dormer windows with lead cheeks.

The annex/garage building is proposed to be 91.77 m<sup>2</sup> at ground floor (with a total area of 183.54 m<sup>2</sup>). ***This is a reduction of 45.87m<sup>2</sup> in footprint and 115.26 m<sup>2</sup> in overall area from the refused application.***



***Fig. 1 Refused Application Block Plan (L)***

***Proposed Block Plan (R)***

Floor/elevation plans of the hostdwelling have now been submitted which show that the dwelling is approx. 19.2m in width and 6.5m deep with an approx. 8.4m x 6.4m outshoot on the northern side projecting towards the NW. The footprint is c179.21m<sup>2</sup> at ground floor (excluding the lean to garage which is 35.05m<sup>2</sup>). The block plan (Fig. 1 above) shows the proposed relationship between

the Garage/Annex and the hostdwelling (right) versus the previously refused building.

The footprint of the proposed garage and annexe (91.77 m<sup>2</sup>) is approximately 51% of the footprint of the existing dwelling (179.21m<sup>2</sup> - excluding the lean to garage).

The flooding statement and CIL form advise that the lean to open fronted garage is proposed to be demolished although this does not form part of the description of development. Whilst this is stated within the planning statement I note that it does not form part of the description of development, nor is it detailed on any submitted plan.

Documents submitted with the application:

- Planning Statement – February 2019
- Flood Risk Statement – February 2019
- Health Needs Statement – February 2019
- Site Location Plan (Revised) – deposited 18.02.2019
- Proposed Plans and Elevations – PL-100 Rev A
- Proposed Block Plan
- CIL Form

#### Departure/Public Advertisement Procedure

Notification letters have been sent to 3 neighbouring properties.

#### **Planning Policy Framework**

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

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

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 9: Sustainable Design

Core Policy 13: Landscape Character

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

Policies relevant to this application -

Policy DM5: Design

Policy DM6: Householder Development

Policy DM 8: Development in the Open Countryside

Policy DM12: Presumption in Favour of Sustainable Development

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

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014
- Landscape Character Assessment Supplementary Planning Document (SPD)

#### Consultations

**Collingham Parish Council** – Support the proposal.

**The Environment Agency** – “The proposal is being classed as minor development and as such the Environment Agency wishes to review its position on this application and remove its previous objection. As the proposal is minor development the applicant should follow our standing advice with regards to flood risk. With floor levels being set no lower than the existing building and flood resilience measures included wherever possible. Further information can be found regarding our standing advice at the following link: <https://www.gov.uk/guidance/flood-risk-assessment-standing-advice>”

**NSDC Emergency Planner** – Current Application: “I have been invited to reconsider my comments regarding this proposed development. I have reviewed the amended proposals and recognise that the plan is for reduced development to the existing dwelling. I also note that a flood evacuations/emergency response plan is available. I recognise that the planning regulations and necessary considerations are likely to support this application. I also recognise that the existing dwelling is already occupied and that those occupants are aware of the risk they face of flooding and isolation once connecting roads are affected. If this were a proposal for a new dwelling I would continue with my objections, however whilst noting that the risk to tenants and particularly any vulnerable persons who may reside at that location throughout the life time of the property continues, I no longer make objections to this proposal.”

*Second comments on previous application* – “Whilst I empathise with the applicants and their wish to support their relative I have significant concerns. I recognise that there is an existing dwelling. However the intended use of the extension will increase the overall occupancy of this vulnerable location and potentially increase the number of people forced to take refuge at first floor level, potentially for many days. The current intended occupant has health needs that may or may not be suitable to occupying a refuge facility. Should the occupants evacuate the premises ahead of flooding it is not clear where they would seek refuge without recourse to the support of the Local Authority support that may already stretched. Therefore I do not support this planning application.”

*Preliminary comments on previous application* – “I would expect a specific evacuation plan for a residence, they need to sign up to the flood warning alerts and consider how and to where they would evacuate without reliance upon the emergency services, should it be necessary.”

**NSDC Access and Equalities Officer** – “As part of the developer’s considerations of access to, into and around the proposal and accessible facilities, it is recommended that their attention be drawn to Approved Document M of the Building Regulations, which contain useful standards. It is recommended that the developer make separate enquiry regarding Building Regulations matters.”

### Comments of the Business Manager

#### *Principle of Development and Impact on the Character of the Area*

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The site lies within the open countryside. SP3 (Rural Areas) provides that development not in villages or settlement, in the open countryside, will be strictly controlled and restricted to uses that require a rural setting such as agriculture and signposts readers to The Allocations & Development Management DPD which sets out policies to deal with such applications. Given the location of this site away from the main built up area of Collingham the proposal represents development in the open countryside which is subject to strict control and limited to certain types of development as outlined in Policy DM8.

Point 2 of Policy DM8 discusses extensions to existing dwellinghouses and the creation of new dwellings within the Open Countryside, stating ‘...the scale of new and replacement dwellings and extensions to those existing should be commensurate with the needs, and the ability of the operation they serve to fund them. Where a new or replacement dwelling is justified, its siting will be influenced by its functional role and the visual impact on the surrounding countryside should also be taken into account. Other than for the most minor of proposals, applications to extend dwellings subject to occupancy conditions will be assessed in the same way.’

The application seeks consent for the erection of a garage building with a residential annexe above. The building is proposed to be sited within the NE corner of the plot and no physical link is proposed between the two buildings – the flood risk statement refers to a ‘*defined pathway between the doorway of the garage/annexe and the existing entrance doorway to the main dwelling*’ being proposed, however this element of hard landscaping would not represent a physical link between the two units. The building is proposed to be approx. 13.3m wide and 6.9m deep. It is proposed to be two stories in height at 6.3m to the ridge and 4.4m to the eaves. At ground floor the building is proposed to have a secure garage for the applicants personal and competition vehicles – the planning statement advises that there is no provision within the existing site for secure storage of vehicles as the existing lean-to structure is open fronted and temporary. The statement advises that the applicants own numerous vehicles including competition vehicles need to be secure to prevent theft. “In addition there is a need to be able to repair and maintain these personal competition vehicles.”

At first floor the building is proposed to have an annex with one bedroom, a lounge room, a dining room, bathroom and a store. The Planning Statement (and additional Health Statement) indicates that the annex is required for the mother of the applicant that has deteriorating health concerns whom requires increasing care and supervision. The applicant states that there is not sufficient space within the existing dwelling to accommodate the annex accommodation.

The Council’s SPD for householder development states that ‘where an annexe includes all of the primary aspects of accommodation (bedroom/ living room, kitchen and bathroom) and the unit could be, or is being, lived in separately with limited or no relationship to the host dwelling either through a family member or the level of accommodation then it will be considered as a new dwelling and so not householder development. Accordingly full planning permission for a new dwelling would be required with relevant policies of the development plan being applied in its consideration.’

I accept that the annex is not proposed to have a kitchen (although acknowledge that this could be added without the requirement for planning permission) and thus does not contain all of the primary aspects of accommodation. Notwithstanding this I consider that by virtue of the size of the building (irrespective of the amendments made from the previously refused application) it could be lived in separately with a limited relationship with the host dwelling, noting that there is now no physical integral link proposed between the two. The building could also be accessed

separately from Wharf Cottage and could have a separate curtilage created without giving rise to amenity concerns. The proposed annex is clearly capable of independent living in this case and as such the application is not classed as Householder Development and the application has been validated on this basis. It should be noted that had the proposal been considered ancillary to the main dwelling it would have been appropriate to consider the proposal as householder development and the consideration of Policy DM6 of the DPD would have been relevant (which is not the case in this instance).

A residential annexe is accommodation ancillary to the main dwelling within the residential curtilage and must be used for this purpose. The annexe should form part of the same “planning unit” by sharing the same access, parking area and garden. As such, I consider there to be two main factors in considering whether or not a proposal is ancillary and therefore an annexe as opposed to a dwelling and this is whether the proposed annexe demonstrates a clear physical and functional link to the host dwelling.

Notwithstanding the SPD guidance, the application as made is partly for residential annexe accommodation and the occupation and use of the proposed annexe is intended for family members which require support in their day to day lives. The supporting information indicates that the intention is for an elderly family member to live in the annex in order for the family to provide a degree of care that is increasingly required whilst allowing them to retain some degree of independent living. The statement outlines how the unit (Wharf Cottage) will function and how existing occupants of the main house and future occupants of the annexe will interact whilst maintaining a single planning unit in planning terms, stating that it is not the applicant’s intention for this building to be used as a new dwelling. I do not dispute that the applicant has demonstrated that there is a requirement for their relative to live close to them due to their deteriorating health conditions. Whilst the functional requirement can be demonstrated I remain concerned that the degree to which this is currently being proposed in this application exceeds what could reasonably be considered as ancillary to the main dwelling.

Notwithstanding this functional need I consider that the proposed annexe cannot be regarded as ancillary to the main dwelling given the scale of the proposed building. Although described as an annexe, the building would be a self-contained, detached structure within its own front door and to all intents and purposes the building would be perceived as a separate unit, set at a perpendicular angle to the main dwelling, at a similar two storey height albeit of a different character to existing dwellings nearby. The footprint of the annexe is large and certainly not materially smaller than some detached dwellings in the vicinity, indeed the footprint of the proposed garage and annexe (91.77 m<sup>2</sup>) is approximately 51% of the footprint of the existing dwelling (179.21m<sup>2</sup> - excluding the lean to garage). I also note that the average floorspace of a 3 bedroom dwelling in the UK was c92m<sup>2</sup> in 2010 according to CABE. I consider the scale, layout and physical relationship with the hostdwelling would mean that the annexe could be lived in separately, with the addition of a kitchen (without the requirement for planning permission), with only occasional visits to the existing house (in the same way friends and family from other houses would visit the house). Whilst I note that the annex could be controlled with an occupancy condition requiring the annex building to operate ancillary to Wharf Cottage I do not consider it possible to conclude that this building can be regarded to be ancillary to the hostdwelling and as such is not acceptable.

Overall, whilst acknowledging that the applicant has reduced the size of the proposed building (the length of the building has decreased by 5.3 m and the width by 0.5 m) I maintain that the size of the proposed building could not reasonably be considered to be subservient or subordinate to

the host dwelling and its detached nature means that it is not designed in such a manner to easily enable the building to be used at a later date as an integral part of the host dwelling. I do not consider the proposal could reasonably be considered to be ancillary to the main dwelling given the level of accommodation proposed and the size of the building relative to the host dwelling. I note the agent has stated in the planning statement that due to the nature of the garage use for the host dwelling at ground floor, the interrelationship would make the separation to a single dwelling unsuitable; however I would note that the garage could be used as residential accommodation use without the requirement for a change of use application and as such I give this relationship little weight.

It is not considered appropriate to assess whether or not a new dwelling would be acceptable in this location given that this is not what has been applied for within the description of development, however I cannot ignore that the scale of this annex could still facilitate a new dwelling in the future which would be inappropriate in an Open Countryside location. I also note the refusal of recent application 18/01495/FUL which was to create an alternative/secondary access to Wharf Cottage which led close to the position of the proposed annex.

In conclusion, notwithstanding the applicants personal need for annex accommodation (to accommodate an elderly relative) and the measures undertaken by the applicant to reduce the size of the building, I do not consider the proposed building including the annex could reasonably be considered to be ancillary to the main dwelling given the size of the building relative to the host dwelling and the level of accommodation it could accommodate. It is not to be said that an annex would be wholly inappropriate in this location just that it would need to be suitably scaled and located so that it is clearly ancillary to the main dwelling. The application as submitted is therefore contrary to the provisions set out within Core Policy 9 or the core strategy, policies DM 5 & 8 of the ADMDPD and the NPPF which is a material consideration.

#### *Visual Impact (including impact on the Open Countryside)*

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Core Policy 13 requires the landscape character of the surrounding area to be conserved. Policy DM5 states that the rich local distinctiveness of the District's landscape and character of built form should be reflected in proposals for new development.

Core Policy 13 of the Core Strategy addresses issues of landscape character. It states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area.

The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

Within the Newark and Sherwood Landscape Character Assessment, the site of the proposal falls within the Trent Washlands Policy Carlton Holme River Meadowlands (TW PZ 39). This area has a flat topography with extensive areas of intensively farmed arable fields. There are few detracting

features other than the loss of some historic field patterns to farmland. The landscape condition is described as very good with the landscape sensitivity described as moderate. The Policy Action for this area is to 'Conserve' which the LCA defines as *actions that conserve the existing field pattern by locating new small scale development within the existing field boundaries*'.

Policy DM5 of the DPD, provides that new development should respect the rich local distinctiveness of the District's landscape and character of built form and this should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. In this regard I consider it is important to retain the character of the landscape and prevent development from encroaching upon its rural characteristics.

The NPPF further states that applications for 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'.

As previously stated, the proposed annexe would not be subservient or subordinate to the main dwelling and would occupy a large footprint when compared to the host dwelling and other dwellings in the vicinity. There are already a number of outbuildings/ancillary structures located within the curtilage Wharf Cottage which are not shown on the submitted plans and the addition of a further building would mean that a large proportion of the site is occupied by built form of some description.

The annexe/garage building has been reduced in size from the refused scheme by 45.87m<sup>2</sup> in footprint. However the footprint of the proposed garage and annexe (91.77 m<sup>2</sup>) is approximately 51% of the footprint of the existing dwelling (excluding the lean to garage), which although half the size, is of a comparable height to the dwelling on site (although the height of this has not been included within the submission details) and has not been reduced since the last submission of this application.

I do not consider that the scale of the building proposed, in terms of its overall footprint and height could reasonably be concluded to be subservient or subordinate to the hostdwelling to which it would relate, nor would it be proportionate to the existing built form on the site and by virtue of its positioning, forward of the principal elevation of the dwelling and would result in a detrimental impact on the character and openness of the surrounding countryside. The building would also incorporate two large dormer windows which would also be out of keeping with the design of the hostdwelling.



Figure 2: Aerial photograph 2001



Figure 3: Aerial photograph 2016

In addition, as can be seen from the aerial photographs in Figure 2 and 3, a radical change to the landscape around Wharf Cottage has already occurred and it appears that a section of hedgerow to the south of the proposed access has already been removed (and replaced with laurel).

The flooding statement and CIL form advice that demolition of the lean to open fronted garage is proposed. Whilst this is stated within the planning statement I note that it does not form part of the description of development, nor is it detailed on any submitted plan. The lean-to structure does not impede the construction of this new building. Therefore to guarantee its removal (if Members were to give its removal significant weight) a suitably worded condition would need to be imposed requiring its removal at an appropriate point in time. However I do not consider the removal of this lean-to structure would negate the harm identified in the above sections of this report.

In addition the proposed building would be built along the boundary of the domestic curtilage; this resubmitted application shows the building would now be bound to the north-east by a hedgerow which would provide a degree of screening between the site and the open countryside beyond. It is assumed that this has been incorporated to negate officer's previous concerns regarding the visual prominence of the building when viewed from nearby footpaths. I accept that this hedgerow would go some way to afford a degree of screening however the hedgerow would likely take many years to establish and afford a significant amount of screening that would not negate the harm of this building on the open countryside. Similarly, it is not just what can be viewed in elevation form that results in harm to the openness of the countryside, plan form view must also be considered – and whilst I note that the applicant has reduced the scale of the building in footprint I do not consider this to be sufficient to negate the harm on the character and appearance of the area.

Overall I consider that the scale of the building is not proportionate to the existing built form on the site and by virtue of its positioning, forward of the principal elevation of the dwelling and would result in a detrimental impact on the character and openness of the surrounding countryside and visual amenity of the area. I therefore consider the proposal to be would be contrary to policy DM5 of the DPD and Core Policy 9 & 13 of the Core Strategy.



### *Impact upon Residential Amenity*

Policy DM5 and the NPPF seek to ensure that development does not have an adverse impact upon the amenities of neighbouring properties. For the intended use the garage/annexe unit is unlikely to result in a material increase in noise or disturbance upon the amenity of neighbouring properties above and beyond levels created by existing residential properties in the vicinity. Therefore the use of the site is not considered to result in any appreciable impacts.

Given the separation between the hostdwelling and application site and neighbouring residential properties in excess of 60m it is not considered that there would be any significant impacts of overlooking or oppression to warrant refusal. The only property likely to be impacted by this new building is the hostdwelling.

The proposal is considered to be acceptable in respect of impact upon the neighbouring properties residential amenity. The proposal would be located in close proximity to the host dwelling at approximately 3m separation from the side elevation. If Members are minded to approve the scheme it would be recommended that a condition is attached to ensure that the proposed building is used for its intended purpose as annexe accommodation to the dwelling and not as a separate dwellinghouse.

### *Impact on the Highway & Footpath Network*

Given the nature of the location, access route to the property and that the application does not propose to create a new access on to the highway (Members are asked to note there is a separate application currently at appeal that could achieve this) it is not considered that the proposed building would result in any impact on highway safety. The building is proposed to provide secure garage space at ground floor and as such the proposal is considered to accord with policy SP7 of the Core Strategy.

The application property is crossed by two footpaths, one running from adjacent to north-west of the junction between the existing access and the north-west corner of the property (North Collingham FP21A); and a footpath to the west of the property along the River Trent embankment (North Collingham FP29). Neither of these footpaths will be affected by the proposed garage and residential annexe, by virtue of positioning - the route of Footpath FP21A from Carlton Ferry Lane diagonally across the small agricultural field to the north of the proposed garage is not proposed to be altered.

### *Impact on Flooding*

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

Para 159 of the NPPF states that 'If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance'.

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

The whole of the application site is located within Flood Zone 3b, functional floodplain. The site is on the eastern bank of the River Trent; the site is relatively flat and lies on land forming the flood plain of the River Trent. The River Trent is approx. 60m to the west of the proposed new building. The NPPF advises that if the proposal constitutes 'minor development' (householder development or non-domestic extensions of no more than 250 sqm) then the sequential test need not be applied. In this case, whilst I have previously concluded that the building and annex as proposed cannot reasonably be considered to be 'ancillary' to the main dwelling I note that the applicant has applied for a building to house a garage and an outbuilding (and not for a new dwelling) and as such the proposal constitutes 'minor development'. It therefore follows that the sequential test is not required as an annex cannot be located anywhere but on the site of the host dwelling, the exception test is also not required to be applied given the proposal is for a 'minor development'. A Site Specific Flood Risk Assessment has been provided by the agent, although the level of appropriate detail within it is limited. The EA have reviewed this application and have withdrawn their objection stating that the application should be considered under their 'standing advice'.

As already mentioned, whilst some minor development and changes of use are not be subject to the sequential or exception tests, they should still meet the requirements for site-specific flood risk assessments. Development should only be allowed in areas at risk of flooding where, in the light of a FRA it can be demonstrated that, amongst other things, the development is appropriately flood resistant and resilient; any residual risk can be safely managed; and safe access and escape routes are included where appropriate, as part of an agreed emergency plan. The EA Flood Risk Standing Advice advises that floor levels should be set either no lower than existing floor levels or 300mm above the estimated flood level. If they are not then extra flood resistance and resilience measures must be incorporated. The FRA advises that *"36. It would not be possible to site the garage at a finished floor level above the 1:200 flood level without having to substantially raise ground level. This would have an unacceptable impact on the character and appearance of the site and surrounding area."* As such point 37 of the flood statement details the flood resilience and resistance measures proposed to be incorporated which I am satisfied could be controlled via condition.

The agent has submitted an updated flood warning and evacuation plan that was submitted to the Council under application 15/00565/FUL relating to the change of use of stable block to office. This plan is currently in place for the office building and the owners of Wharf Cottage are registered with a flood warning service. The risk to people sleeping in the proposed building has now been considered within this evacuation plan regardless of the sleeping accommodation being proposed

at first floor. I am now satisfied that the applicant has demonstrated how the occupants of the building would be kept safe from flood risk in a flood event which is highly likely given the location within the functional flood plain.

The Emergency Planner has been consulted given the vulnerability of the location to which this new building is proposed, their full comments can be read in the consultation section above. They refer to their comments on the previous submission but have concluded that there is a flood evacuations/emergency response plan available for this site which could be controlled by condition. Recognising that the existing dwelling is already occupied and that those occupants are aware of the risk they face of flooding and isolation once connecting roads are affected they conclude that they would raise no objection to the proposed development. Whilst their comments refer to a differing opinion if this proposal was for a new dwelling I reiterate that this is not what has been applied for in this instance and the proposal has not been assessed as such. Whilst noting that the risk to tenants and particularly any vulnerable persons who may reside at that location throughout the life time of the property would remain present for this proposed building and use the Emergency Planner does not object to the proposal.

In conclusion it is considered that the applicant has demonstrated how people would be kept safe in the event of a flood evacuation and has considered how and to where residents would evacuate without reliance upon the emergency services, should it be necessary. Overall, in conclusion the application is considered to accord with Core Policy 9 (Sustainable Design), Core Policy 10 (Climate Change), DM5 (Part 9: Flood Risk and Water Management) and Section 14 of the NPPF and PPG.

### *Conclusion*

In terms of the impact on neighbouring amenity, highway safety and, subject to condition, flood risk the development is acceptable. Notwithstanding the applicants personal need for the annex accommodation, given its size, scale and relationship to the host dwelling officers remain concerned that the proposed building including the annex cannot reasonably be considered to be ancillary to the main dwelling given the size of the building relative to the host dwelling and the level of accommodation it could accommodate. This building is also considered to have a harmful impact on the character and appearance of the rural area which is open countryside where development is strictly controlled for its own sake. The proposal conflicts with the provisions of policy DM8 which seeks to control development within the Open Countryside and as such is contrary to Core Policy 9 or the core strategy, policies DM 5 & 8 of the ADMDPD and the NPPF which is a material consideration. There are no material considerations that would outweigh the harm identified.

### **RECOMMENDATION**

**That full planning permission is refused**

#### **Reasons for Refusal**

01

The Local Planning Authority does not consider the proposal building including the annex could reasonably be considered to be ancillary to the main dwelling given the level of accommodation proposed and the size of the building relative to the host dwelling. In addition, the scale of the building is not proportionate to the existing built form on the site and by virtue of its positioning, forward of the principal elevation of the dwelling, would result in a detrimental impact on the

character and openness of the surrounding countryside. The proposal would constitute a significant increase in the overall scale of the property in the open countryside. In the opinion of the local planning authority, the proposal is not considered to represent sustainable development and is therefore contrary to Core Policies 9 and 13 of the Core Strategy (2019) and Policies DM5, DM8 and DM12 of the Allocations and Development Management DPD and the NPPF, a material planning consideration. There are no other material planning considerations which would outweigh this harm.

## **Notes to Applicant**

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date.

Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

02

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

### Background Papers

Application Case File

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

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

**Matt Lamb**

**Business Manager – Growth & Regeneration**

