



*Castle House  
Great North Road  
Newark  
NG24 1BY*

*Tel: 01636 650000*

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

**Monday, 15 July 2019**

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

**Members of the Committee:**

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

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

**MEETING: Planning Committee**

**DATE: Tuesday, 23 July 2019 at 4.00 pm**

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

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

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



## AGENDA

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

There are none.

NOTES:-

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

# Agenda Item 4

## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 2 July 2019 at 4.00 pm.

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

Councillor L Brazier, Councillor M Brock, Councillor M Brown,  
Councillor L Dales, Councillor Mrs M Dobson, Councillor L Goff,  
Councillor R Holloway, Councillor J Lee, Councillor Mrs P Rainbow,  
Councillor M Skinner, Councillor T Smith and Councillor  
Mrs Y Woodhead

APOLOGIES FOR ABSENCE: Councillor K Walker (Committee Member)

ALSO IN ATTENDANCE: Councillor R Jackson and Councillor Mrs P J Rainbow

### 25 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillors R V Blaney and Mrs M Dobson declared a personal interest in Agenda Item No. 11 – 5 Oakdene Cottages, Station Road, Collingham 19/00537/FUL as the applicants were known to them.

Councillors L Dales, J Lee and I Walker declared personal interests in Agenda Item No. 11 – 5 Oakdene Cottages, Station Road, Collingham 19/00537/FUL as they were representatives on the Trent Valley Internal Drainage Board.

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

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

### 27 MINUTES OF THE PREVIOUS MEETING

AGREED that the minutes of the meeting held on 4 June 2019 be approved as a correct record and signed by the Chairman.

### 28 FIELD REFERENCE 7600 OFF, NORTH SCARLE ROAD, WIGSLEY, NOTTINGHAMSHIRE 19/00551/FULM

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the creation of a Fish Farming facility at Wigsley from agricultural land as a farm diversification business (resubmission of 17/02043/FULM).

This application was presented for determination at the 4 June 2019 Planning Committee with a recommendation for approval. Members resolved to refuse the

application for the same reasons as previously refused. However following the committee meeting and before the decision was issued, it became apparent that a late item submitted by the applicant was not clearly presented to Members that could have influenced the decision. As such the matter was brought back to the Committee.

Councillor C Thompson representing Wigsley Parish meeting spoke against the application in accordance with the views of Wigsley Parish meeting as contained within the report.

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

The Chairman asked whether the noise levels for construction could be controlled by condition. The Interim Business Manager Planning confirmed that acceptable noise levels could be sought through Environmental Health.

Members considered the application and felt that the development was not suitable for that area. It was suggested that if the Committee were minded to approve the application that a construction traffic routing plan should be established. It was further suggested that a noise assessment and ecological report should also be obtained before planning permission was granted.

The Chairman commented that the noise levels could be controlled by condition and agreed with Environmental Health prior to consent and the sports fishing could also be controlled by condition. The construction traffic routing could be agreed with the Local Planning Authority in consultation with the two local ward Members to confirm the routing plan. The Interim Business Manager Planning confirmed that there were a number of conditions which related to ecology.

A vote was taken to approve planning permission, which was lost with 5 votes For and 9 votes Against.

AGREED (with 9 votes For and 5 votes Against) that contrary to Officer recommendation planning permission be refused for the following reasons.

The reasons for refusal of the application 17/02043/FULM in March 2019 had not been addressed, associated concerns about the vehicle movements, concerns regarding its implementation/phasing and impacts upon the landscape and failure to pass the sequential test in respect of flood risk.

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

<b>Councillor</b>	<b>Vote</b>
R. Blaney	Against
L. Brazier	For
M. Brock	Against

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

29 LAND AT MEMORIAL DRIVE, SOUTHWELL 16/01900/FULM

The application was withdrawn from the agenda at the applicant's request.

30 LOWDHAM CARS, LOWDHAM ROAD, GUNTHORPE 19/00814/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought permission for the variation of condition 2 and removal of condition 7 attached to planning permission 18/00279/FUL.

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

Councillor Mrs L Jeffery representing Gunthorpe Parish Council spoke against the application in accordance with the views of Gunthorpe Parish Council as contained within the Schedule of Communication.

Councillor R Jackson local Ward Member Dover Beck spoke against the application on the grounds that the amount of cars currently on site was not being enforced. The visitor parking that had been identified was not available and visitors were parking on the pavements creating an obstruction for pedestrians, mobility scooters and pushchairs forcing them onto the road.

Members considered the application and felt that the business had outgrown the site and any future expansion was inappropriate. The fact that the site was also in flood zone three was also taken into consideration. A Member commented that if unrestricted use was granted there would become a saturation point were the business would not have any more storage space and therefore control the amount of cars on site.

AGREED (with 13 votes For and 1 Abstention) that:

- (a) contrary to Officer recommendation full planning permission be refused on the grounds of over-intensification and design/layout and its impact on the green belt; and

- (b) enforcement action be undertaken to control the site to maximum fifty cars.

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

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

31 MANOR FARM BARN, BECK STREET, THURGARTON 19/00708/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the addition of four roof lights over the kitchen area.

Councillor R Jackson local Ward Member Dover Beck spoke in support of the application on the grounds that the barn was not listed and was attached to the man house which had seventeen existing roof lights. The roof lights on the barn would not be visible from the road and would improve the light in the kitchen area as the light was restricted from the main house into the kitchen. It was commented that Manor Farm had got a satellite dish, TV aerial, security lights which did not improve the visual impact of a Grade 2 listed building. The new development to the side of Manor Farm Barn had six buildings all with roof lights.

The applicant asked and it was agreed by the Chairman that a number of photographs be circulated to the Committee.

Members considered the application and a Member commented that the new build on Priory Farm was not listed, this application was listed and whilst it was a nice to have, it was not a need to have and this barn was the conservation of an agricultural building. Other Members felt that the roof lights would not detract away from the character and appearance of the conservation area.



AGREED (with 10 votes For and 4 votes Against) that contrary to Officer recommendation full planning permission be approved subject to reasonable conditions.

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

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

32 MANOR FARM BARN, BECK STREET, THURGARTON 19/00709/LBC

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the addition of four roof lights over the kitchen area.

Members considered the application as contained within the above minute.

AGREED (with 10 votes For and 4 Against) that listed building consent be approved for the reasons contained within the report, subject to reasonable conditions.

33 5 PLANTATION COTTAGES, MAIN STREET, EPPERSTONE 19/00246/FUL

The application was withdrawn from the agenda at the applicant's request.

34 TECTOR LTD, 27 WOODHILL ROAD, COLLINGHAM, NEWARK 19/00242/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought outline planning permission for the demolition of existing buildings and subsequent erection of up to 16 dwellings with associated highway access off Woodhill Road.

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

Members considered the application and one Member commented that there was no problem in principle with the development of the site; the concern was protecting the layby. It was requested that the local bus company be contacted to check that the size of the layby was significant for their needs. Sixteen properties would increase car parking, which would spill out and may restrict the access to the layby.

The Senior Planning Officer confirmed that the clearway order prevented any parking in that layby. At present there was no order of clearway on the current layby as there was no existing threat. Nottinghamshire County Council would monitor that over twelve months and if the layby was being used for parking they would enforce that.

Another Member commented that the brown field site was not large enough for sixteen dwellings and asked that be reduced to ten. It was commented that the Parish Council had objected to this development and that part of the site was in a flood zone. It was further commented that the layby would only accommodate two small sized buses and therefore would not future proof the service offered should more people be encouraged to use public transport.

The Chairman commented that the application was for outline planning permission and was a maximum of sixteen dwellings. It was also confirmed that Nottinghamshire County Highways had raised no objection in respect of the access.

A vote was taken to refuse the application on the grounds of traffic, impact and access, which was lost with 6 votes For, 7 votes Against and 1 Abstention.

AGREED (with 8 votes For, 4 votes Against and 2 Abstentions) that outline planning permission be approved subject to the conditions contained in the report and the signing and sealing of a S106 agreement to agree all matters set out within table 1 of the report.

35 5 OAKDENE COTTAGES, STATION ROAD, COLLINGHAM 19/00537/FUL

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought planning permission for a new two storey house with built in garage, new driveway from the existing access off Station Road to be shared with the existing house.

Members considered the application and felt that the design was not suitable in a conservation area and too many trees would be removed.

AGREED (with 13 votes For and 1 Abstention) that full planning permission be refused for the reasons contained within the report.

36 WHITE POST GARAGE, WHITE POST, FARNSFIELD 18/02151/FUL

The application was withdrawn from the agenda at the applicant's request.

Councillor J Lee left at this point.

37 LAND TO THE REAR OF 8 MAIN STREET, SUTTON ON TRENT 19/00868/FUL

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought planning permission for the erection of four dwellings and associated garages, the application, was a re-submission of 18/00599/FUL.

Members considered the application and some Members felt that the development was not suitable for bungalows being in flood zone 2 and had poor access. Other Members considered the layout with the court yard good, but felt that the access was poor. The need for bungalows was also commented upon for an ageing society and also for people with disabilities. Some Members considered that the comments of the Strategic Housing Officer on page 182 of the agenda cast doubt on whether those with a preference for bungalows would actually be able to afford these bungalows and felt that the need therefore may not be met. Consequently it was felt that the sequential test in terms of flood risk should not be restricted to just the village of Sutton-on-Trent.

AGREED (with 8 votes For, 2 votes Against and 3 Abstentions) that contrary to Officer recommendation the application be refused on the basis that very limited weight should be attached to housing ‘preference’ in the Housing Needs Survey, given the date of the survey and that the market housing was unlikely to be affordable. Given the limited weight it attached to the survey it followed that the sequential test had not been passed in terms of flood risk.

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

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

38 LAND TO THE REAR OF 15 CHEYNE DRIVE, BILSTHORPE 19/00768/FUL

The Committee considered the report of the Director of Growth & Regeneration, following a site inspection, which sought planning permission for the erection of a

new single storey bungalow with existing access and driveway from Archers Drive and erection of a new boundary wall.

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

Members considered the application not appropriate in accordance with the Officer recommendation.

AGREED (with 12 votes For and 1 Abstention) that planning permission be refused for the reasons contained within the report.

39 UPDATE NOTE - PLANNING APPLICATION 18/00931/OUTM - NOBLE FOODS BILSTHORPE

The Committee considered the report of the Director of Growth & Regeneration, which informed Members regarding the Noble Foods application for up to 136 dwellings which had been considered at the meeting of 4 June 2019. Members resolved to approve the application but subject to delegated negotiations in respect to revising the affordable housing offer (10%) to other contributions.

For a scheme of 136 dwellings, 10% affordable housing would amount to 14 affordable units. There was a recent appeal decision in our District (February this year) which had accepted that it was reasonable to use a unit figure of £46,000 per affordable unit. That gave an overall contributions pot of £644,000 instead of the 10% affordable housing.

Following discussions between officers and the Parish Council to establish priorities etc, officers had provisionally apportioned contributions towards the following:

- Education - £332,195.29 (full amount request);
- Community Facilities (village hall including heritage museum) - £188,233.52 (full amount requested);
- Open Space (outdoor sport facilities) - £100,329.92 (full amount requested);
- Bus Stops (as requested by NCC Highways) - £17,000 (full amount requested);
- Libraries - £6,062 (full amount requested).

The above would total £643,820.73 and thereby almost exactly meet the starting point for contributions above. The residual amount of £179.27 would go towards monitoring fees associated with the legal obligation. The only required contributions missing from the above list was affordable housing and health. It was worthy of note that there was another scheme in the village (Land at Oldbridge Way approved for 113 dwellings) with recent reserved matters approval (18/01971/RMAM) that had an associated legal agreement which secured health provision. The advice of Officers was

therefore that the monies associated with the other application (acknowledging that this was completely separate to the current determination) would meet the healthcare provision shortfall in the village.

The above approach had been accepted by the agent acting on behalf of the applicant and therefore Section 106 was being drafted on this basis by the Council's solicitors.

The Local Ward Member thanked the Committee for the outcome of this application as it had a good outcome for Bilsthorpe.

AGREED (unanimously) that the report be noted

40 APPEALS LODGED

AGREED that the report be noted.

41 APPEALS DETERMINED

AGREED that the report be noted.

42 QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

The Committee considered the report of the Director of Growth & Regeneration, which presented the quarterly planning enforcement performance for the quarter, from 1 January to 31 March 2019. The report provided an update on cases where formal action had been taken. It also provided case studies which showed how the breaches of planning control had been resolved through negotiation.

AGREED (unanimously) that the report be noted.

Meeting closed at 6.56 pm.

Chairman

## PLANNING COMMITTEE – 23 JULY 2019

<b>Application No:</b>	19/00689/FUL		
<b>Proposal:</b>	Application for variation of conditions 02, 03, 04 and 05 of planning permission 16/01369/FUL to allow the new access junction to be constructed wholly within highway land or that owned by the applicant (Retrospective)		
<b>Location:</b>	Springfield Bungalow Nottingham Road Southwell NG25 0QW		
<b>Applicant:</b>	23.04.2019		
<b>Registered:</b>	9 <sup>th</sup> April 2019	Target Date:	4 <sup>th</sup> June 2019
	Extension of time agreed in principle		

### UPDATE REPORT

This application was deferred by Members at June 4th Planning Committee in order to seek clarification of the specific issues of the acceptability of the kerb radii to the site, the gradient of the footpath (achieving 1:12), the cross fall of the footpath (achieving 1:40), and confirmation that the visibility splay measured on site by NCC highways was appropriate.

### The Proposal

As Members will recall that this application seeks solely to revise conditions 2 (relating to approved plans) and 3 (drainage and surface water relating to the access into the site [nb. This is where the new access crosses the threshold into the site from the public highway not the internal access road, which remains in the location originally approved and is covered by planning permission 15/01295/FULM]), 4 (longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of utilities services, and any proposed structural works) and 5 (visibility splays) attached to the planning permission ref. 16/01369/FUL for the creation of an access at Halloughton Road.

The access has implemented but has been redesigned and constructed (by the applicant using Via as contractors) to ensure that that works have wholly taken place within the undisputed boundary of the public highway. As such the development is not in accordance with the access plans approved under this permission.

Thus the current application seeks retrospective planning permission to change the conditions in order to regularise the situation.

It is proposed to amend the conditions as follows:-

### Original conditions

Condition 2 relates to the approved plan

**'The development hereby permitted shall be carried out in accordance with the following approved plan:-**

- **12/1889/750**

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

#### **Condition 3**

**'No development shall be commenced until details of drainage and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.**

#### **Condition 4**

**'No part of the development hereby permitted shall take place until details of the new access road have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of utilities services, and any proposed structural works. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.'**

#### **Condition 5**

**'No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m shown on drawing no. 12/1889/750 are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.25 metres in height unless otherwise agreed with the Highway Authority.'**

#### **Proposed Amendments**

##### **Condition-02 01**

**The development hereby permitted shall be retained in accordance with the following approved plan:-**

- **HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019 (Notwithstanding gradients) and (ref. 37049-BSP-ZZ-XX-DR-C-101 Rev P3)**

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

##### **Condition 03 02**

**The development shall be retained in accordance with details of drainage and surface water disposal as shown on the plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019.**

##### **Condition 04-03**

**The new access shall be retained in accordance with longitudinal and cross sectional**

gradients, drainage and outfall proposals, construction specification as shown on drawing ref.

HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019 (Notwithstanding gradients) and  
(ref. 37049-BSP-ZZ-XX-DR-C-101 Rev P3)

#### **Condition 05-04**

The visibility splays of 2.4m x 43m shown on drawing no. 12/1889/750 are provided.

- 2.3m x 43m to the right/east of the access
- 2.3m x 29m to the left/west of the access

shall be retained in accordance with the plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019.

The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.25 metres in height unless otherwise agreed with the Highway Authority.

It should be noted that given that works have commenced on site the time implementation condition (Condition 1) has been deleted and subsequently the numbering of the conditions has also been amended.

#### **Additional Consultations Comments received**

##### **NCC Highways:- latest comments received 19th June 2019**

Further to comments dated 3 June 2019 I wish to provide additional information that may assist the LPA consider this application.

#### **1. Radii and Kerbing**

The access corner radii are 5m. This is a small departure from the 6m dimension suggested in the NCC Highways Guidance and, in the context of this site, is not considered to be critical to safety or accessibility. Indeed 'Manual for Streets' guidance suggests that shorter radii than this can have benefits for pedestrians and cyclists.

Whilst damage has been caused by construction traffic over-running the kerbs, this is due to poor driving rather than the design of the access, and will cease in due course.

Officers of the Highway Authority have witnessed the satisfactory manoeuvring of construction lorries; without the need to mount kerbs.

The kerbs are standard construction and have (within tolerances) a 100mm to 125mm kerb face. This is acceptable.

#### **2. Footway Gradient**



The gradient of the footway is subject to design revision and on-site reconstruction which the developer has agreed to arrange. A 1:12 gradient is to be provided which is in line with NCC Highway, and other, Guidance.

### **3. Footway Crossfall**

Normal footway crossfalls should be 1 in 35 to 1 in 40 according to NCC guidance. However, both NCC and 'Manual for Streets' guidance recognises that at vehicle crossovers this is not always possible to achieve, but suggests that excessive or inconvenient crossfalls should be avoided. The NCC Highway Network Management Plan suggests 1 in 12 as a maximum gradient. Similarly, where tactile paved pedestrian crossing points are provided, guidance suggests a gradient of between 1 in 12 and 1 in 20.

In terms of this site, the crossfalls are considered to be acceptable but will, in any case, be reviewed by this Authority and adjusted where necessary when the footway gradient works and other damage repair works are carried out at the expense of the developer. Given the profile of Halloughton Road, this Authority is certain that any adjustments can be achieved if found to be necessary.

### **4. Visibility Splays**

To clarify how an access visibility splay is measured the following information is offered:

In this case splays of 2.3m x 43m have been approved by NCC and provided within the extent of the undisputed public highway boundary. The 2.3m dimension is measured along the centreline of the side access road from the kerb/channel line of the main road. The 43m dimension is measured along the kerb/channel line of the main road from the centreline of the side access road, to a point 1m offset into the carriageway.

### **Conclusion**

It is hoped that this information assists, but it is reaffirmed that there is insufficient grounds for a highway-related objection to this proposal.

### **Comments received 3rd June 2019 (reported as late items at June 4th Planning Committee)**

There appears to be two outstanding highway- related concerns expressed by residents that are addressed below:

#### **Visibility Splays**

The submitted access drawing shows the following visibility splays which have previously been deemed acceptable by the Highway Authority:

**2.3m x 43 m to the right/east**

**2.3m x 29m (or 2.0m x 43m) to the left/west.**

Representation has been received to suggest that, in practice, these splays are not achieved. On the contrary they have been reviewed and found to measure 2.3m x 43m in both directions; in excess of the distances submitted. The conclusion is that the visibility splays are safe and acceptable.

#### **Disability Access**

Local concern has been raised that the footway associated with the access has been built with a 'barrier' to use by disabled users in terms of gradients, and it has been suggested that it fails to meet legal requirements. This has been investigated and whilst the legal definition of what is a 'barrier' or not is difficult to establish since it is steeped in guidance notes rather than legislation, it is considered that the gradients could and should be improved to overcome concerns. To this end the developer has agreed to have the footway modified at their cost. It is suggested that this can be controlled by a suitably worded condition. E.g. Prior to the occupation of any dwelling on the associated site, the existing footway gradient shall be reconfigured to provide a maximum gradient of 1 in 12 (or another gradient that is otherwise reasonable and acceptable to the Highway Authority), and any damage to the existing kerb edging, footway surface and tactile paving be re-instated to the original specification.

This should satisfactorily resolve this disability access issue, since a 1 in 12 gradient is commonly quoted in guidance as acceptable.

It has been suggested that perhaps this condition should be time-limited rather than tie into occupation e.g. "Within 12 weeks of that date of this permission the existing footway gradient shall be reconfigured....". I leave this to the LPA to determine.

I am also aware that damage has been caused by construction traffic over-running the kerbs but the above condition should address this point. I understand that the over-running is due to poor driving rather than the design of the access, and will cease in due course.

Subject to the above, I reaffirm that no objections are raised.

#### Southwell Civic Society – comments received

There are no on-site physical reasons why the site lines have to be compromised.

We note that the work has already been completed and should have been declared by the applicant as a retrospective application.

This site has already received planning permission with Condition 11 stating:-

"No part of the development shall be commenced until visibility splays of 2.4m. X 43m. minimum are provided at the junction with Halloughton Road".

"Reason in the interest of Highway safety."

This condition is the exact wording used by D Albans in his letter of 11th. January 2016 to the planning officer regarding highway matters relating to the development. It is significant that the visibility splays are to be 43 metres minimum, not approximately or there about or desirable. If it is in the "interest of Highway Safety" then minimum must mean minimum. It is irresponsible for the highway department now to back track and say we did not mean minimum just because their partner VIA have already executed the works.

There is clearly a conflict of interest here, VIA were clearly out of order constructing this entrance prior to the determination of planning permission. Not the behaviour we expect from a public body.

VIA may have a vast experience of constructing accesses but they are contractors not designers. They do not lay down the standards.

The "fait accompli" tactic of the developer and the threat of lack of defence in an appeal implied in the Highways response must be resisted and the entrance constructed as stated in Condition 11 "In the interest of highway safety". It is the County Council's duty to uphold their own standards and not be pressurised by the commercial interests of third parties. The Highways department should remain independent and not involve itself in land ownership issues.

Allowing a relaxation in the standards in this case will set a precedent for future applications.

It is all very well and good for the Highways department to quote statistics regarding gaps in the traffic for pedestrian crossing times but this does not take account of rush hour bunching or the increase in commuters ignoring the no right turn on Westgate and racing through to Nottingham Road.

It would appear from other consultees' correspondence that the splays may not even have been constructed to the relaxed standard sought, which emphasises once again the need for NSDC to check compliance with specifications and conditions attached to planning permissions.

**Comments received from local residents/interested parties (reported as late items at 4<sup>th</sup> June Planning Committee)**

- Previous objections have from local residents have been ignored.
- There remain boundary and landownership issues – development should only take place on land within the developer's ownership.
- The proposal impacts on a Right of Way over the applicants land and upon a meter box and power supply – it is suggested that a Grampian condition is put in place in order that development does not take place until the energy supply and meter box has been relocated at the cost of the applicant and to an agreed timescale.
- The access that has been constructed has previously been considered fit for purpose by the County Council and the Local Planning Authority. On further inspection this is not the case and officers are revising their recommendation and the error corrected by a condition requiring a compliant access to be constructed before any occupation.
- Highways have relaxed standards in relation to the radii, the width of the footpath and the visibility splays.
- The splays do not meet the minimum requirements.
- The splays as proposed are not considered unreasonable but will need to be measure on completion to ensure that minimum distances have been achieved.
- Pleasing to see that the access will be DDA compliant.
- These issues have arisen as a result of disputed ownership/adoption of verges along Halloughton Road which the Council were notified of.

- It is accepted that the 1<sup>st</sup> 1.8m of the verge should be treated as adopted but NCC continued to treat the verge and hedge as adopted which was wrong and allowed developers access plans even though the access as proposed could not be constructed.
- Via then constructed an access that breached planning conditions and mandatory disability standards.
- NCC have been misleading and have not be challenged by NSDC.
- Some residents have rased concerns with regards to flooding and working practices being undertaken by construction workers.
- Previously accepted plans did not accurately reflect the location, dimensions, lines of sight, gradients, bends in the road, driveways, unmoveable electricity supplies, flooding issues, rights of way or boundaries.
- The revised plans for the access are flawed.
- Given the presence of an electricity meter box the access road is going to have to be single track.
- The access is of poor quality, dangerous and unnecessary risk with visibility splays that are not to national standards.
- The access breaks every possible standard for footpath, gradient width, cross fall, direct intersection with a driveway, visibility and a perceivable visibility edge for the visually impaired – this is this disrespects the Standards and the Equality Act 2010 which is unacceptable and bordering on negligent.
- The required gradient cannot be achieved.
- The width, gradient and cross fall of the footpath breach standards.
- Comments based on highway experience are not acceptable.
- Conditions will not resolve the issues and could be breached as is the current case.
- The legal rights of the disabled have been taken lightly and without respect.
- National and local policy requires that development complies with disability standards as part of planning policy. Failure to do so is a breach.

**Additional comment received as of 10<sup>th</sup> July 2019**

- During recent heavy rainfall surface water from the site collected in a large pond on site which drained into neighbouring properties. The contractors should be immediately made to take corrective action to control surface water run off – it is requested that enforcement action is taken to ensure that this does not happen now or in the future.
- Concerns were rased with regards to potential flooding of neighbouring properties in 2012 and following the recent flood event these concerns were valid and the contractors should put in place a robust protection system around the perimeter of the land to prevent surface water flowing into neighbouring property eg. an earth bund around the entire site.

- Comments have also been received with regards to works being undertaken in proximity of electricity supply meter housing in breach of Health and Safety Guidelines and which has the potential to impact on electricity supply to a neighbouring property which has a legal easement right in relation to the meter box and the power supply.

**Additional Information deposited as of 10<sup>th</sup> July 2019**

The applicant has deposited supporting statements from BSP Consulting, nmnc and Browne Jacobson which were reported as late items at the 4<sup>th</sup> June 2019 Planning Committee and are summarised below:-

- **BPS Consulting - supports this application and reiterates the conclusions of Transport Statement deposited with the 2015 application in that traffic flows along Halloughton Road are identified as low, the impact on the local road network has been demonstrated to be low, accident data records show no accidents have occurred in at least the last 5 years and as noted in the Transport Statement no safety concerns are raised as a result of the increase in traffic flows. The junction design is considered satisfactory and is in line with national and local highway guidance. The junction provides a safe crossing point for pedestrian and vulnerable users. BSP concur with the views of the Highway Authority and although the junction does deviate slightly from National and Local guidance it will operate as a fully compliant junction for use by residents, vulnerable users and road users.**
- **nmcn - (the contractors on site) – outlines the benefits of the scheme in terms of family housing provision, housing delivery, provision of assisted living for Reach, regeneration of waste land and contribution to local economy. The intention is to deliver the development in a timely and neighbourly manner. With regards to the access legal advice has been sought to ensure that all parties are aware of the current position and the developers have worked with various council departments.**
- **Browne Jacobson – outline the history of the access with regards to land ownership of the verges and the construction of the access. The Highway Authority agreed the details of the access prior to construction. Although a deviation from technical guidance it is for the Highway Authority to exercise its discretion in determining the acceptability of the access.**

As the access has been constructed and subject to approval nmcn are now in a position to continue the development – delays cause financial loss and the delivery of much needed housing including the Reach project.

Given concerns raised with regards to issues regarding wheelchair users on the footpath adjacent to the access road nmcn have agreed with NCC that modification works will be undertaken and will; be secured by condition.

The developers have paid in full the CIL charge of £324,000.

The agent has confirmed by email on the 10th July 2019 that:-

- a road closure has been applied for to implement the sewer connection. It is hoped this will be authorised for the beginning of August. Consequently, subject to the Committee

approval, it would be possible to carry out the footway alteration works at the same time as the sewer connection to enable all highway and surface water issues to be dealt with promptly.

### Additional Drawing

The applicant has submitted an additional plan (ref. 37049-BSP-ZZ-XX-DR-C-101 Rev P3) which shows an accurate topographical survey of the existing footway gradient and crossfall together with the levels which can be achieved to comply with the requested amendments. It also demonstrates the required forward visibility splay.

The Highway Authority is currently reviewing this plan and any comments received will be reported to Members as a late item at Committee.

### ADDITIONAL Comments of Business Manager, Development

#### Material Planning Considerations

I rehearse below the matters which are material planning considerations to which the decision-maker (in this case Planning Committee) can have regard in coming to a decision

Matters which relate to the change of the site access, notably all of the matters upon which the application was previously deferred, are material planning considerations to weight in a planning balance. I therefore address each issue in turn:

#### 1. Kerb radii

The Highway Authority has confirmed that although the corner radii at 5m is slightly less than the 6m radii as is suggested in the County Council Highways Guidance this departure is not considered to be critical to highway or pedestrian safety. The kerb face is also considered acceptable.

#### 2. Footway Gradient

Significant concern has been raised by local residents with regards to the design and construction of the access which they consider to present a barrier to disabled users of the footpath. Notwithstanding the previous comments of the Highway Authority which raised no objections to the access as constructed Highway officers have revisited the access and as noted in their comments of the 3rd June accept that the gradients should be modified and improved. These modifications can be controlled by a suitably worded condition. The applicant has confirmed in writing on the 31st May 2019 that a 1:12 gradient of the footway is achievable and the gradient will be modified to be in line with guidance and has submitted an additional plan (ref. 37049-BSP-ZZ-XX-DR-C-101 Rev P3) to demonstrate this. It is recommended that this is secured within 4 weeks of any revised permission (any sooner would likely be deemed unreasonable and unenforceable given that works are dependent on contractors and NCC permissions for road works).

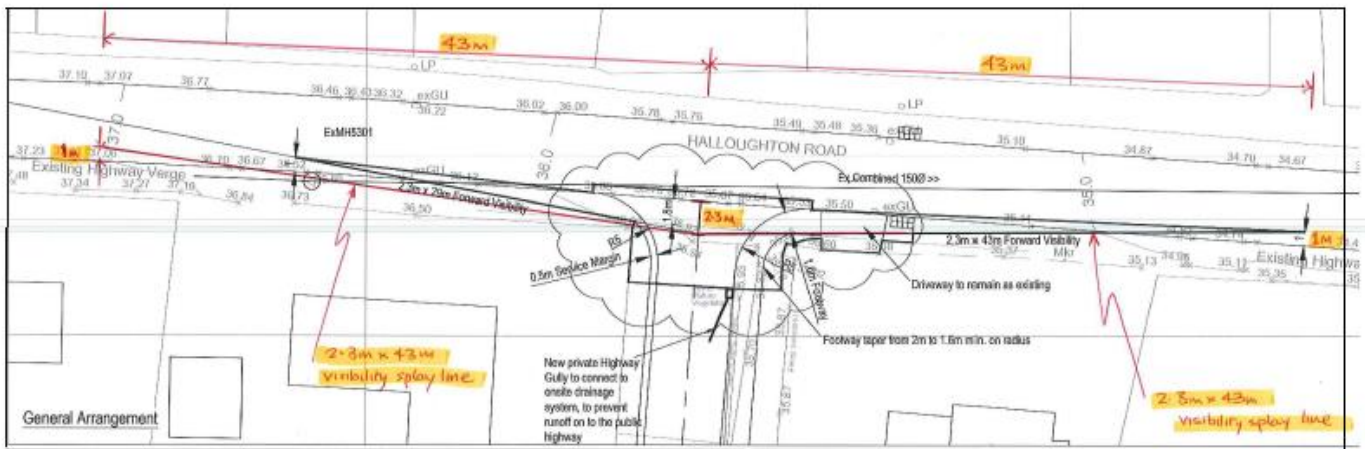
#### 3. Footway Crossfall

The Highway Authority is satisfied that an appropriate crossfall of 1:40 will be achieved.

#### 4. Visibility Splays

The Highway Authority has provided details of how the access visibility splay is measured within their consultation comments. The 2.3m dimension is measured along the centreline of the side

access road from the kerb/channel line where as the 43m dimension is measured along the kerb/channel line from the centreline of the side access road to a point 1m offset into the carriageway as shown in the diagram below.



Members will note that in their comments dated 3rd June 2019 the Highway Authority consider that the visibility splays are acceptable and in fact exceed the distances indicated on the layout drawings submitted with this application.

The Highway Authority therefore continue maintain their stance that subject to the modifications noted in their comments of the 3rd of June 2019 (which the applicant has confirmed are achievable and that the required works will be undertaken)there are insufficient grounds for any highway objection to the development.

Officers consider it reasonable to attach an additional condition should Members be minded to grant permission to secure an appropriate time frame for the reconfiguration and modification works to the constructed access in line with the advice of the Highway Authority contained within their latest comments.

Taking the comments of the Highway Authority as relevant technical experts into account together with the agreed modifications to the gradient of the footpath which will improve the standard and quality of the access that is currently constructed, officers remain of the view that it would not be reasonable to recommend refusal on highway and pedestrian safety grounds in this instance.

Officers acknowledge the comments received with regards to flooding and drainage. These matters are considered in detail within the update of the Committee report 19/00779/FULM which is before Members at this committee and which relates to the residential development (approved under 15/01295/FULM) seeking to vary condition 11 of the original permission in relation to revised visibility splay measurements resulting from the revised design of the access that have been constructed on Halloughton Road.

#### Other Non Material Matters

The comments received with regards to land ownership of the verges, Rights of Way over the site, boundary disputes and the relocation of an electricity meter box are considered in detail within the update of the Committee report 19/00779/FULM which is before Members at this committee and which relates to the residential development (approved under 15/01295/FULM).

## Planning Balance and Conclusion

It should again be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration. In this instance this relates to highway matters. Nottinghamshire County Council Highways Authority as the relevant technical experts have reviewed the proposal together with the additional details submitted since June 4th Planning Committee and although it has been advised that modifications and improvements should be made to the footpath gradients as noted above, the Highway Authority maintain their position that the revised access together with the modified gradient would not cause highway harm and I would accept their conclusion.

*The text that follows is the previous report to Committee for completeness:*

**PLANNING COMMITTEE –4 JUNE 2019**

## Agenda Item 7

This application is before the Planning Committee for determination as the officer recommendation differs from the views of the Town Council and at the request of the Local Ward Member, Councillor Penny Rainbow on the grounds of highway and pedestrian safety, concerns that the conditions in the initial application have not been met and insufficient drainage plans are in place. It is also stated that the intended buffer strip does not comply with the Southwell Neighbourhood plan.

### The Site

This application relates solely to an access located between no.s 36 and no.s 38 Halloughton approved by Planning Committee in March 2017 which has been now been constructed (although this is not in accordance with the previously approved plans.

Previously there has been an overgrown access in this location which has historically served land to the rear of Springfield Bungalow, a detached bungalow with an additional access close to the junction of Halloughton Road and Nottingham Road. The land to the rear of the bungalow is allocated in the Newark and Sherwood LDF Allocations and Development Management DPD (2013) for housing development - Southwell Housing Site So/Ho/2. Planning permission was issued in December 2017 for a residential development on this site for 38 dwellings and the conversion and extension of existing residential property to form 12 supported living units as detailed below.

The immediately adjoining properties to the north and North West of the site are a mix of single and two storey detached dwellings. The immediately adjoining properties No.s 36 and 38 Halloughton Road are detached bungalows.

The site lies to the west of the Conservation area.

### Relevant Planning History

#### **Access**

16/01369/FUL – At a meeting on the 22nd March 2017 Members resolved to grant conditional planning permission for the alteration of an existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay. Condition 3 of this permission required details of drainage of the access. Condition 4 required the submission of precise details of the



access.

19/00076/DISCON – An application was submitted in January 2019 seeking to discharge conditions 3 and 4 of planning permission 16/01639/FUL. These conditions were discharged by correspondence dated 1<sup>st</sup> March 2019.

The access has been constructed prior to the determination of the current application.

### **Residential Development**

15/01295/FULM – At a meeting in June 2016 Planning Committee resolved to grant full planning permission for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units subject to conditions to be delegated to the business manager, vice chair of planning committee and the leader of the Council and to the signing and sealing of a S106 Agreement. The conditions were presented to and agreed by Planning Committee in September 2016.

Following the submission of revised site location and site layout plans this application was re-presented to Planning Committee on the 22nd March 2017. Members resolved to grant full conditional planning permission subject to the signing and sealing of a Section 106 Planning Agreement to secure the provision of Springfield Bungalow being gifted to the Reach Project (including relevant pay back clause(s)), on-site affordable housing (2 no. units), and developer contributions for open space, community facilities, education, and transport enhancements. The S106 was signed and sealed and the planning permission issued in December 2017.

19/00317/DISCON – an application was submitted in February 2019 seeking to discharge conditions 3, 4, 5, 6, 11, 13, 14, 17, 19, 20 and 21 attached to planning permission 15/01295/FULM – these conditions were discharged by correspondence dated May 7th 2019.

19/00456/DISCON – an application was submitted in March 2019 seeking to discharge 14, 15 and 16 attached to planning permission 15/01295/FULM – These conditions were discharged by correspondence dated May 7th 2019.

19/00779/FULM – a S73 application has been deposited seeking to vary condition 12 of planning permission 15/01295/FULM which requires a minimum visibility splay of 2.4m x 43m to be provided at the junction with Halloughton Road. This application is also being presented to the Planning Committee as part of this agenda.

Works have commenced on site prior to the determination of the current application and are therefore in breach of the planning permission granted in 2017.

### **The Proposal**

This is a retrospective application which seeks to vary conditions 2, 3, 4 and 5 of planning permission 16/01369/FUL as detailed below to enable an amendment to retain the redesigned access as constructed April 2019.

Condition 2 relates to the approved plan and stated that:-

*'The development hereby permitted shall be carried out in accordance with the following approved plan:-*

*o 12/1889/750*

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

Condition 3 stated that :-

*'No development shall be commenced until details of drainage and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.'*

Condition 4 stated that :-

*'No part of the development hereby permitted shall take place until details of the new access road have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of utilities services, and any proposed structural works. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.'*

Condition 5 stated that :-

*'No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m shown on drawing no. 12/1889/750 are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.25 metres in height unless otherwise agreed with the Highway Authority.'*

The following amendments have been made to the previously approved scheme and are indicated on drg.no. HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019:-

- The 6m corner radii have been amended to 5m.
- The footway fronting Halloughton Road has been reduced from 2.0m to 1.8m in width, with a pinch point of 1.6m at the corner.
- The visibility splays have been reduced:
  - a) From 2.4m x 43m to the right/east to 2.3m x 43m
  - b) From 2.4m x 43m to the left/west to 2.3m x 29m

The plan deposited with the application includes details of drainage, gradients and sections.

These revisions have been made to ensure that works wholly take place within the undisputed boundary of the public highway, which has been agreed by Nottinghamshire County Council to be at least 6 feet (1.83m) from the southern carriageway kerb line. Members will see from the report and history to this site that land ownership, including that pertinent to the positioning of the site

access, has been on ongoing matter of dispute between parties.

#### Departure/Public Advertisement Procedure

Occupiers of 116 properties have been individually notified by letter. A site notice has also been displayed near to the site.

#### Planning Policy Framework

##### The Development Plan

##### **Southwell Neighbourhood Plan**

Policy TA1: Cycle and Pedestrian Routes

Policy TA3: Highways Impact

Policy SS2: Land South of Halloughton Road (So/Ho/2)

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

Spatial Policy 7 – Sustainable Transport

Core Policy 9 – Sustainable Design

##### **Allocations and Development Plan Development Plan Document (DPD) Adopted July 2013**

Policy DM5 Design

#### Other Material Planning Considerations

National Planning Policy Framework (NPPF) 2019

National Planning Practice Guidance (NPPG) 2014

NCC highways Design Guide

#### Consultations

**Southwell Town Council** - Southwell Town Council reconsidered application 19/00689/FUL Springfield Bungalow Nottingham Road and agreed unanimously to object to this application and to ask a district councillor to call in to NSDC for the following reasons:

High Way and Pedestrian Safety

STC agreed that N&SDC enforces the conditions as agreed some two years ago and opposes any alteration to the conditions imposed then.

The conditions in the initial application have not been met.

-The completed visibility splays do not meet the national and local highway safety standards and the conditions of the original decision, the constructed splays are in fact only 32mtrs to the East and 26mtrs to the West. These are unsafe for the 30mph road.

The new access and pavements are in contravention of Southwell Neighbourhood Plan policy TA8.1 Pg 52 Cycle and pedestrian routes –

The pavements constructed at the access to the site are not suitable for disabled and wheelchairs users, as the camber and gradient of the pavement are too high and too close to an existing dropped kerb.

The construction of the access does not allow for larger vehicles to safely enter the site without swinging across to the other side Halloughton road, therefore causing a potential traffic hazard.

The entrance itself is very narrow for vehicles to pass.

This site is in a high flood risk area with many natural springs. We object to the Drainage plans because the drains on the south boundary and in the north west corner will destroy the existing hedges which form landscape barriers. These are required to be maintained in the Southwell Neighbourhood plan see Policy SS2 policy 3".

### **NCC Highways Authority – latest comments received 16<sup>th</sup> May 2019**

Further to comments dated 2 May 2019 I wish to provide additional information that may assist the LPA consider this application.

The Highway Authority is aware that the applicant has been unable to achieve the originally conditioned standard visibility splays in land that is undisputed public highway. The applicant has therefore sought approval for a modified access arrangement. The role of the Highway Authority in advising the LPA on this variation is whether, in the opinion of the Highway Authority, it is safe for all road users. The standard local specifications relating to visibility splays are provided as guidance and as such it is within the remit of the Highway Authority to consider each case where these standard specifications cannot be achieved and make a judgement as to whether what the applicant can achieve is both safe and reasonable given the individual circumstances that are applicable. The Nottinghamshire Highway Design Guide allows flexibility to meet local circumstances.

It is recognised that the splays in the current application have been drawn slightly differently to those in the previously approved drawings i.e. to a line 1.0m offset from the kerb line, but this now matches more closely the method of measurement within this Authority's Design Guide.

On the basis of the above and for the reasons pointed out in the Highway Authority's comments dated 2 May 2019 which were prepared by an experienced and senior Highways Officer in conjunction with other experienced Highway Authority colleagues, the Authority is content that the submission details will not compromise highway safety in this instance and have therefore raised no objections.

The Highway Authority, as a Statutory Consultee, provide comments to Planning Authorities throughout Nottinghamshire on the highway aspects of approximately 3500 planning applications per year (on average). It is with this experience that a revised Transport Statement is not considered necessary by the Highway Authority.

There has been some local concern raised regarding the juxtaposition of the new access with the existing vehicle dropped kerb crossing associated with No 38 Halloughton Road. This has been considered in light of local and national guidance, and; local conditions, and found to be acceptable. There are many examples of this arrangement throughout the County.

Likewise, local concern has been raised regarding the dropped kerb pedestrian crossing point outside 38 Halloughton Road in meeting the needs of those with mobility impairment in terms of camber/gradient. The applicable standards are that the gradient of a footway should not, except in exceptional circumstances, exceed 1 in 12 and where a dropped crossing is in place the gradient should not exceed 1 in 11. The Highway Authority is of the understanding that as standard kerbs have been used in the construction of the access and that the local topography is not unduly steep the above gradients have not been exceeded. It is therefore the view of the Highway Authority that the access does meet with relevant policies and guidance and is not a barrier to those with a disability.

The Planning Authority may be aware that the access itself was constructed by the County Council's highway partner organisation, Via East Midlands, who have vast experience in constructing accesses both for third parties as well as part of their normal highway related work.

In further support to the Highway Authority's stance on considering that Halloughton Road is lightly trafficked, a traffic count suggests flows are around 900 vehicles per day (2 way flow). In the peak hour the flow is around 110 vehicles, which equates to about 1 vehicle every 33 seconds (average). The majority of pedestrians will accept a gap of 4-6 seconds at normal urban vehicle speeds to cross two lanes of traffic. Although other groups may need twice this time, it is reasonable to assume that all pedestrians should be able to cross the road safely without much delay, even at peak times. Similarly cars leaving the side road junction safely should be able to see a gap of about 3.2s or more. Again, flows are so low that there should be no difficulty in leaving the side road. I have concluded therefore that flows can be described as low.

The decision on determination of the application is within the remit of the Planning Authority. However the advice of the Highway Authority is that the application scheme is safe for all road users given the specific site constraints; is constructed such that it can be used by all road users including those with a disability, and; provides a safe access to the development.

The Planning Authority should be aware that in the judgement of the Highway Authority it would not be able to evidence a defence to a Planning Inspector should this particular application be subject of an Appeal process.

I reaffirm that no objections are raised.

#### **Comments received 3<sup>rd</sup> May 2019**

I confirm that the latest submission allows the variation to condition 2 of 15/01295/FUL to be agreed from a Highway Authority perspective.

#### **Comments received 2<sup>nd</sup> May 2019**

In terms of highway matters this application seeks a variation to conditions 4 and 5 which refer to the access details and visibility splays.

Drawing HALL-BSP-ZZ-XX-DR-C-100-P6 is acceptable to agree the variation.

This drawing has been used to construct the access under license from the Highway Authority without prejudice to the decision of the Planning Authority.

The main changes to the details from previously approved plans are:

1. 6m corner radii have been changed to 5m. This is a minor amendment and given that the access road is to remain privately owned/maintained with low flows, it is considered that this can be accepted.

2. The footway fronting Halloughton Road has been reduced from 2.0m to 1.8m in width, with a pinch point of 1.6m at the corner. This is a minor amendment and will not restrict pedestrian movements significantly. Pinch points as low as 1.2m can be allowed under the NCC Highway Design Guidance.

3. Visibility splays have been reduced:

- From 2.4m x 43m to the right/east to 2.3m x 43m

This is a marginal (almost indiscernible) change and Manual for Streets suggests that an 'x' distance as low as a 2.0m set back can be used under certain circumstances:

*"A minimum figure of 2 m may be considered in some very lightly-trafficked and slow-speed situations, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered".*

- From 2.4m x 43m to the left/west to 2.3m x 29m (or 2.0m x 43m).

This is measured in the less critical direction where vehicles are not expected to travel along the nearside, southern kerb line. Sight distances to vehicles travelling in the eastbound lane will be significantly more than those figures quoted above. 29m is commensurate with 20mph approach speeds, but here again a splay of 2.0m x 43m is available; commensurate with the Manual for Streets statement above. 43m is commensurate with an approach speed of 30mph.

All of these changes have been made to ensure that works wholly take place within the undisputed boundary of the public highway which has been agreed to be at least 6 feet (1.83m) from the southern carriageway kerb line.

It should be emphasised that, in the opinion of the Highway Authority, the position of the highway boundary is not necessarily restricted to the 6 foot dimension mentioned above. However, the scheme submitted clearly attempts to steer clear of that argument. Should the public highway boundary be proven to extend beyond the 6 feet, increased visibility splay distances would be/are available.

Under the circumstances it is considered that the variations to conditions 4 & 5 can be agreed. No objections are raised.

**Severn Trent Water** - No comments received

**Environment Agency** – No comments received

**NCC Flood Authority** – The application has no impacts on surface water and as such we have no further comments to make.

**Anglian Water** – No comments received

**Representations have been received from 14 local residents/interested parties (as of 16.05.19) which raise the following concerns:-**

#### **Retrospective Applications**

- The access was approved in 2017
- The developer has flagrantly ignored permissions and conditions in the hope that works will be approved retrospectively
- Why are views being sought when the access has already been constructed?
- This is retrospective application seeking to lower highway safety standards given that the developer has control of insufficient land to enable it to meet the pre commencement conditions.
- It is a disgrace

#### **Highway and Pedestrian Safety**

- The access as constructed breaches the conditioned visibility splays and safety for the residential site.
- Given the excessive speeds along Halloughton Road visibility of and for vehicles leaving development is essential. Halloughton Road is used as a rat run and cut through to/from Nottingham Road and the speed limit rarely adhered to – highways restrictions are ignored.
- Halloughton Road is an important relief road and is heavily used at school times by school aged pedestrians and young drivers
- The application makes no reference to 15/01295/FULM which granted permission for 38 dwellings – the access is inadequate for this.
- Pedestrians will not use the designated crossing area as it is too shallow and steep and does not conform to standards and will cross at the splay head further hindering visibility for cars exiting the junction
- No Risk Assessment has been undertaken and no evidence put forward that the access is safe – one should be undertaken before permission is granted
- The Transport Assessment submitted with application 15/01295/FULM is irrelevant and out of date.
- The comments of the Highway Officer that the road is lightly trafficked are incorrect (photo evidence of Halloughton Road during a school run attached)
- The splays as constructed fall well short of minimum standards and cannot be improved without additional frontage land;

- A material reduction in safety standards cannot be justified on land ownership grounds
- Previous transport statements deposited on the 2015 permission related to the provision of a visibility splay of 43m being the minimum required for highway safety – reduced splays therefore go against the TS findings and national and local highway standards and no evidence or calculations have been put forward to support any relaxation of standards.
- The splays as constructed are too shallow unsafe and do not meet minimum standard on a 30mph road; this would result in stationary/ reversing vehicles on the east side of the road particularly in front of the designated pedestrian crossing exacerbating pedestrian access
- The access is poorly sited and immediately adjoins an existing vehicular dropped kerb which is not normally allowed (a safe distance is normally 10-15m to prevent pedestrian/vehicular conflict).
- Pedestrians who cross from side of Halloughton Road reach a crossing with tactile paving and then have to cross the vehicular dropped kerb access creating conflict with vehicles crossing this access. This is exacerbated by the design of the footpath given its gradient which fails to meet the minimum recommended slope for wheelchair users. Its camber is regarded as dangerous to wheelchair users who could fall into the highway.
- The footpath therefore fails to meet the relevant policies because it represents a severe barrier to the disabled.
- The proposal therefore should be refused on the grounds of health and safety, highway safety and discrimination as it fails to provide a safe access to the estate road.
- The access is too narrow -there is insufficient room for vehicles turning into or leaving the site nor passing room for two vehicles
- The development exacerbates dangers to vehicles and pedestrians – some residents of the Reach site will use this access.
- Accidents seem likely and it would be difficult for the Council to adequately defend any legal action which might result – would they be liable.
- The access and limited pavement contravene the neighbourhood plan
- The access into the junction is too narrow resulting in vehicles to swing over into oncoming traffic to manoeuvre impeding traffic flow
- The submitted drawings are inaccurate they do not show a bend in the road which further impedes visibility
- Increased traffic would exacerbate existing highway issues.
- The highways assessment of the road is flawed in their calculations and calculations misleading and incorrect.

#### **Drainage**

- The road surface deteriorates due to the amount of water it carries and is particularly bad in winter not being gritted. The camber results in much water spray. The drainage being proposed is inadequate for this junction



## **Breach of Conditions/permissions**

- The Council should instruct the developers to cease work immediately.

## **Other Matters**

- The application refers to land owned by the applicant – it is owned by Springfield Ecohousing Ltd – the application is therefore invalid.

## **Comments of the Business Manager**

### Background

An application (application ref. 16/01369/FUL) for the alteration of the existing access on Halloughton Road was deposited in order to resolve the issue of works on 'disputed land' previously, as part of the consideration of an original residential planning application (15/01295/FULM). The proposal was therefore assessed separately and on its own merits and in relation to highway and pedestrian safety, land ownership and Rights of Way over the land. The application was presented to planning committee on 22<sup>nd</sup> March 2017 where Members resolved to grant conditional planning permission in accordance with officer recommendation. The relevant conditions have been subsequently discharged.

The principle of the development (i.e. an access serving a residential, in this case allocated site) is therefore established through the granting of the permission for the access in March 2017

Since the approval discussions between the applicants and Nottinghamshire County Council have resulted in the proposed access being 'moved' at least 6 feet southwards from the current kerb line. This is in order, we have been informed, for the access to be sited on land which is undisputedly (in the opinion of NCC and the applicant) on the public highway ownership. The works have been installed by Via construction (wholly owned by NCC) and this application essentially seeks to retain the works constructed (in addition to various other matters, including viability splays shown on the submitted plans).

Although the Amended Core Strategy has been adopted since the granting of the original permission 16/01369/FUL and the NPPF has been updated in 2019, there has been no significant material change to policy context relevant to the consideration of the amendment of the conditions which would affect determination of this application.

Therefore the main issue to consider is whether it is appropriate to allow the development to be retained as constructed and in accordance with the amended plans deposited with the application.

### Principle of Development

The PPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 11 October

2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed in the policy section above and are considered against the relevant aspects of the proposal in the assessment below.

This application seeks to vary condition 2, 3 4 and 5 of planning permission 16/01369/FUL to enable the retention of an access that has already been constructed which differs to that previously approved (as detailed in the proposal section of this report).

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

The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

The principle of development is therefore considered acceptable subject to an assessment of site specific issues including highway and pedestrian safety, land ownership.

### Highways Matters

Spatial Policy 7 sets out the criteria for assessing whether a development encompasses a sustainable approach to transport. Core Policy 9 requires proposals to be accessible to all. Policy DM5 of the DPD states that provision should be made for safe and inclusive access to new development and that parking provision should be based on the scale and location of the development.

Policy TA3 of the Southwell Neighbourhood Plan seeks to ensure that new development does not adversely affect the highway network.

I acknowledge the concerns received with regards to impact on existing highway conditions, highway and pedestrian safety and increased traffic which relate to both the access on Halloughton Road and in relation to its perceived association with the residential development to the rear of Springfield Bungalow (which Members resolved to approve in March 2017 - application ref. 15/01295/FULM). You will note that there is also an application also on the agenda for debate at this planning committee meeting (application ref. 19/00779/FULM) seeking to vary a condition attached to the planning permission for the residential development requiring the provision of a minimum visibility splay of 2.4m x 43m (minimum) at the access on Halloughton Road which has not been achieved in the access that has been constructed.

Officers have sought the professional views of the Highway Authority whose formal consultation comments are detailed above within the consultations section of this report

Specific Highway concerns that have been raised are discussed below:-

### **Visibility Splay**

Local residents have raised concerns with regards to the revised visibility splays to the east which now measure 2.3m x 43m and measure 2.3m x 29m to the west, rather than 2.4m x 43m to both directions as previously approved.

It is acknowledged that the visibility splays are proposed to be reduced compared to those previously approved and conditioned to be retained. However, the Highway Authority has confirmed that standard local specifications in relation to visibility splays are guidance and that the Highway Authority considers each individual case where such standards are not met. Indeed the Highways Design Guide does allow for flexibility in assessing individual circumstances.

It is noted that the Highway Authority have commented that the reduction in the eastern splay is 'marginal and almost discernable' and although there is a reduction in the western splay, sight distance would be greater than that quoted.

In simple terms the Highway Authority has assessed the access and splays and has concluded that this will not compromise highway safety. This includes having been asked to reconsider the matter on several occasions given the very clear levels of local concern.

Given that these comments are made by experienced highway professionals representing the highway authority there is nothing before officers which would contradict their advice. That does not mean as a professional officer that I would advocate the process followed in this particular case of works being done in advance of obtaining a revised permission, a matter I discuss below. Nevertheless focusing solely on planning merits, the proposal is acceptable in this regard.

#### **Reduced footway widths**

The footway has been reduced in width to 1.8m (0.2m less than previously approved) with a pinch point section reduced to 1.6m. The Highway Authority considers that this complies with the minimum width of 1.2m allowed under the Highway Design Guide and therefore raises no concerns in this regard. It is therefore considered that given this advice the reduced footway width would not compromise pedestrian safety.

#### **No updated Transport Statement**

The Highway Authority has confirmed that an updated Transport Statement is not considered necessary in this instance, given the proposal is submitted via the s73 process and the short length of time which has elapsed since the original permission.

#### **Proximity of access to existing dropped kerb**

This has been considered in light of local and national guidance and in light of the local circumstances. The Highway Authority has raised no concerns that this proximity would compromise highway or pedestrian safety and that it is not an unusual situation within the County.

#### **Access width**

The Highway Authority has confirmed with officers that the access is of sufficient width to accommodate 2 passing vehicles. It is therefore considered that the access would not result in vehicular conflict.

#### **Disabled highway and footpath users**

The comments received with regards to the safety of disabled pedestrians by virtue of the camber and gradient of the dropped kerb that has been constructed are duly noted. The Highway Authority has advised that they are satisfied that the standards in relation to the gradient of a footway have not been exceeded in this instance. The applicable standards are that the gradient of a footway should not, except in exceptional circumstances, exceed 1 in 12 and where a dropped crossing is in place the gradient should not exceed 1 in 11. The submitted drawings show a gradient of 1 in 40.

Therefore the access as constructed is considered to meet the relevant policies and highway guidance.

### **Drainage**

The Highway Authority has assessed the drawings deposited with the application which details drainage measures and has raised no objections to the variation of conditions 4 and 5 of the original permission in relation to the access drainage details. Officers are therefore satisfied that the revised access raises no drainage issues.

### **Landownership**

It is acknowledged that the developer has constructed the access to be within land within the ownership of the Nottinghamshire County Council, albeit notice has also been served (without prejudice) on neighbouring properties. In order to achieve this, the access has been constructed in accordance with the revised design noted within the proposals section of this report. Given the comments of the Highway Authority officers are satisfied that the revised access within land owned by the County Council does not result in a reduction in safety standards. If this land ownership is to be disputed Members will be aware that this will be a matter for the interested parties to resolve via the courts.

The agent has confirmed in writing that the applicant is Springfield Ecohousing and the application has been revised accordingly.

### **Inaccurate plans and highway calculations**

Officers are satisfied that the details and drawings deposited with the application are satisfactory and adequate for the purposes of determining the application and as confirmed by the Highway Authority are in accordance with their Highway Design Guidance. In terms of calculation of traffic flow the Highway Authority have confirmed in their latest comments that this is considered to be low.

### Other matters

#### Breach of Planning Conditions

I note the comments received with regards to the application being retrospective and that the development has been carried out in breach of the planning permission issued in March 2017 together with the requests that the Council should therefore take action. This Council, as with many across England, is well versed and frustrated (I say that as part of the Officer cohort) by the issue of retrospective permissions where works take place which are not in accordance with what has been consented. Indeed, there are other such examples on the agenda this evening.

As Members will be aware the National Planning Policy Framework (NPPF) captures national guidance as to when an LPA should consider enforcement action for a breach of planning control.

This is supplemented by the Planning Policy Guidance (PPG) on-line tool. Both the NPPF and PPG make clear that “Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.”

Specifically Paragraph: 011 (Revision date: 06 03 2014) of the PPG states that:

“In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.”

It is clear that there has been a breach of planning control in that the access has been constructed not in accordance with the plans and details approved in the 2016 application or the subsequent discharge of condition application.

The Highway Authority has advised the developer and the Council that the proposed revisions are acceptable in highways terms and have confirmed in their formal consultation comments that there are no highway objections. Being mindful of the current applications, the comments of the highway authority, and the government guidance in the NPPF and PPG with respect to when enforcement action should be taken, it was not considered appropriate to take any action at this time pending the determination of the applications on this agenda. Should Members be minded to refuse permission then this position would be reviewed.

This matter notwithstanding, the developer has been advised both verbally and in writing by the Council that they are currently in breach of planning permission and that any works that have been undertaken or any continuation of works on site are entirely at their own risk pending any decision by Planning Committee. This has already had an impact in that commencement means that any retrospective planning permission can no longer benefit from CIL affordable housing relief.

#### Highway Restrictions

Comments received with regards to highway users ignoring existing traffic regulations on Halloughton Road is not a matter for the Local Planning Authority but would be a police matter.

#### Assessment of conditions

The PPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this case as the development has begun, the time condition does not need to be re-imposed. Conditions 3 and 4 of the original permission in relation to drainage and matters such as gradients, sections, lighting, construction specifications etc. have been formally discharged. Notwithstanding this the plans submitted with this current retrospective application include these details and the Highway Authority advise no objections are raised and that conditions 2, 3, 4 and 5 can therefore be varied accordingly

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

### **Conclusion and Planning Balance**

It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration given the other matters discussed above. In this instance this relates to highway implications and acceptability of the scheme. Nottinghamshire County Council Highways Authority has been consulted as the relevant technical experts who conclude that the revised access which has been constructed by VIA East Midlands would not cause highway harm and I would accept their conclusion in light of no technical evidence to the contrary.

### **RECOMMENDATION**

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

~~01~~

~~The development hereby permitted shall not begin later than three years from the date of this permission.~~

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

~~02-01~~

The development hereby permitted shall be ~~carried out~~ **retained** in accordance with the following approved plan:-

~~• 12/1889/750~~

• **HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019 (Notwithstanding gradients) and (ref. 37049-BSP-ZZ-XX-DR-C-101 Rev P3)**

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

Reason: So as to define this permission.

~~03-02~~

~~No development shall be commenced until~~ **The development shall be retained** in accordance with details of drainage and surface water disposal ~~have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.~~ as

**shown on the plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019**

Reason: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

**04-03**

~~No part of the development hereby permitted shall take place until details of the new access road have been submitted to and approved in writing by the Local Planning Authority including The development shall be retained in accordance with longitudinal **and cross-sectional gradients**, street lighting, drainage and outfall proposals and construction specification as shown on the approved plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019 (Notwithstanding gradients) and (ref. 37049-BSP-ZZ-XX-DR-C-101 Rev P3) provision of utilities services, and any proposed structural works. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.~~

Reason: To provide a suitable standard of access and to allow for future maintenance.

**05-04**

~~No part of the development hereby permitted shall be brought into use until The visibility splays of 2.4m x 43m shown on drawing no. 12/1889/750 are provided.~~

- **2.3m x 43m to the right/east of the access**
- **2.3m x 29m to the left/west of the access**

**shall be retained in accordance with the plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019**

The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.25 metres in height unless otherwise agreed with the Highway Authority.

Reason: For the avoidance of doubt.

**05**

***Within 4 weeks of the date of this permission, the existing footway gradient shall be reconfigured to provide a maximum gradient of 1 in 12 at any point on the land coloured yellow on plan HALL-BSP-ZZ-XX-DR-C-100 Rev 6 and as shown on drawing ref. 37049-BSP-ZZ-XX-DR-C-101 Rev P3 deposited on the 10th July 2019. Any damage to the existing kerb edging, footway surface and tactile paving be re-instated to the original specification as shown on approved drawing HALL-BSP-ZZ-XX-DR-C-100 Rev 6.***

***Reason: To provide a suitable standard of access and to allow for future maintenance.***

**Note to Applicant**

01

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

02

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.

03

Severn Trent Water have advised that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

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#### BACKGROUND PAPERS

Application case file.

For further information, please contact Bev Pearson on ext 5840

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

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





## PLANNING COMMITTEE – 23 JULY 2019

Application No:	19/00779/FULM (MAJOR)	
Proposal:	Application for variation of condition 11 of planning permission 15/01295/FULM to allow the new access junction to be constructed wholly within highway land or that owned by the applicant	
Location:	Springfield Bungalow Nottingham Road Southwell NG25 0QW	
Applicant:	Springfield Eco Ltd	
Registered:	23 <sup>rd</sup> April 2019	Target Date: 26th July 2019

### UPDATE REPORT

The following is an update to the report presented to Members on the 4<sup>th</sup> June 2019 with commentary in bold and italic text for ease of reference.

This application was deferred by Members at June 4<sup>th</sup> Planning Committee in order to seek clarification of the specific issues of the acceptability of the kerb radii to the site, the gradient of the footpath (achieving 1:12), the cross fall of the footpath (achieving 1:40), and confirmation that the visibility splay measured on site by NCC highways was appropriate.

Since the deferral the site and its surroundings, notably nearby residential properties, have been subject to flooding. It is therefore considered appropriate to also update Members on the degree to which this impacts on the acceptability of what is now proposed.

#### *The proposal*

As Members will recall this planning application seeks to amend planning condition 11 attached to an already granted planning permission. The condition affected relates to the visibility splay from the site access, which as Members will recall is different to the consented scheme in terms of its positioning. This revised access has now been implemented (by the applicant using Via as contractors) and thus the application seeks retrospective permission to change the conditions in order to regularise the situation.

It is proposed to amend the condition as follows:

#### *Original condition*

*No part of the development shall be brought into use until visibility splays of 2.4m x 13m (minimum) are provided at the junction with Halloughton Road.'*

#### *Proposed amendments*

*No part of the development shall be brought into use until visibility splays of:-*

*2.3m x 43m to the right/east of the access*

***2.3m x 29m to the left/west of the access***

***are provided at the junction with Halloughton Road***

#### **ADDITIONAL Consultations Comments received**

#### **NCC Highways:- latest comments received 19th June 2019**

***Further to comments dated 3 June 2019 I wish to provide additional information that may assist the LPA consider this application.***

##### ***1. Radii and Kerbing***

***The access corner radii are 5m. This is a small departure from the 6m dimension suggested in the NCC Highways Guidance and, in the context of this site, is not considered to be critical to safety or accessibility. Indeed 'Manual for Streets' guidance suggests that shorter radii than this can have benefits for pedestrians and cyclists.***

***Whilst damage has been caused by construction traffic over-running the kerbs, this is due to poor driving rather than the design of the access, and will cease in due course.***

***Officers of the Highway Authority have witnessed the satisfactory manoeuvring of construction lorries; without the need to mount kerbs.***

***The kerbs are standard construction and have (within tolerances) a 100mm to 125mm kerb face. This is acceptable.***

##### ***2. Footway Gradient***

***The gradient of the footway is subject to design revision and on-site reconstruction which the developer has agreed to arrange. A 1:12 gradient is to be provided which is in line with NCC Highway, and other, Guidance.***

##### ***3. Footway Crossfall***

***Normal footway crossfalls should be 1 in 35 to 1 in 40 according to NCC guidance. However, both NCC and 'Manual for Streets' guidance recognises that at vehicle crossovers this is not always possible to achieve, but suggests that excessive or inconvenient crossfalls should be avoided. The NCC Highway Network Management Plan suggests 1 in 12 as a maximum gradient. Similarly, where tactile paved pedestrian crossing points are provided, guidance suggests a gradient of between 1 in 12 and 1 in 20.***

***In terms of this site, the crossfalls are considered to be acceptable but will, in any case, be reviewed by this Authority and adjusted where necessary when the footway gradient works and other damage repair works are carried out at the expense of the developer. Given the profile of Halloughton Road, this Authority is certain that any adjustments can be achieved if found to be necessary.***

##### ***4. Visibility Splays***

***To clarify how an access visibility splay is measured the following information is offered:***

***In this case splays of 2.3m x 43m have been approved by NCC and provided within the extent of the undisputed public highway boundary. The 2.3m dimension is measured***

*along the centreline of the side access road from the kerb/channel line of the main road. The 43m dimension is measured along the kerb/channel line of the main road from the centreline of the side access road, to a point 1m offset into the carriageway.*

#### **Conclusion**

*It is hoped that this information assists, but it is reaffirmed that there is insufficient grounds for a highway-related objection to this proposal.*

#### **Comments received 3rd June 2019 (reported as late items at June 4th Planning Committee)**

*There appears to be two outstanding highway- related concerns expressed by residents that are addressed below:*

#### **Visibility Splays**

*The submitted access drawing shows the following visibility splays which have previously been deemed acceptable by the Highway Authority:*

*2.3m x 43 m to the right/east*

*2.3m x 29m (or 2.0m x 43m) to the left/west.*

*Representation has been received to suggest that, in practice, these splays are not achieved. On the contrary they have been reviewed and found to measure 2.3m x 43m in both directions; in excess of the distances submitted. The conclusion is that the visibility splays are safe and acceptable.*

#### **Disability Access**

*Local concern has been raised that the footway associated with the access has been built with a 'barrier' to use by disabled users in terms of gradients, and it has been suggested that it fails to meet legal requirements. This has been investigated and whilst the legal definition of what is a 'barrier' or not is difficult to establish since it is steeped in guidance notes rather than legislation, it is considered that the gradients could and should be improved to overcome concerns. To this end the developer has agreed to have the footway modified at their cost. It is suggested that this can be controlled by a suitably worded condition. E.g. Prior to the occupation of any dwelling on the associated site, the existing footway gradient shall be reconfigured to provide a maximum gradient of 1 in 12 (or another gradient that is otherwise reasonable and acceptable to the Highway Authority), and any damage to the existing kerb edging, footway surface and tactile paving be re-instated to the original specification.*

*This should satisfactorily resolve this disability access issue, since a 1 in 12 gradient is commonly quoted in guidance as acceptable.*

*It has been suggested that perhaps this condition should be time-limited rather than tie into occupation e.g. "Within 12 weeks of that date of this permission the existing footway gradient shall be reconfigured.... ". I leave this to the LPA to determine.*

*I am also aware that damage has been caused by construction traffic over-running the kerbs but the above condition should address this point. I understand that the over-running is due to poor driving rather than the design of the access, and will cease in due course.*

***Subject to the above, I reaffirm that no objections are raised.***

***Southwell Civic Society – comments received:***

***There are no on-site physical reasons why the site lines have to be compromised.***

***We note that the work has already been completed and should have been declared by the applicant as a retrospective application.***

***This site has already received planning permission with Condition 11 stating:-***

***"No part of the development shall be commenced until visibility splays of 2.4m. X 43m. minimum are provided at the junction with Halloughton Road".***

***"Reason in the interest of Highway safety."***

***This condition is the exact wording used by D Albans in his letter of 11th. January 2016 to the planning officer regarding highway matters relating to the development. It is significant that the visibility splays are to be 43 metres minimum, not approximately or there about or desirable. If it is in the "interest of Highway Safety" then minimum must mean minimum. It is irresponsible for the highway department now to back track and say we did not mean minimum just because their partner VIA have already executed the works.***

***There is clearly a conflict of interest here, VIA were clearly out of order constructing this entrance prior to the determination of planning permission. Not the behaviour we expect from a public body.***

***VIA may have a vast experience of constructing accesses but they are contractors not designers. They do not lay down the standards.***

***The "fait accompli" tactic of the developer and the threat of lack of defence in an appeal implied in the Highways response must be resisted and the entrance constructed as stated in Condition 11 "In the interest of highway safety". It is the County Council's duty to uphold their own standards and not be pressurised by the commercial interests of third parties. The Highways department should remain independent and not involve itself in land ownership issues.***

***Allowing a relaxation in the standards in this case will set a precedent for future applications.***

***It is all very well and good for the Highways department to quote statistics regarding gaps in the traffic for pedestrian crossing times but this does not take account of rush hour bunching or the increase in commuters ignoring the no right turn on Westgate and racing through to Nottingham Road.***

***It would appear from other consultees' correspondence that the splays may not even have been constructed to the relaxed standard sought, which emphasises once again the need for NSDC to check compliance with specifications and conditions attached to planning permissions.***

***ADDITIONAL Comments received from local residents/interested parties (reported as late items at 4<sup>th</sup> June Planning Committee)***

- ***Previous objections have from local residents have been ignored;***

- *There remain boundary and landownership issues – development should only take place on land within the developer’s ownership;*
- *The proposal impacts on a Right of Way over the applicants land and upon a meter box and power supply – it is suggested that a Grampian condition is put in place in order that development does not take place until the energy supply and meter box has been relocated at the cost of the applicant and to an agreed timescale;*
- *The access that has been constructed has previously been considered fit for purpose by the County Council and the Local Planning Authority. On further inspection this is not the case and officers are revising their recommendation and the error corrected by a condition requiring a compliant access to be constructed before any occupation;*
- *Highways have relaxed standards in relation to the radii, the width of the footpath and the visibility splays;*
- *The splays do not meet the minimum requirements;*
- *The splays as proposed are not considered unreasonable but will need to be measure on completion to ensure that minimum distances have been achieved;*
- *Pleasing to see that the access will be DDA compliant;*
- *These issues have arisen as a result of disputed ownership/adoption of verges along Halloughton Road which the Council were notified of;*
- *It is accepted that the 1<sup>st</sup> 1.8m of the verge should be treated as adopted but NCC continued to treat the verge and hedge as adopted which was wrong and allowed developers access plans even though the access as proposed could not be constructed;*
- *Via then constructed an access that breached planning conditions and mandatory disability standards;*
- *NCC have been misleading and have not be challenged by NSDC;*
- *Some residents have rasied concerns with regards to flooding and working practices being undertaken by construction workers;*
- *Previously accepted plans did not accurately reflect the location, dimensions, lines of sight, gradients, bends in the road, driveways, unmoveable electricity supplies, flooding issues, rights of way or boundaries;*
- *The revised plans for the access are flawed;*
- *Given the presence of an electricity meter box the access road is going to have to be single track;*
- *The access is of poor quality, dangerous and unnecessary risk with visibility splays that are not to national standards;*
- *The access breaks every possible standard for footpath, gradient width, cross fall, direct intersection with a driveway, visibility and a perceivable visibility edge for the visually impaired – this is this disrespects the Standards and the Equality Act 2010 which is unacceptable and bordering on negligent;*

- *The required gradient cannot be achieved;*
- *The width, gradient and cross fall of the footpath breach standards;*
- *Comments based on highway experience are not acceptable;*
- *Conditions will not resolve the issues and could be breached as is the current case;*
- *The legal rights of the disabled have been taken lightly and without respect;*
- *National and local policy requires that development complies with disability standards as part of planning policy. Failure to do so is a breach;*
- *During recent heavy rainfall surface water from the site collected in a large pond on site which drained into neighbouring properties. The contractors should be immediately made to take corrective action to control surface water run off – it is requested that enforcement action is taken to ensure that this does not happen now or in the future;*
- *Concerns were raised with regards to potential flooding of neighbouring properties in 2012 and following the recent flood event these concerns were valid and the contractors should put in place a robust protection system around the perimeter of the land to prevent surface water flowing into neighbouring property eg. an earth bund around the entire site;*

*Comments have also been received with regards to works being undertaken in proximity of an electricity supply meter housing in breach of Health and Safety Guidelines and which has the potential to impact on electricity supply to a neighbouring property which has a legal easement right in relation to the meter box and the power supply.*

#### **ADDITIONAL comments from applicants**

##### **Supporting Statements**

*The applicant has deposited supporting statements from BSP Consulting, nmnc and Browne Jacobson which were reported as late items at the 4<sup>th</sup> June 2019 Planning Committee and are summarised below:-*

- *BPS Consulting - supports this application and reiterates the conclusions of Transport Statement deposited with the 2015 application in that traffic flows along Halloughton Road are identified as low, the impact on the local road network has been demonstrated to be low, accident data records show no accidents have occurred in at least the last 5 years and as noted in the Transport Statement no safety concerns are raised as a result of the increase in traffic flows. The junction design is considered satisfactory and is in line with national and local highway guidance. The junction provides a safe crossing point for pedestrian and vulnerable users. BSP concur with the views of the Highway Authority and although the junction does deviate slightly from National and Local guidance it will operate as a fully compliant junction for use by residents, vulnerable users and road users.*
- *nmnc (the contractors on site) – outlines the benefits of the scheme in terms of family housing provision, housing delivery, provision of assisted living for Reach, regeneration of waste land and contribution to local economy. The intention is to deliver the development in a timely and neighbourly manner. With regards to the access legal advice*

*has been sought to ensure that all parties are aware of the current position and the developers have worked with various council departments.*

- *Browne Jacobson – outline the history of the access with regards to land ownership of the verges and the construction of the access. The Highway Authority agreed the details of the access prior to construction. Although a deviation from technical guidance it is for the Highway Authority to exercise its discretion in determining the acceptability of the access.*

*As the access has been constructed and subject to approval nmcn are now in a position to continue the development – delays cause financial loss and the delivery of much needed housing including the Reach project.*

*Given concerns raised with regards to issues regarding wheelchair users on the footpath adjacent to the access road nmcn have agreed with NCC that modification works will be undertaken and will; be secured by condition.*

*The developers have paid in full the CIL charge of £324,000.*

*The agent has confirmed by email on the 10<sup>th</sup> July 2019 that:-*

- *The on-site drainage is ready for installation and a road closure has been applied for to implement the sewer connection. It is hoped this will be authorised for the beginning of August. Consequently, subject to the Committee approval, it would be possible to carry out the footway alteration works at the same time as the sewer connection to enable all highway and surface water issues to be dealt with promptly.*

#### **Additional Drawing**

The applicant has submitted an additional plan (ref. 37049-BSP-ZZ-XX-DR-C-101 Rev P3) which shows an accurate topographical survey of the existing footway gradient and crossfall together with the levels which can be achieved to comply with the requested amendments. It also demonstrates the required forward visibility splay.

The Highway Authority is currently reviewing this plan and their comments will be reported to Members as a late item at Committee.

#### **ADDITIONAL Comments of Business Manager, Development**

##### **Material planning considerations**

I rehearse below the matters which are material planning considerations to which the decision-maker (in this case Planning Committee) can have regard in coming to a decision. I also outline matters which are not material to decision making before offering comment on flood risk matters.

Matters which relate to the change of the site access, notably all of the matters upon which the application was previously deferred, are material planning considerations to weight in a planning balance. I therefore address each issue in turn:

##### **1. Kerb radii**

The Highway Authority has confirmed that the proposed radii is acceptable (albeit is a departure from standard). Such radii are present elsewhere in the Town and across Newark and Sherwood



District. The highway authority remain of the option that the kerb is only currently damaged by construction vehicles. It is recommended that if approved, additional site management arrangements for construction vehicles are recommended by condition.

## 2. Footway Gradient

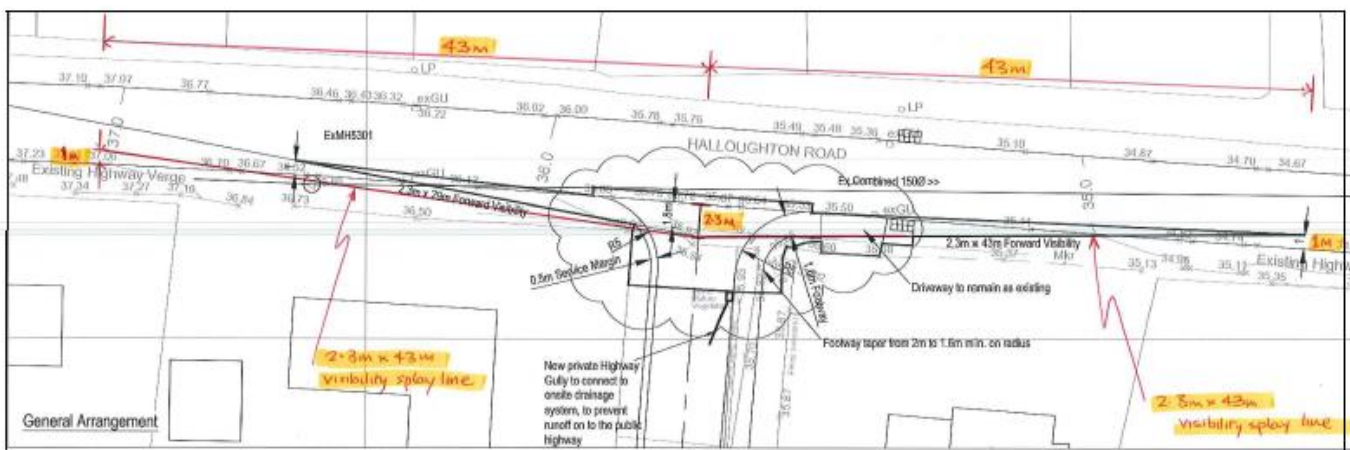
Significant concern has been raised by local residents with regards to the design and construction of the access which they consider to present a barrier to disabled users of the footpath. Notwithstanding the previous comments of the Highway Authority which raised no objections to the access as constructed Highway officers have revisited the access and as noted in their comments of the 3<sup>rd</sup> June accept that the gradients should be modified and improved. These modifications can be controlled by a suitably worded condition. The applicant has confirmed in writing on the 31<sup>st</sup> May 2019 that a 1:12 gradient of the footway is achievable and the gradient will be modified to be line with guidance and has submitted an additional plan (ref. 37049-BSP-ZZ-XX-DR-C-101 Rev P3) to demonstrate this. It is recommended that this is secured within 4 weeks of any revised permission (any sooner would likely be deemed unreasonable and unenforceable given that works are dependent on contractors and NCC permissions for road works).

## 3. Footway Crossfall

The Highway Authority are satisfied that an appropriate crossfall of 1:40 will be achieved.

## 4. Visibility Splays

The Highway Authority has provided details of how the access visibility splay is measured within their consultation comments. The 2.3m dimension is measured along the centreline of the side access road from the kerb/channel line where as the 43m dimension is measured along the kerb/channel line from the centreline of the side access road to a point 1m offset into the carriageway as shown in the diagram below.



Members will note that in their comments dated 3<sup>rd</sup> June 2019 the Highway Authority consider that the visibility splays are acceptable and in fact exceed the distances indicated on the layout drawings submitted with this application. This is now confirmed.

The Highway Authority therefore continue maintain their stance that subject to the modifications noted in their comments of the 3<sup>rd</sup> of June 2019 (which the applicant has confirmed are achievable and that the required works will be undertaken) there are insufficient grounds for any highway objection to the development.

Taking the comments of the Highway Authority as relevant technical experts into account together with the agreed modifications to the gradient of the footpath which will improve the standard and quality of the access that is currently constructed, officers remain of the view that it would not be reasonable to recommend refusal on highway and pedestrian safety grounds in this instance.

### Flooding and Drainage

Members will be aware that there was a significant flooding event, preceded by heavy rainfall, on the 12<sup>th</sup> June 2019 which resulted in the flooding of some adjoining gardens, garages and local roads. This has understandably caused very significant local concern with respect to understanding how and why this has happened and the degree to which this site was a contributing factor.

Officers have sought comments from NCC LFRA and the developer in order to understand why the flooding events took place, what was done at the time to alleviate the impacts, and a professional opinion as to the likelihood of similar occurrences.

#### The event

Officers have been informed that flooding took place due to a combination of rainfall and the fact that the site had been 'stripped' back to its clay layer as preparation for the installation of on-site drainage. This drainage was being delivered to the site the following week. NCC LFRA have confirmed that if the drainage had been installed flooding would not have taken place. This was therefore an extremely unfortunate issue of timing, but no less painful for those affected. It is also a learning point for this and other authorities (including LFRA's) of the need to consider period between the phases of stripping and preparing a site for development at which points (albeit for a very finite window) the risk of flooding increases. 'Interim' measures such as drainage ditches and bunding could be reasonably considered and conditioned in such circumstances.

#### During the event

Officers have been made aware of the work done by the community to mobilise to stop the flooding reaching residential property. As part of interim measures to defend property (prior to full site drainage being installed) the developer has provided (at Appendix A attached to this report) a statement outlining the site works undertaken This includes:

- Excess water was pumped into tankers and removed from the site.
- A french drain was constructed to control surface water.
- A large ditch was excavated and extended to control surface water run off.
- Bunding was added to the southern boundary of the site.
- Communication was made with an affected local resident.
- A clean up operation has been carried out.
- Emergency contact numbers have been provided .

Subsequently the following additional actions and mitigation measures have been undertaken by the construction company to prevent any reoccurrence should there be such weather conditions prior to the installation of the approved drainage scheme.

- The ditch has been further extended.
- An additional bund has been constructed adjacent to an affected neighbouring property.

- A filter bed has been constructed to prevent the highway silting.
- The approved drainage scheme is being installed earlier in the works programme and materials are being delivered to site .
- Main drainage connections are being undertaken.

The Lead Local Flood Authority having visited the site and reviewed the Statement attached as Appendix A and have confirmed that the temporary measures and actions undertaken by the developer to prevent a reoccurrence of flooding were an acceptable response to the incident.

The proposed Drainage Strategy for the residential development (including the access road) has been reviewed by the Nottinghamshire County Council Lead Local Flood Authority at both the original 2015 application (15/01295/FULM) stage and at the discharge of condition stage (19/00456/DISCON).

The Lead local Flood Authority as statutory consultees and technical experts are satisfied that the drainage details that have been deposited are satisfactory and will manage surface water to current National Standards when installed.

#### Other Non Material Matters

The comments received with regards to land ownership of the verges, Rights of Way over the site, boundary disputes and the relocation of an electricity meter box are acknowledged. These would fall outside of the remit of the planning process and are a private legal matter between parties. For the avoidance of doubt, they are not material to decision-making in this instance.

#### Planning Balance and Conclusion

It should again be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration. In this instance this relates to highway matters. Nottinghamshire County Council Highways Authority as the relevant technical experts have reviewed the proposal together with the additional details submitted since June 4<sup>th</sup> Planning Committee and although it has been advised that modifications and improvements should be made to the footpath gradients as noted above, the Highway Authority maintain their position that the revised access together with the modified gradient would not cause highway harm and I would accept their conclusion.

*The text that follows is the report as was presented to the previous committee for completeness:*

PLANNING COMMITTEE –4 JUNE 2019

### **Agenda Item 8**

This application is before the Planning Committee for determination as the officer recommendation differs from the views of the Town Council and at the request of the Local Ward Member, Councillor Penny Rainbow on the grounds of highway and pedestrian safety, concerns that the conditions in the initial application have not been met and insufficient drainage plans are in place. Intended buffer strip does not comply with the Southwell Neighbourhood plan.

#### The Site

This application relates to circa 1.92 hectares of land situated on the western side of Nottingham Road at its junction with Halloughton Road on the southern approach into Southwell. It consists of

a detached bungalow (Springfield Bungalow) and associated land to the rear which abuts the rear gardens of the existing dwellings on Halloughton Road to the north, open countryside to the west and the detached property, Springfield House and its associated land to the south.

The gradient of the site rises steeply by some 14m towards the western boundary.

The immediately adjoining properties to the north and North West of the site are a mix of single and two storey detached dwellings. No.s 36 and 38 Halloughton Road are detached bungalows and adjoin the proposed access.

The adjoining property located immediately to the south of Springfield Bungalow, Springfield House, is a large two storey detached dwelling.

The site lies to the west of the Conservation area boundary within the Southwell Protected Views corridor. The site is allocated in the Newark and Sherwood LDF Allocations and Development Management DPD (2013) for housing development - Southwell Housing Site So/Ho/2.

### Relevant Planning History

#### **Residential Development**

92/51034/FUL- Planning permission was refused for the erection of a residential development  
94/51619/FUL- Planning permission was refused in 1994 for the erection of 18 bungalows. This was dismissed on appeal.

15/01295/FULM – At a meeting in June 2016 Planning Committee resolved to grant full planning permission for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units subject to conditions to be delegated to the business manager, vice chair of planning committee and the leader of the Council and to the signing and sealing of a S106 Agreement. The conditions were presented to and agreed by Planning Committee in September 2016.

Following the submission of revised site location and site layout plans this application was represented to Planning Committee on the 22nd March 2017. Members resolved to grant full conditional planning permission subject to the signing and sealing of a Section 106 Planning Agreement to secure the provision of Springfield Bungalow being gifted to the Reach Project (including relevant pay back clause(s)), on-site affordable housing (2 no. units), and developer contributions for open space, community facilities, education, and transport enhancements. The S106 was signed and sealed and the planning permission issued in December 2017.

19/00317/DISCON – an application was submitted in February 2019 seeking to discharge conditions 3, 4, 5, 6, 11, 13, 14, 17, 19, 20 and 21 attached to planning permission 15/01295/FULM – these conditions were discharged by correspondence dated May 7th 2019.

19/00456/DISCON – an application was submitted in March 2019 seeking to discharge 14, 15 and 16 attached to planning permission 15/01295/FULM – These conditions were discharged by correspondence dated May 7th 2019.

#### **Access**

16/01369/FUL – At a meeting on the 22nd March 2017 Members resolved to grant conditional planning permission for the alteration of an existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay. Condition 3 of this permission required details of drainage of the access. Condition 4 required the submission of precise details of the access.

19/00076/DISCON – An application was submitted in January 2019 seeking to discharge conditions 3 and 4 of planning permission 16/01639/FUL. These conditions were discharged by correspondence dated 1st March 2019.

19/00689/FUL – A retrospective application has been submitted seeking the variation of conditions 02, 03, 04 and 05 of planning permission 16/01369/FUL to allow the new access junction to be constructed wholly within highway land or that owned by the applicant. This application is also being presented to the Planning Committee as part of this agenda.

### The Proposal

This application seeks retrospective permission to vary condition 11 of planning permission 15/01295/FULM. This stated:-

*No part of the development shall be brought into use until visibility splays of 2.4m x 13m (minimum) are provided at the junction with Halloughton Road.*

The access was approved under planning permission 16/01369/FUL and has been constructed. The dimensions of the visibility splays to the east and west of the access do not comply with condition 11 of this permission hence this application seeks to revise the wording as follows:-

*No part of the development shall be brought into use until visibility splays of:-*

*2.3m x 43m to the right/east of the access*

*2.3m x 29m to the left/west of the access*

*are provided at the junction with Halloughton Road.*

The design of the access has been revised to ensure that the access has been constructed wholly within the undisputed boundary of the public highway which has been agreed by Nottinghamshire County Council to be at least 6 feet (1.83m) from the southern carriageway kerb line.

### Departure/Public Advertisement Procedure

Occupiers of 112 properties have been individually notified by letter. Site notices have also been displayed near to the site and an advert has been placed in the local press.

### Planning Policy Framework

#### The Development Plan

#### **Southwell Neighbourhood Plan**

Policy TA1: Cycle and Pedestrian Routes

Policy TA3: Highways Impact

Policy SS2: Land South of Halloughton Road (So/Ho/2)

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

- Spatial Policy 1: Settlement Hierarchy
- Spatial Policy 2: Spatial Distribution of Growth
- Spatial Policy 7: Sustainable Transport
- Core Policy 1: Affordable Housing Provision
- Core Policy 3: Housing Mix, Type, and Density
- Core Policy 9: Sustainable Design
- Core Policy 10: Climate Change
- Core Policy 12: Biodiversity and Green Infrastructure
- Core Policy 14: Historic Environment

### **Allocations and Development Plan Development Plan Document (DPD) Adopted July 2013**

- Policy DM1: Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM2: Development on Allocated Sites
- Policy DM3: Developer Contributions and Planning Obligations
- Policy DM4: Renewable and Low Carbon Energy Generation
- Policy DM5: Design
- Policy DM7: Biodiversity and Green Infrastructure
- Policy DM9: Protecting and Enhancing the Historic Environment
- Policy DM12: Presumption in Favour of Sustainable Development
- Policy So/PV: Southwell Protected Views
- Policy So/HN/1: Southwell Housing Need

### **Other Material Planning Considerations**

- National Planning Policy Framework (NPPF) 2012
- Planning Practice Guidance (NPPG) 2014
- Newark and Sherwood Developer Contributions and Planning Obligations SPD, 2013
- Newark and Sherwood Affordable Housing SPD, 2013
- Southwell Conservation Area Appraisal July 2005
- Newark and Sherwood Landscape Character Assessment SPD December 2013
- Nottinghamshire County Council Highway Design Guide

### **Consultations**

**Southwell Town Council** – Southwell Town Council reconsidered application 19/00689/FUL Springfield Bungalow Nottingham Road and agreed unanimously to object to this application and to ask a district councillor to call in to NSDC for the following reasons:

### **Highway and Pedestrian Safety**

STC agreed that N&SDC enforces the conditions as agreed some two years ago and opposes any alteration to the conditions imposed then.

The conditions in the initial application have not been met.

The completed visibility splays do not meet the national and local highway safety standards and the conditions of the original decision, the constructed splays are in fact only 32mtrs to the East and 26mtrs to the West. These are unsafe for the 30mph road.

The new access and pavements are in contravention of Southwell Neighbourhood Plan policy TA8.1 Pg 52 Cycle and pedestrian routes –

The pavements constructed at the access to the site are not suitable for disabled and wheelchairs users, as the camber and gradient of the pavement are too high and too close to an existing dropped kerb.

The construction of the access does not allow for larger vehicles to safely enter the site without swinging across to the other side Halloughton road, therefore causing a potential traffic hazard.

The entrance itself is very narrow for vehicles to pass.

This site is in a high flood risk area with many natural springs. We object to the Drainage plans because the drains on the south boundary and in the north west corner will destroy the existing hedges which form landscape barriers. These are required to be maintained in the Southwell Neighbourhood plan see Policy SS2 policy 3".

#### **NCC Highways Authority – latest comments received 16<sup>th</sup> May 2019**

Further to comments dated 2 May 2019 I wish to provide additional information that may assist the LPA consider this application.

The Highway Authority is aware that the applicant has been unable to achieve the originally conditioned standard visibility splays in land that is undisputed public highway. The applicant has therefore sought approval for a modified access arrangement. The role of the Highway Authority in advising the LPA on this variation is whether, in the opinion of the Highway Authority, it is safe for all road users. The standard local specifications relating to visibility splays are provided as guidance and as such it is within the remit of the Highway Authority to consider each case where these standard specifications cannot be achieved and make a judgement as to whether what the applicant can achieve is both safe and reasonable given the individual circumstances that are applicable. The Nottinghamshire Highway Design Guide allows flexibility to meet local circumstances.

It is recognised that the splays in the current application have been drawn slightly differently to those in the previously approved drawings i.e. to a line 1.0m offset from the kerb line, but this now matches more closely the method of measurement within this Authority's Design Guide.

On the basis of the above and for the reasons pointed out in the Highway Authority's comments dated 2 May 2019 which were prepared by an experienced and senior Highways Officer in conjunction with other experienced Highway Authority colleagues, the Authority is content that the submission details will not compromise highway safety in this instance and have therefore raised no objections.

The Highway Authority, as a Statutory Consultee, provide comments to Planning Authorities throughout Nottinghamshire on the highway aspects of approximately 3500 planning applications

per year (on average). It is with this experience that a revised Transport Statement is not considered necessary by the Highway Authority.

There has been some local concern raised regarding the juxtaposition of the new access with the existing vehicle dropped kerb crossing associated with No 38 Halloughton Road. This has been considered in light of local and national guidance, and; local conditions, and found to be acceptable. There are many examples of this arrangement throughout the County.

Likewise, local concern has been raised regarding the dropped kerb pedestrian crossing point outside 38 Halloughton Road in meeting the needs of those with mobility impairment in terms of camber/gradient. The applicable standards are that the gradient of a footway should not, except in exceptional circumstances, exceed 1 in 12 and where a dropped crossing is in place the gradient should not exceed 1 in 11. The Highway Authority is of the understanding that as standard kerbs have been used in the construction of the access and that the local topography is not unduly steep the above gradients have not been exceeded. It is therefore the view of the Highway Authority that the access does meet with relevant policies and guidance and is not a barrier to those with a disability.

The Planning Authority may be aware that the access itself was constructed by the County Council's highway partner organisation, Via East Midlands, who have vast experience in constructing accesses both for third parties as well as part of their normal highway related work.

In further support to the Highway Authority's stance on considering that Halloughton Road is lightly trafficked, a traffic count suggests flows are around 900 vehicles per day (2 way flow). In the peak hour the flow is around 110 vehicles, which equates to about 1 vehicle every 33 seconds (average). The majority of pedestrians will accept a gap of 4-6 seconds at normal urban vehicle speeds to cross two lanes of traffic. Although other groups may need twice this time, it is reasonable to assume that all pedestrians should be able to cross the road safely without much delay, even at peak times. Similarly cars leaving the side road junction safely should be able to see a gap of about 3.2s or more. Again, flows are so low that there should be no difficulty in leaving the side road. I have concluded therefore that flows can be described as low.

The decision on determination of the application is within the remit of the Planning Authority. However the advice of the Highway Authority is that the application scheme is safe for all road users given the specific site constraints; is constructed such that it can be used by all road users including those with a disability, and; provides a safe access to the development.

The Planning Authority should be aware that in the judgement of the Highway Authority it would not be able to evidence a defence to a Planning Inspector should this particular application be subject of an Appeal process.

I reaffirm that no objections are raised.

### **Comments received 2<sup>nd</sup> May 2019**

In terms of highway matters this application seeks a variation to condition 11 regarding access visibility splays.

Drawing HALL-BSP-ZZ-XX-DR-C-100-P6 is acceptable to agree the variation.

This drawing has been used to construct the access under license from the Highway Authority without prejudice to the decision of the Planning Authority.



The main changes to the details from previously approved plans are:

1. Visibility splays have been reduced:

- From 2.4m x 43m to the right/east to 2.3m x 43m

This is a marginal (almost indiscernible) change and Manual for Streets suggests that an 'x' distance as low as a 2.0m set back is can be used under certain circumstances:

"A minimum figure of 2 m may be considered in some very lightly-trafficked and slow-speed situations, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered".

- From 2.4m x 43m to the left/west to 2.3m x 29m (or 2.0m x 43m).

This is measured in the less critical direction where vehicles are not expected to travel along the nearside, southern kerb line. Sight distances to vehicles travelling in the eastbound lane will be significantly more than those figures quoted above. 29m is commensurate with 20mph approach speeds, but here again a splay of 2.0m x 43m is available; commensurate with the Manual for Streets statement above. 43m is commensurate with an approach speed of 30mph.

These changes have been made to ensure that splays fall wholly within the undisputed boundary of the public highway which has been agreed to be at least 6 feet (1.83m) from the southern carriageway kerb line.

It should be emphasised that, in the opinion of the Highway Authority, the position of the highway boundary is not necessarily restricted to the 6 foot dimension mentioned above. However, the scheme submitted clearly attempts to steer clear of that argument. Should the public highway boundary be proven to extend beyond the 6 feet, increased visibility splay distances would be/are available.

It is considered that speeds and flows are not high on Halloughton Road and given all the circumstances mentioned above it is considered that the variation to condition 11 can be agreed. No objections are raised.

**Representations have been received from 11 local residents/interested parties (as of 18.05.19) which raise the following concerns:-**

**Retrospective application and works being undertaken on the site**

- This is retrospective application seeking to lower highway safety standards given that the developer has control of insufficient land to enable it to meet the pre commencement conditions.
- The access has been constructed albeit the access road is incomplete given the presence of Western Power metering equipment.
- Work has been allowed to continue even though large volumes of ground, which is known to contain springs, have been shifted.

**Highway and Pedestrian Safety**

- The new road doesn't have the required visibility splays resulting in shorter visibility splays which do not meet the distances required by conditions attached to the planning permission nor do they meet minimum necessary standard as laid down by National and local standards.
- The splays cannot be improved without additional frontage land.
- There is therefore a risk to life of road users and pedestrians. If this is accepted the council would become liable for damages in the event of an accident.
- The splays as constructed do not meet minimum standard on a 30mph road – given the excessive speeds many vehicles travel on this stretch of road and therefore adequate visibility is essential.
- Previous transport statements deposited on the 2015 permission related to the provision of a visibility splays of 43m being the minimum required for the development in terms of highway safety – the proposal is contrary to this and national and local highway standards and no evidence has been put forward to justify the proposed reduction in splay distances.
- A material reduction in safety standards cannot be justified on land ownership grounds.
- The highways assessment of the road is flawed and their calculations are misleading and incorrect. They claim to have made a 10cm adjustment when it's 110cm.
- The drawings provided by the developer are incorrect and don't show that there is curve in the road, which further limits viability.
- No calculations of how the new splays are acceptable have been given.
- The risk of incident has been outweighed by commercial or political incentive.
- The pedestrian access is unsafe and it discriminates against the elderly and disabled. The gradient and camber of the pedestrian access means it would throw a wheelchair user into the main road (my daughter uses a wheelchair. The proposal breaches national, local policy and the Equalities Act
- The pedestrian access cuts across a drive way before the road crossing, this is against legislation
- The access is poorly sited and immediately adjoins an existing vehicular dropped kerb which is not normally allowed (a safe distance is normally 10-15m to prevent pedestrian/vehicular conflict). This together with the configuration and width of the footpath raises serious pedestrian safety issues.
- The gradient of the footpath and significant camber does not meet the relevant standards and guidance and therefore fails to meet the relevant policies because it represents a severe barrier to the disabled.
- The access is wholly inadequate to serve 38 dwellings.
- The access is too narrow -there is insufficient for vehicles turning into or leaving the site nor passing room for two vehicles, particularly vans and lorries.

- The proposal therefore be refused on the grounds of health and safety grounds and should and previous conditions should be adhered to.
- There is already a new access road on Halloughton for no.s 37-39 Halloughton Road.
- The development exacerbates dangers to vehicles and pedestrians – some residents of the Reach site will use this access.
- The access into the junction is too narrow resulting in vehicles having to swing over into oncoming traffic to manoeuvre impeding traffic flow.
- Increased traffic would exacerbate existing highway issues.
- Existing highways restrictions are ignored.

### **Flooding**

Existing flooding issues will be exacerbated by works that are ongoing on site and when it is developed with tarmac and buildings.

### **Breach of Conditions/permissions**

The Council should instruct the developers to cease work immediately.

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

#### **Background**

Application ref. 15/01295/FULM was presented to Planning Committee in June 2016 and represented in March 2017 where Members resolved to grant conditional planning permission in accordance with officer recommendation and subject to the signing and sealing of a S106. The relevant conditions have been subsequently discharged.

The principle of the development is therefore considered to have been established through the granting of the permission for the development in March 2017

With regards to the current situation given land ownership issues raised with the previous applications, together with the current advice of the Nottinghamshire County Council that the adopted highway extends at least 6 feet southwards from the current kerb line, the applicant has subsequently designed and constructed the access on Halloughton Road associated with the residential development so as to not encroach beyond land within the undisputed adopted highway. It has now not been constructed in accordance with the plans approved under planning permission 16/01369/FUL and therefore an application for retrospective permission is also before this committee seeking to regularise this – application ref 19/00689/FUL.

As a consequence of the revisions to the design of the access, it is not possible to achieve the visibility splays required by condition 11 of 15/01295/FULM and consequently this application is before committee seeking to vary the wording of the conditions to be in line with the splays that are in place with the constructed access

Although the Amended Core Strategy has been adopted since the granting of the original permission 16/01369/FUL and the NPPF has been updated in 2019, there have been no significant material changes to policy context relevant to the consideration of the amendment of the

condition which is the subject of this application.

Therefore the main issue to consider is whether it is appropriate to allow the variation of the wording of condition 11.

### Principle of Development

The PPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

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

This application seeks to vary condition 11 of planning permission 15/01295/FULM to enable the retention of the reduced visibility splays now provided by the amended access constructed onto Halloughton Road.

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

The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

The principle of development is therefore considered acceptable subject to an assessment of site specific issues with regards to the highway impacts of reduced visibility splays.

### Highways Impacts

Spatial Policy 7 sets out the criteria for assessing whether a development encompasses a sustainable approach to transport. Core Policy 9 requires proposals to be accessible to all. Policy DM5 of the DPD states that provision should be made for safe and inclusive access to new development and that parking provision should be based on the scale and location of the development.

Policy TA3 of the Southwell Neighbourhood Plan seeks to ensure that new development does not adversely affect the highway network.

I acknowledge the concerns raised with regards to the acceptability of the visibility splays that have been provided at the access. Comments received have also raised strong concerns with

regards to wider highway issues in terms of the physical design of the access, the impact on existing highway conditions, highway and pedestrian safety, safety issues for disabled users of the highway and footpaths, Health and Safety, drainage and impact of increased traffic.

Given that this application relates solely to the reduced visibility splays that have been provided these wider issues are discussed in detail within the report relating to retrospective application seeking to vary conditions attached to the planning permission for the redesigned access on Halloughton Road which is also on the agenda for debate at this planning committee meeting (application ref. 19/00689/FUL).

In considering this retrospective application, officers have sought the professional views of the Highway Authority whose formal consultation comments are detailed above within the consultations section of this report

#### *Visibility Splay*

Local residents have raised concerns with regards to the revised visibility splays provided at the access on Halloughton Road. To the east these now measure 2.3m x 43m and 2.3m x 29m to the west rather than 2.4m x 43m to both the east and west as required by condition 11 of 15/01295/FULM.

It is acknowledged that the visibility splays have been reduced compared to those previously approved and that these now do not comply with the dimensions required to be provided by this condition. However, the Highway Authority has confirmed that standard local specifications in relation to visibility splays are guidance and that the Highway Authority considers each individual case where such standards are not met. Indeed the Highways Design Guide does allow for flexibility in assessing individual circumstances.

It is noted that the Highway Authority have commented that the reduction in the eastern splay is 'marginal and almost discernable' and although there is a reduction in the western splay, sight distance would be greater than the distance quoted.

The Highway Authority has assessed the access and revised splays and has concluded that highway safety will not be compromised.

Given that these comments are made by experienced highway professionals it is considered that the reduced splays comply with highway technical guidance and would not result in undue impact on highway or pedestrian safety to justify refusal on these grounds.

#### *Landownership*

It is acknowledged that the developer has constructed the access to be within land within the ownership of the Nottinghamshire County Council, albeit notice has also been served without prejudice on neighbouring properties. In order to achieve this, the design of the constructed access has been revised which as detailed above consequently reduces the visibility splays such that they remain within land owned by the NCC. Given the comments of the Highway authority officers are satisfied that the revised access, including the splays which is within land owned by the County Council, does not result in a reduction in safety standards.

## Other matters

### Breach of Planning Conditions

I note the comments received with regards to the application being retrospective given that the access on Halloughton Road has already been constructed and reduced splays provided. It is also commented that work has commenced on the residential development site in breach of the planning permission issued in December 2017 and in breach of the pre commencement condition which the applicant is now seeking to vary.

Requests have been made that the Council should therefore take action and works on the residential site should cease.

The National Planning Policy Framework (NPPF) captures national guidance as to when a Local Planning Authority should consider enforcement action. This is supplemented by the Planning Policy Guidance (PPG) on-line tool. Both the NPPF and PPG make clear that "Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

Specifically Paragraph: 011 (Revision date: 06 03 2014) of the PPG states that:

"In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed."

It is clear that there has been a breach of planning control in that the visibility splays at the access that has been constructed do not comply with condition 11 of planning permission 15/01295/FULM.

However the applicant has submitted this current application seeking to vary the condition attached to the original permission to reflect the amended visibility splays which is before Members for determination.

The Highway Authority has advised the developer and the Council that the proposed revisions are acceptable in highways terms and have confirmed in their consultation comments that there are no highway objections. Being mindful of the current applications, the comments of the highway authority together with government guidance in the NPPF and PPG with respect to as to when enforcement action should be taken, it has not been considered appropriate to take any action at this time.

Notwithstanding this the developer has been advised both verbally and in writing by the Council that they currently are in breach of planning permission and that any works that have been undertaken or any continuation of works on site are entirely at their own risk pending any decision by Planning Committee.

### Assessment of conditions

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

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

### Buffer Zone

I note the comments received from the Town Council regarding the buffer zone. This was previously assessed when permission was granted for the residential development approved in 2017 (15/01295/FULM) and does not form part of the consideration of this application as noted above.

### Flooding

I note the comments received regarding flooding impact. This was also previously assessed when permission was granted for the residential development approved in 2017 (15/01295/FULM) and does not form part of the consideration of this application as noted above.

### Conclusion and Planning Balance

It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration. In this instance this relates to highway matters. Nottinghamshire County Council Highways Authority has been consulted as the relevant technical experts who conclude that the revised access which has been constructed by VIA East Midlands would not cause highway harm and I would accept their conclusion. .

### RECOMMENDATION

**That full planning permission is approved subject to:-**

**(a) the following conditions: and**

**(b) the signing and sealing of a Deed of Variation of the S106 Planning Agreement**

~~01~~

~~The development hereby permitted shall not begin later than three years from the date of this permission.~~

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

01

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and documents unless otherwise agreed in writing by the local planning authority through the approval of a non material amendment to the permission.

Drawing No. 12/1889/LP Rev D Revised Site plan

Drawing No. 12/1889/101/Rev F - Revised site layout

Drawing No. 12/1889/102/Rev A - proposed roofscape

Drawing No. 12/1889/103/Rev A - proposed street elevation

Drawing No. 12/1889/120/Rev A - House type A

Drawing No. 12/1889/121/Rev A - House type B

Drawing No. 12/1889/122/Rev A - House type B

Drawing No. 12/1889/123/Rev A - House type C

Drawing No. 12/1889/124/Rev A - House type D

Drawing No. 12/1889/125/Rev A - House type E

Drawing No. 12/1889/126/Rev A - House type F

Drawing No. 12/1889/05/Rev A - Springfield Bungalow Proposed ground floor layout

Drawing No. 12/1889/06/Rev A - Springfield Bungalow Proposed first floor layout

Drawing No. 12/1889/07/Rev A - Springfield Bungalow Proposed Elevation

Reason: So as to define this permission.

## 02

~~No development shall be commenced until details and samples of the materials identified below have been submitted to and approved in writing by the local planning authority. The Development shall thereafter be~~ **The development hereby approved shall be carried out in accordance with the following external materials approved by the Local Planning Authority in correspondence dated 7<sup>th</sup> May 2019 under application ref. 19/00317/DISCON unless otherwise agreed in writing by the Local Planning Authority.**

### **Bricks--Butterley Forterra Woodside Mixture**

#### **Roof - traditional single clay pantile**

Reason: In the interests of visual amenity.



### 03

~~No part of the development shall be commenced until details of the existing and proposed ground and finished floor levels of the site and approved building[s] and the extension to the bungalow have been submitted to and approved in writing by the local planning authority.~~

**The development hereby approved shall be carried out in accordance with the ground and finished floor levels approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.** unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

### 04

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

- ~~• a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.~~
- ~~• existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.~~
- ~~• proposed finished ground levels or contours;~~
- ~~• means of enclosure;~~
- ~~• hard surfacing materials;~~
- ~~• minor artefacts and structures for example, furniture, refuse or other storage units, signs, lighting etc.);~~
- ~~• the planting and screening along the southern boundary with Springfield House shown within the site boundary edged in red on the revised site plan ref. 12/1889/LP Rev D~~

**The development hereby approved shall be carried out in complete accordance with the details of hard and soft landscaping approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON** unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity and biodiversity.

### 05

~~Before the development is commenced a landscape management plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall include time periods for implementation, including long term objectives, management responsibilities and maintenance schedule for all landscape areas, other than privately owned, domestic gardens. Once the landscape management plan is approved in writing the approved landscaping shall be completed in accordance with the approved timescales, or such longer period as may be agreed in writing by the local planning authority.~~

~~No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed~~

~~without the prior consent in writing of the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.~~

**The development hereby approved shall be carried out in accordance with the Landscape Management Plan produced by Influence Environmental Ltd ref. INF N0559 R01-RevA deposited on the 16th April 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent in writing of the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.**

Reason: To ensure the development conserves and enhances biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

#### **06**

No part of the residential development hereby permitted shall be occupied until all associated drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for a minimum of 2 metres behind the Highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.

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

#### **07**

Any garage doors shall be set back from the highway boundary a minimum distance of 5 metres for sliding or roller shutter doors, 5.5 metres for up and over doors or 6 metres for doors opening outwards.

Reason: To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway.

#### **08**

The new shared private driveway serving Springfield Bungalow shall be laid out to a width of not less than 4.8 metres for at least 10 metres back from the nearside edge of carriageway and shall provide for vehicle parking and turning areas in accordance with the approved plan. The vehicle parking and turning areas shall not be used for any purpose other than the turning and parking of vehicles.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and to ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems in the area; all in the interests of Highway safety.

**09**

No part of the Supported Living Units hereby permitted shall be brought into use until the new dropped vehicular verge crossing serving Springfield Bungalow is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of Highway safety.

**010**

**No part of the development shall be brought into use until visibility splays of:-**

**2.3m x 43m to the right/east of the access**

**2.3m x 29m to the left/west of the access**

**are provided at the junction with Halloughton Road**

Reason: In the interests of Highway safety.

**011**

No residential unit or 'supported living unit' hereby permitted shall be occupied until its associated private access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway in accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

**012**

~~No part of the development hereby permitted shall be commenced until details of the drainage and outfall proposals for the new residential access road have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.~~

**The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the details of the drainage and outfall proposals for the new residential access road as indicated on drg.no. Drawing HALL-BSP-ZZ-XX-DR-C-240-P2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.**

Reason: To ensure the development is constructed to adoptable standards.

**013**

~~Before the development is commenced drainage plans for the disposal of surface water and foul sewerage drainage and precise drainage design details in accordance with the Flood Risk Assessment dated July 2015 and the Flood Risk Assessment Addendum dated 18th December 2015 and the comments of the Nottinghamshire County Council Flood Authority have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.~~

~~The development hereby approved shall be implemented in complete accordance with and to the satisfaction of the Local Planning Authority with the details of the drainage and outfall proposals for the new residential access road as indicated on drg.no. Drawing HALL-BSP-ZZ-XX-DR-C-240-P2 approved by the LPA in correspondence dated 7th May 2019.~~

~~Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy DPD 2011) and Policy So/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD 2013).~~

**The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the following drainage plans for the disposal of surface water and foul sewerage drainage and precise drainage design approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00456/DISCON.**

- **Drainage Strategy produced by bsp Consulting dated 01/12/19**
- **Storm Sewer Design produced by bsp Consulting dated 04.03.19**
- **Additional correspondence dated 03/04/19 from bsp Consulting**
- **Private Drainage Layout plan (bsp consulting) drg. ref. HALL-BSP-22-XX-DR-C-240 rev P2**

#### **014**

The drainage system on site shall be designed so that the positive discharge will be restricted to a maximum ~~of 5.7/s~~ **of 3.5 l/s in accordance with confirmation stated in correspondence deposited on the 8<sup>th</sup> March 2019** and connected to the public combined sewer in accordance with paragraph 3.9 of the Flood Risk Assessment Addendum produced by ACS and dated 28/10/15 revised 18/12/15.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy DPD 2011) and Policy So/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD (2013).

#### **015**

There should be no surcharge of the pipes on a 1year storm. No surcharge in a 30 year storm and no flooding outside the site boundary in a 100 year +30 climate change storm.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy DPD (2011 and Policy So/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD (2013).

#### **016**

~~No development shall take place within the application site until a written scheme for archaeological mitigation has been submitted to and approved in writing by the Local Planning Authority.~~

~~Thereafter, the scheme shall be implemented in full accordance with the approved details.~~

**The Written Scheme of Investigation produced by Locus Consulting Ltd dated 31/01/2019 approved by the Local Planning Authority in correspondence dated 7th May 2019 shall be implemented in full accordance with the approved details under application ref. 19/00317/DISCON.**

Reason: To ensure that satisfactory account is taken of the potential archaeological interest of the site.

#### **017**

Removal of vegetation (including any trees to be removed following confirmation and approval of precise details through a reserved matters application) should not take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to removal of any such vegetation and once approved all works shall be in accordance with these details.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

#### **018**

~~Before development is commenced detail of methods to protect trees and hedgerow within and adjacent to the development in accordance with 855837:2012 as well as a proposed timetable for these measures to be retained shall be submitted to and approved in writing by the Local Planning Authority. Once approved in writing the agreed protection measures shall be put in place prior to commencement of development and shall be retained in accordance with the agreed timetable.~~

Reason: To ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation in accordance with the aims of Core Policy 12.

**The tree and hedgerow protection measures including timetable for these measures to be retained shall be implemented in full accordance with the Arboriculture Method Statement produced by Influence Environmental (ref. RSE\_2057-01-V2) and Tree Protection Plan (Drg, ref. RSE\_2057-7PP Revision-V2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.**

#### **019**

Before development is commenced the Poplar Tree identified as being within G3 in Appendix 1 of the Tree Survey prepared by Chris Barker and dated 11th November 2015 shall be checked for the presence of roosting bats in accordance with the recommendations of the Ecological Appraisal and letter prepared by CBE Consulting dated 9th November 2012 and 5th January 2015.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

#### **020**

~~Before development is commenced precise details of ecological enhancement and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. These shall include details of:-~~

- ~~• A Habitat Management Plan~~
- ~~• Proposed grassland seed mix for the proposed wildflower meadow and the Square~~
- ~~• Fencing to allow the passage of small mammals~~
- ~~• Enhancement of swales to benefit wildlife, by providing areas of continuous standing water and appropriate planting of native species of a local provenance.~~
- ~~• Installation of bird and/or bat boxes on retained trees.~~
- ~~• Native species proposed for the planting of native woodland~~

**The details of ecological enhancement and mitigation measures contained within the Habitat and Ecological Management Plan produced by Influence Environmental Ltd ref. RSE\_2057-02-V1 dated January 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 shall be fully implemented in accordance with the approved details under application ref. 19/00317/DISCON.**

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

#### **021**

Management of hedgerows should be undertaken in an ecologically sensitive manner. Only one third of (the total length of) hedgerows onsite should be cut each year, on a three year rotation. These should be cut in January/February, outside of the bird breeding season, and to allow wildlife to utilise the winter berry crop. Cutting hedgerows into an "A" shape will prolong the life of the hedgerow and create denser cover for wildlife.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

#### **022**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

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

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

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

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

Class E: Development within the curtilage of a dwellinghouse .

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class B: Means of access

Class C: The painting of the exterior of any building

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

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

**023**

***Within 56 days of the date of this permission, the existing footway gradient shall be reconfigured to provide a maximum gradient of 1 in 12 as shown on drawing 37049-BSP-ZZ-XX-DR-C-101 Rev P3 deposited on the 10<sup>th</sup> July 2019. Any damage to the existing kerb edging, footway surface and tactile paving be re-instated to the original specification as shown on approved drawing HALL-BSP-ZZ-XX-DR-C-100 Rev 6.***

***Reason: In the interest of highway and pedestrian safety***

#### **Note to Applicant**

01

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

02

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.

03

Severn Trent Water have advised that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

#### **BACKGROUND PAPERS**

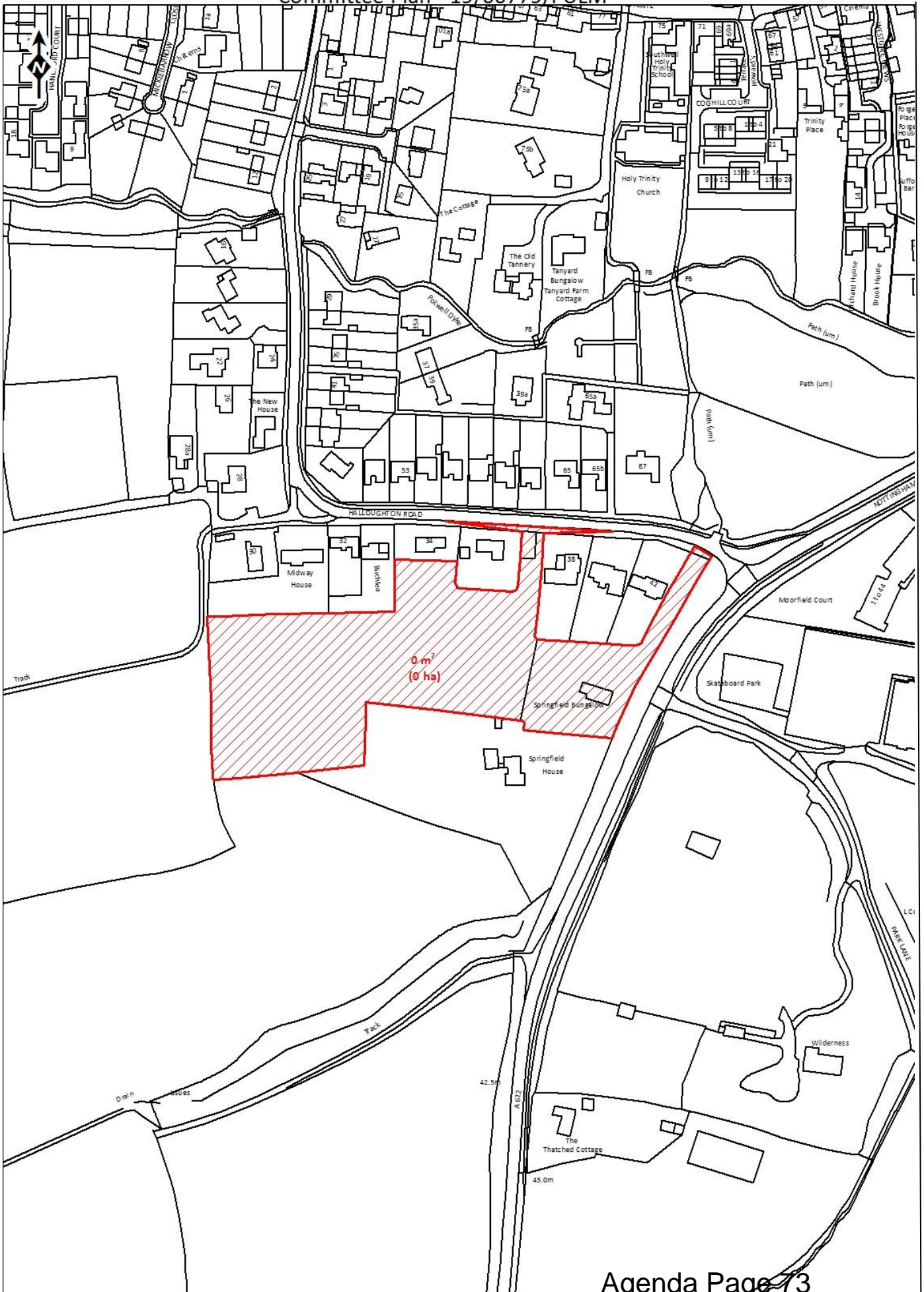
Application case file.

For further information, please contact Bev Pearson on ext 5840

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

**Matt Lamb**  
**Director of Growth & Regeneration**





## PLANNING COMMITTEE – 23 JULY 2019

<b>Application No:</b>	<b>19/00981/FUL</b>		
<b>Proposal:</b>	<b>The installation of 5 x 4000 litre underground tanks with associated Secondary Regulator Housing Cabinet and amendments to the already approved equipped play area.</b>		
<b>Location:</b>	<b>Land to the rear of 9 to 18 Hounsfields Way, off Hemplands Lane, Sutton-on-Trent, Nottinghamshire</b>		
<b>Applicant:</b>	<b>Persimmon Homes East Midlands</b>		
<b>Registered:</b>	<b>24 May 2019</b>	<b>Target Date:</b>	<b>19 July 2019</b>
	<b>Extension of Time: 24 July 2019</b>		

**This application is referred to the Planning Committee for determination by the local ward member (Cllr Michael) due to concerns raised by the Parish Council on the grounds of loss of open space.**

### The Site

The application site forms part of a wider site that is allocated for a mixed use development that is currently under construction (by Persimmon/Charles Church) for 50 dwellings, off Hemplands Lane in Sutton-on-Trent. Whilst the majority of the scheme under construction falls within the allocated mixed use site, part of the scheme also falls within the designated 'Main Open Area' (MOA) as identified on the proposals map. The site is located c300m from Hemplands Lane, and includes part of the land identified as public open space with the approved residential development (application no 14/00161/FULM).

The site lies within the Sutton-on-Trent Conservation Area, on an allocated site for mixed use and close to a number of public footpaths that cross the wider site. This majority of the site lies within Flood Zone 2, with a small part of the site being within Zone 1.

### Relevant Planning History

19/00424/FUL The installation of 5 x 4000 litre underground gas tanks – application refused 18.04.2019 under delegated powers for the following reason:

*'In the opinion of the Local Planning Authority the servicing arrangements are considered inadequate which would lead to harm to users of the highway by virtue of delivery vehicles having to park on the highway causing an increased danger and due to pipes running across the footway. In addition the proposal would lead to the loss of public open space that would serve the adjacent residential development as well as causing harm to the character and appearance of the Sutton-on-Trent Conservation Area. It is not considered that mitigation could be provided to make the development acceptable. In addition the proposal has been poorly planned and falls short of the Health and Safety Executive (HSE)*

*guidelines (a material consideration) in terms of safety and security arrangements. In particular the LPG tanks are considered to be sited too close to its site boundaries which includes public footpaths and the proposed means of enclosure (bollards) would not keep members of the public away from the tanks, leaving the tanks exposed to interference in an area where the risk of this is not considered low and where pedestrians could be walking past smoking at an unsafe distance. All of these factors combine to a level of unacceptable harm that is not outweighed by the positives of the scheme and there are no material considerations that outweigh this harm.*

*The proposal is therefore considered to be contrary to Core Policy 9 (Sustainable Design), Core Policy 14 (Historic Environment) and Spatial Policy 7 (Sustainable Transport) of the Newark and Sherwood Amended Core Strategy DPD (adopted March 2019) and policies DM5 (Design), DM9 (Protecting and Enhancing the Historic Environment) and DM10 (Pollution and Hazardous Substances) of the Allocations & Development Management DPD (2013) which together form the Development Plan. In addition the proposal is contrary to the NPPF 2019, the Planning Practice Guidance and the document entitled 'Safe use of liquefied petroleum gas (LPG) at small commercial and industrial bulk installations', by HSE which are material planning considerations'.*

19/00971/FULM - Application for the variation of Conditions 9 (hard and soft landscaping), 17 (external materials), 19 (boundary treatment) and 25 (approved plans) attached to planning permission 14/00161/FULM (the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car park spaces). The variation includes the addition of a sub station and fibre box cabinet plus amendments to the landscaping, open space, play area, boundary treatments and materials – pending determination.

19/00911/ADV Erection of 5 non-illuminated fascia signs – pending determination.

14/00161/FULM – Planning permission was granted on 24 January 2019 for the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car parking spaces on this site. It was granted under delegated powers following confirmation from the NPCU that they did not wish to call in the application. The application was accompanied by an s106 Agreement which secured a range of developer contributions.

NPCU/EIASCR/B3030/74541 – A request for a screening direction was made to the Secretary of State for the development. On 19<sup>th</sup> November 2014, the Department for Communities and Local Government on behalf of the SoS confirmed that the development is not EIA development within the meaning of the EIA Regulations 2011.

14/SCR/00050 – The planning application has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the LPA has adopted an opinion that the proposal is unlikely to have complex or significant environmental effects that would have more than local significance to constitute EIA development. An Environmental Statement is therefore not required. The opinion was formally issued on 29<sup>th</sup> September 2014.

### The Proposal

Full planning permission is sought for the installation of 5 x 4000 litre gas tanks which would be buried underground on part of a site that is currently under construction for 50 dwellings. These

tanks would be located on an area of amenity open space (once the wider development is completed) towards the rear of the site approximately 300 metres from Hemplands Lane, at the end of the new road which would also serve the adjacent pumping station.

The underground gas tanks area would be cordoned off with a 450mm high knee rail fence and surrounded by a hedgerow. A 1200mm gap to provide access would be provided adjacent to a proposed grasscrete parking area. The LPG tank area would occupy an area of 107m<sup>2</sup>. The surface of the ground would be grass with only the green colour secondary regulator housing equipment box (measuring 0.730m by 0.425 m by 0.830m high) and gas lids visible above the surface. The proposal also includes installation of the entire on-site pipeline network and the installation of meters on the properties.

A proposed informal play area is located within the area of amenity open space beyond the proposed tanks. To mitigate for the small loss of open space, both an upgraded climbing frame and an extra piece of balancing play equipment are proposed within the layout already approved under application on 14/00161/FULM. In addition, the Applicant is proposing that an off-site commuted sum towards the provision of open space is provided at a rate of £38.27 which amounts to £4,095 (taken from the Developer Contributions SPD) to compensate for the loss of the open space above the proposed tanks. These measures are to be secured by way of a Deed of Variation to the S106 Agreement attached to 14/00161/FULM as part of pending planning application 19/00971/FULM.

The applicant has advised that the Liquefied Petroleum Gas (LPG) tanks are required as a source of gas to the 50 dwellings approved as there is no piped gas in the area.

### The Submission

The following documents were submitted in support of the application:

- Application form dated 20.05.2019
- Supporting Statement May 2019
- Covering Letter Dated 26 June 2019
- Site Location Plan, drawing no. SOT/LP/001 A
- DRG.NO.04-C28-10619-D101A 12600Kgs Propane Vessel
- Underground Storage Vessel, drawing no. 18428-1
- Generic Semi-Mounded Install, drawing no. 21390 Rev A
- Proposed Gas Layout, Drawing No. 21613
- Proposed play area, Drawing No. Q4027\_D
- Block Plan, drawing no. SOT/BP/001 Rev A
- Tracking Plan, drawing no. SOT/TP/001A
- Calor 'The smart choice for rural off-grid developments'
- Document entitled 'Groundworks; Excavations for below ground tanks'
- Document entitled 'Installation of Below Ground Tanks'
- Gas Metre Housing Details (Mitras)
- UKLPG Code of Practice 1 Bulk LPG Storage at Fixed Installations Part 4:2008 Buried/Mounded LPG Storage Vessel
- Written Scheme of Investigation for Archaeological Monitoring and Recording at Hemplands Lane, Sutton-on-Trent (APS)
- Photograph – example of warning sign

- Photograph – example of underground tank with knee rail and hedgerow
- Photograph – example of tanks adjacent to dwellings
- Photograph – example of underground tanks with grass and bollards
- Flood Risk Assessment including Sequential Test
- Grasscrete Detail Type GC2
- Letter from Calor Dated 19<sup>th</sup> June 2019
- SUT-CP-01 Rev O Charter Plan
- Detailed Soft Landscaping Proposals, drawing no. JBA 13/350-02 Rev N (East and West)

### Departure/Public Advertisement Procedure

Occupiers of 12 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 giving an expiry date of 27<sup>th</sup> June 2019.

### Planning Policy Framework

#### The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 7 - Sustainable Transport

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 9 -Sustainable Design

Core Policy 10 – Climate Change

Core Policy 11 – Rural Accessibility

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 14 – Historic Environment

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

Policy ST/MU/1 – Sutton-on-Trent Mixed Use Site 1

Policy ST/MOA – Sutton-on-Trent Main Open Areas

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM2 – Development on Allocated Sites

DM4 – Renewable and Low Carbon Energy Generation

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM9 – Protecting and Enhancing the Historic Environment

DM10 – Pollution and Hazardous Substances

DM12 – Presumption in Favour of Sustainable Development

#### Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance
- UKLPG Code of Practice 1 Bulk LPG Storage at Fixed Installations Part 4:2008 Buried/Mounded LPG Storage Vessel

- Developer Contributions and Planning Obligations SPD (2013)

### Consultations

**Sutton-on-Trent Parish Council** – At a meeting of the Parish Council held on Tuesday 11<sup>th</sup> June, the members voted unanimously to object to this proposal on the grounds of loss of open space. The Design & Access Statement submitted in 2014 states ‘the public open space will ensure the development will have a minimal impact on the distinctive environment of Hemplands Lane.’ The Council believes that the loss of part of this designated public space reduces the amenity available to the community.

**Environment Agency** - We have reviewed the submitted documents and on this occasion the Environment Agency will not be making any formal comment on the submission for the following reason:

Although the proposal is for underground tanks, should they rupture the liquefied gas would evaporate and as such would not be an issue in terms of risks to controlled waters (groundwater).

**NCC Highways Authority** – The ‘red-edge’ site does not include all the land required by the vehicle movements shown on the ‘Tracking Plan’ SOT/TO/001. Other than this there are no highway-related comments, since all deliveries will take place off the public highway.

**NSDC Environmental Health (Contaminated Land)** – No observations.

**NSDC Environmental Health (Reactive)** – No comment.

**LCC Archaeologist** – Our original recommendations are still appropriate with these alterations. I see that an updated archaeological specification has been submitted to reflect these alterations. I can confirm that should this application be approved that the amended specification is acceptable and I look forward to the work beginning.

**NSDC Conservation** – The application is for a site within Sutton on Trent Conservation Area. From a site visit and a review of the plans we do not wish to make any formal observations in this case, but refer you to advice and guidance contained within CP14 and DM9 of the Council's LDF DPDs, section 16 of the NPPF (revised 2019) and the legal duties with respect to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In reaching any view, the local planning authority must pay special attention to the desirability of preserving or enhancing the character and appearance of the CA, and preserving the setting of a non-designated heritage asset. Preservation is achieved by causing no harm, and might include maintaining the existing contribution made by the host building to the character and appearance of the CA.

**Representations have been received from 4 local residents/interested parties (more which can be summarised as follows:**

- All of the reasons for refusal of 19/00424/FUL still apply to this application;
- Security has not been addressed;
- The site is within 100m of the Cuckstool Dyke and more susceptible to flooding;
- The pumping station already encroaches upon the Public Open Space;
- A suitable alternative should have been found before now;
- The proposed siting is more appropriate than the previously refused siting;

- If approved the LPA should secure through a suitable s106 Planning Obligation a suitable 24/7 gas emergency number and response service for the reporting of leaks etc. to ensure adequate public safety. Such an emergency number and response service could probably not be secured under a planning condition, particularly given that the proposed operator is not the applicant;
- HSE guidance requires LPG tanks of up to 12.5 tonnes must be at least 7.5m from buildings, boundary, property lines, or any source of ignition. However the proposed siting adjacent to the car park for the village hall would not appear to meet the 7.5m separation from potential sources of ignition in the car park. However a reading of the Code of Practice appears to suggest the 7.5m distance may be from the valve and a 3m distance is required from the tank edge. I would suggest that clarification on this point should be obtained with a detailed plan obtained showing these precise separation distances and how these relate to the car park area;
- knee rail fence and hedgerow planting removed this entire area from the open space;
- no details are given as to how people should be kept away from the tank and tanker while the transfer of LPG is taking place;
- the land in which the LPG tanks are proposed is open space which the s106 Planning Obligation for 14/00161/FULM requires to be transferred to the ownership of the management company. If the ownership of the tanks are to be vested in Calor then a Deed of Variation to the Planning Obligation will be required;
- use of alternative energy options such as heat pumps would be better;
- The proposed siting will require the approved landscaping scheme under 14/00161/FULM to be amended. As you will be aware the developer has already submitted an amended landscaping scheme under 19/00971/FULM. The LPG tanks will require at least 2 of the approved trees (and potentially up to 4 of the approved trees) not to be planted. Given the loss of the existing mature vegetation in the western area of open space any loss of further planting is considered unacceptable. As such the trees should be relocated and secured in a revised landscaping scheme;
- it is possible that the proposed underground tanks may be sitting in the water table, plus at times of flooding access to the tanks may not be possible. A flood risk assessment needs to demonstrate that they can be safe from flooding for their proposed lifetime. Potential flooding which could lead to gas escape;
- application 14/00161/FULM was granted as a balanced judgement on the basis of the public benefits that arose. These public benefits have been eroded with the proposed tanks removing further open space – an additional item of play equipment is not considered to be an equitable trade. There is a major shortfall in relation to the delivery of the village hall - it would be more appropriate to compensate the loss of open space through an additional financial contribution (or some form of contribution in kind) towards the village hall rather than an extra item of play equipment;
- Agreed public open space has been significantly eroded already, with areas removed to construct the electricity substation, telephone distribution cabinets, the water pumping station and the surface water holding area. The tanks can't be done because of the water level;
- An adequate alternative already exists (Oil) and there can be no reason other than financial as to why the developer cannot follow that route to provide heating;
- Gas is a dangerous fuel and unhealthy if it blows up;
- The proposed site for these gas tanks is too close to the proposed village hall/village hall car park and the play area with concerns regarding public safety.

## Comments of the Business Manager

### The Principle

Spatial Policy 1 identifies that Sutton-on-Trent is a principal village in the settlement hierarchy. Its function is to support service provision in these locations to assist rural accessibility. In terms of assessing the scheme against the Development Plan, the proposal does not fall particularly neatly into any policy as it's a standalone application for the gas tanks. I do not consider that the development can be considered as a community facility whereby Spatial Policy 8 would apply; rather it is private facility for the benefit of the new estate only. Neither is it an employment use as such.

Core Policy 9 sets out that development proposals are expected to achieve a high standard of sustainable design and provide for development that is resilient in the long term, taking into account climate change and the varying needs of the community. Core Policy 10 seeks to encourage reductions in the districts carbon footprint by various means.

The proposal is to provide 5 buried tanks to enable the consented dwellings the ability to access liquid petroleum gas given that the locality is not connected to the gas mains grid. This is not a renewable source of energy albeit it is clean burning and produces less emissions than coal (by 33%) and oil (by 15%). I am of the view therefore that providing the residents with the ability to access LPG in this locality would assist in meeting the needs of the community and help to reduce the carbon emissions compared with the alternative of electricity via a coal powered station or via oil, which is a positive to be weighed in the planning balance. Whilst a renewable source of energy would have been preferable, there is no requirement in planning policy to insist upon this. The principle is therefore considered to be acceptable in this location subject to a consideration of site specific issues as set out below.

### Impacts on the Environment

Core Policies 9, 10 and DPD Policies DM5 and DM10 all seek to protect the environment from unacceptable harm. DM10 in particular requires developments involving hazardous materials to take account of and address their potential impacts in terms of health, the natural environment and general amenity on neighbouring land uses, the wider population, ground and surface water, air quality and biodiversity.

### *Public Safety Considerations*

Health and Safety Executive (HSE) guidelines, which I consider are a material consideration, provide guidance on the siting of LPG tanks. Part of the reason for refusal of the previous tanks application stated that:

*'...the proposal has been poorly planned and falls short of the Health and Safety Executive (HSE) guidelines (a material consideration) in terms of safety and security arrangements. In particular the LPG tanks are considered to be sited too close to its site boundaries which includes public footpaths and the proposed means of enclosure (bollards) would not keep members of the public away from the tanks, leaving the tanks exposed to interference in an area where the risk of this is not considered low and where pedestrians could be walking past smoking at an unsafe distance.'*



Since this refusal, it has come to light that the HSE guidance referred to in the Officer Report for the previously refused application referred to above ground/commercial vessels as opposed to underground LPG vessels to serve domestic properties and was not therefore directly relevant to the planning application being considered. The correct HSE guidance document relating to this proposal is 'UKLPG Code of Practice 1 Bulk LPG Storage at Fixed Installations Part 4:2008 Buried/Mounded LPG Storage Vessels Feb 2008' (Code of Practice). A full copy of this document has been submitted with this application.

In this case each tank is 2.04 tonnes equating to 10.2 tonnes overall. HSE guidance suggests that where there is no firewall (there is none proposed here) LPG tanks of this capacity require a minimum distance of 3 metres from buildings, boundaries, property line or fixed sources of ignition with 1m between each vessel. A letter from Calor Gas (Dated 19.06.2019), who would undertake, maintain and own the tanks confirms that the proposal would fully comply with the requirements of this document and that the required separation distances would be complied with.

I note that the Code of Practice further requires *'the installation, including any above-ground equipment, should be protected to minimise interference by trespassing, tampering or accidental impact. At sites other than individual domestic premises this should be achieved by a combination of site demarcation, physical barriers and warning signs'*.

Concern was raised with the previously refused planning application (application no. 19/00424/FUL) that it did not meet these security requirements laid out by the HSE in that only low bollards would surround the tanks so would not keep people away from the tanks leaving them exposed to potential interference with pedestrians also potentially walking past smoking at an unsafe distance. However, the submitted Block Plan amends the design and layout of the proposed tank area so that it be cordoned off with a 450mm high knee rail fence and surrounded by a hedgerow. A 1200mm gap to provide access would be provided adjacent to a proposed grasscrete parking area. I am satisfied that the requirement for warning signs to be displayed at the site could be controlled by condition.

Whilst any leak would not contaminate, as it is heavier than air it can settle and may accumulate in low spots such as drains, which could represent a fire or explosion risk. For this reason, the HSE state there should not be any drains or gullies near to the tank unless a water trap is provided to prevent gas entering the drains. The submitted plans indicate that there would be no drain and/or gullies within the area of the gas tanks. In addition the letter received from Calor Gas (Dated 19.06.2019) provides additional comfort that the proposal would fully comply with HSE requirements in this respect.

#### *Contamination*

It is noted that the tanks are to be buried underground and therefore the impacts in terms of contamination are of relevance. One of the advantages of LPG is that in the event of a spill, LPG doesn't cause contamination to the water or the environment. This is a matter that has been confirmed by the EA in their comments. The land as existing has not been exposed previously to land contamination such that no remediation works are necessary, a matter confirmed by our Environmental Health Officer.

## Drainage and Flood Risk Impacts

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. Para.163 of the NPPF states that 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.

The vast majority of the site falls within Flood Zone 2 (medium risk of flooding) other than the site access which is located within Flood Zone 1 (low risk of flooding). A Flood Risk Assessment (FRA) including Sequential Test have been submitted with the application.

PPG states *“the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed...When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere”*.

Given that the LPG tanks are required to serve the wider housing development currently under construction, it would be impractical to suggest that the development should take place off site. However, there are more sequentially preferable locations for the development in flood risk terms for the development to take place, particularly adjacent to the site frontage which is located within flood zone 1. However, I note that the previously refused application (19/00424/FUL) was refused in this location due to harm to the character and appearance of the Sutton-on-Trent Conservation Area. As such, the site is considered to be more suitable away from the frontage of the site, outside of the flood Zone 1 area and it is therefore considered that the sequential test is passed on this basis.

The proposed development is classed as ‘less vulnerable’ according to the Flood Risk Vulnerability Classification table set out in Planning Practice Guidance. This type of development is appropriate in Flood Zone 2. The proposed gas tanks themselves would have no effect upon flood storage because there are no proposed changes to ground levels proposed. However, the submitted FRA states the ground level above the tanks would be 8.1 mAOD and could therefore be at risk of flooding and it is therefore advised that the gas supplier and management company should sign up to receive flood warnings, disseminate the site flood management plan to staff that manage the site, familiarise themselves with the site access route onto Hemplands Lane and review flood resilience of the proposed infrastructure and consider the reliability of service during a flood event. It is considered that details of the actions can be controlled via planning condition.

Overall, the development can be operated safely in flood risk terms, subject to a condition as specified above, without increasing flood risk elsewhere in accordance with Core Policy 10 and Policy DM5.

## Visual Impacts including impact on the Character and Appearance of the Conservation Area and Loss of Public Open Space

Core Policy 9 requires that development achieves a high standard of sustainable design that

sustains the rich local distinctiveness of the district and is appropriate in scale and form to its context. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. Policies Core Policy 14 and DM9 also apply where the requirement is to either preserve or enhance the character and appearance of the Conservation Area. The NPPF continues to state that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping.

Policy ST/MU/1 goes on to say that *'Consideration will be given to a comprehensive mixed use scheme of development on the site extending into the Main Open Area to the east where it can be demonstrated that this is necessary to deliver community facilities within the site and provide access to other parts of the Main Open Area.'* Complementing this, Policy ST/MOA states that *'on the Main Open Area to the east of site ST/MU/1 consideration will be given to allowing development where it forms part of a comprehensive mixed use scheme that demonstrates it is necessary to deliver community facilities within the site and provide public access to other parts of the Main Open Area.'*

The proposed tanks being buried underground would be overlaid with grass with only a small part of the tank valve visible in the public realm, retaining an open appearance. In this case, the proposed tanks would be located to the rear of the site in a less visible location than the previously refused planning application (application no. 19/00424/FUL) where they were located in a prominent position at the entrance to the housing site. In addition, a knee rail with hedge would now surround the siting of the tanks which I consider to overcome the previous concerns raised by the Conservation Officer in relation to the use of bollards which were considered to be an incongruous landscape feature harmful to the character and appearance of the Conservation Area.

The proposal would incur the loss of an area of public open space approved as part of application no 14/00161/FULM. Part of this area is also designated Main Open Area. The proposed loss at (approximately 107m<sup>2</sup> excluding parking area) amounts to a relatively small area of the overall quantum proposed/retained with an area of. The Committee Report for 14/00161/FULM states that the Council's SPD requires 1,620m<sup>2</sup> in relation the development proposal and noted that the proposed layout showed *'the provision of c 9,994m<sup>2</sup> (also taking into account the areas to the front and centre of the site) and is well in excess of the policy requirements, albeit that part of the site was already designated as a Main Open Area. However, it would open up the space to the public where the network of existing footpaths traverse the site. This is important in my view because it helps solidify and improve the already well used network of footpath linkages through the village to what would become the new local centre (the area which would include the doctors surgery and possible retail unit etc) and to Main Street to the east where a bus stop is located. The POS could become a focal/meeting point and would contain natural play features (to be secured through planning condition) that would provide a valuable addition to village provision'*.

Whilst the loss is small, it represents a loss nonetheless. To compensate for this, the Applicant is proposing both an upgraded climbing frame and an extra piece of balancing play equipment within the layout already approved under application on 14/00161/FULM. In addition, the Applicant is proposing that an off-site commuted sum towards the provision of open space is provided at a rate of £38.27 which amount to £4,095 (taken from the Developer Contributions SPD) to compensate for the loss of the open space above the proposed tanks. These measures are to be secured by way of a Deed of Variation to the S106 Agreement attached to 14/00161/FULM as part of pending planning application 19/00971/FULM.

Overall, I consider that the compensation measures proposed by the Applicant would adequately mitigate against the small loss of open space proposed by this application. In addition, its current position and design, it is not considered that the proposed development would result in any harm to the character or appearance of the Conservation Area in accordance with Core Polies 9 and 14 and Policies DM5, DM9 and ST/MOA.

### Highway Impacts

Spatial Policy 7 of the Core Strategy seeks to secure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision. Part of the previous reason for refusing the previous gas tanks application was because:

*'...In the opinion of the Local Planning Authority the servicing arrangements are considered inadequate which would lead to harm to users of the highway by virtue of delivery vehicles having to park on the highway causing an increased danger and due to pipes running across the footway....'*

There would be approximately 6-7 deliveries per year. The deliveries are made by 7.5t mini-bulker (specification provided). The revised siting of the proposed oil tank area means that the tankers would be able pull off the highway onto a dedicated parking area (laid with grasscrete).

This overcomes reason for refusing the previous application as there would be a dedicated parking area for the tankers to deliver the LPG. Nor has the NCC Highways Authority raised any concerns in relation to the proposal. As such, it is not considered that the proposed development would result in an increased danger to other users of the highway in accordance with Spatial Policy 7 and DM5.

### Impact on Amenity

CP9 requires that developments contribute to a compatible mix of uses particularly in town and village centres. Policy DM5 of the DPD requires that developments should ensure that neighbours do not suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy and that they should have regard to their impact on amenity and mitigate for any impact. It goes on to say that development that creates an unacceptable standard of amenity will be resisted.

It is not anticipated that the scheme would give rise to unacceptable residential impacts given the distances of the tanks to dwellings and their gardens.

### Archaeology

An Archaeological Desk Based Assessment and Geophysical Survey were submitted in support of the consented application for 50 dwellings which included this site. Advice sought at that time confirmed that the information provided was acceptable and a condition was imposed for archaeological mitigation and its implementation. A Written Scheme of Investigation (WSI) has subsequently been approved for the wider development site and updated to include consideration of the proposed gas tanks area. As such, the Councils archaeological advisor has confirmed that the condition should be extended to cover these proposals and therefore in the event of an approval a condition would need to be imposed to ensure compliance with this WSI.

## Other Matters

### *Maintenance and Management of Tanks*

In terms of future maintenance of the LPG compound, the tanks would be owned and maintained by Calor Gas Ltd. However, the Applicant has confirmed that the grass above the tanks, knee rail and native hedgerow which surround the compound would fall within the area to be managed and maintained by the Residents Management Company. This is secured by the S106 attached to 14/00161/FULM which requires details of the future management and maintenance of the open space through a management plan to be submitted to the Council for approval prior to the first occupation of dwellings on site.

### *Further linkages to 19/00971/FULM*

Approval of this scheme would affect the ability of the applicant to implement the approved landscaping scheme under 14/00161/FULM in full. This is a matter which is being dealt with through the concurrent application 19/00971/FULM which seeks to vary the approved plans and conditions relating to landscaping (among other variations to the approved scheme).

### *The need for Hazardous Substance Consent*

Hazardous substance consent (HSC) is required for the presence of certain quantities of hazardous substances. LPG is defined as a hazardous substance for the purposes of the regulations. Consent is needed if specified hazardous substances are stored or used at or above specified controlled quantities. Schedule 1 to the Planning (Hazardous Substance Regulations) 2015, Part 2 (Named hazardous substance) sets out that in respect of LPG the threshold is 25 tonnes. The Applicant has confirmed that the Hazardous Substance Consent would not be required as the total amount of LPG stored within the 5 tanks and across the site including the pipework would be 10.2 tonnes.

## Planning Balance and Conclusion

The principle of the development is acceptable and the provision of an alternative source of energy supply to the 50 new dwellings could help to reduce carbon emissions. A similar scheme in a different location within the wider housing development site was previously refused due to its adverse impact on the character and appearance of the Conservation Area and for highway and public safety reasons.

However, this resubmission represents an improved scheme located to the rear of the site with a dedicated parking area for deliveries. The LPG area would be largely screened from public access/view by a knee rail and hedge. The application is accompanied by evidence to demonstrate that the proposal would not result in any adverse impact upon public safety or highway safety. The revised design and siting of the development is not considered to result in any adverse impact upon the character or appearance of the Sutton-on-Trent Conservation Area.

Nor would the proposal result in any adverse impact on flood risk, contaminated land or archaeology, subject to conditions.

The small loss of public open space is regrettable, however I consider that the proposed mitigation measures proposed by the Applicant in the form of additional and upgraded children's play

equipment in addition to an off-site commuted sum (equivalent to the area to be lost) would provide adequate compensation for this loss. Overall I find that the limited harm in this case is outweighed by the benefits of the scheme and it is recommended that planning permission is approved subject to the Recommendation set out below.

## **RECOMMENDATION**

**That full planning permission is approved subject to:**

**(a) the conditions shown below; and**

**(b) the signing and sealing of a Deed of Variation to the S106 attached to 14/00161/FULM (for the erection of 50 dwellings) to require an off-site commuted sum towards open space provision and an additional item of play equipment.**

### Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

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

02

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

- Site Location Plan, drawing no. SOT/LP/001 A
- DRG.NO.04-C28-10619-D101A 12600Kgs Propane Vessel
- Underground Storage Vessel, drawing no. 18428-1Generic Semi-Mounded Install, drawing no. 21390 Rev A
- Proposed Gas Layout, Drawing No. 21613
- Proposed play area, Drawing No. Q4027\_D
- Block Plan, drawing no. SOT/BP/001 Rev A
- Tracking Plan, drawing no. SOT/TP/001A
- Document entitled 'Groundworks; Excavations for below round tanks'
- Document entitled 'Installation of Below Ground Tanks'
- Gas Metre Housing Details (Mitras)
- Grasscrete Detail Type GC2
- Letter from Calor Dated 19th June 2019

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

Reason: So as to define this permission.

03

The development permitted by this planning permission shall be carried out in full accordance with the Written Scheme of Investigation for Archaeological Monitoring and Recording by APS Archaeological Project Services dated September 2017 (Updated May 2019). The mitigation measures shall be fully implemented in accordance with the timing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure that satisfactory account is taken of the potential archaeological interest of the site.

04

Prior to the installation of the gas tanks hereby approved, a scheme of mitigation to protect against flood risk as set out in the Flood Risk Assessment (by Amazi Received 27.06.2019) shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, this scheme shall include identification of safe routes into and out of the site; details of flood resilient measure to be incorporated into the final design of the development; consideration of the implications of the reliability of service during a flood event and provisions for the signing up to the Environment Agency's Flood Warning Service for early warning of potential flood events and details of how this information would be disseminated.

The mitigation measure set out in the approved scheme shall be fully implemented in accordance with the timing/implementation arrangement embodied within the scheme, or within any other period as may subsequently be agreed in writing by the local planning authority.

Reason: to ensure safe access and egress to and from the site and to safeguard against the risk of flooding.

05

Prior to the first delivery of LPG to the tanks hereby approved, full details (including dimensions, precise location, design, materials etc) of a warning sign including emergency contact details shall be submitted to and approved in writing by the Local Planning Authority. The approved sign shall thereafter be erected adjacent to the gas tank area and retained for the lifetime of the development prior to the development being brought into use.

Reason: in the interests of public safety and in order to ensure that the details are appropriate for the conservation area location.

06

The approved soft landscaping shown on drawing no. SOT/BP/001 Rev A shall be completed during the first planting season following the first delivery of LPG to the site, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations.

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

#### 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

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.

#### Background Papers

Application Case File

For further information, please contact Helen Marriott on ext. 5793.

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

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

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## PLANNING COMMITTEE – 23 JULY 2019

<b>Application No:</b>	<b>19/00971/FULM</b>	
<b>Proposal:</b>	<b>Application for the variation of Conditions 9 (hard and soft landscaping), 17 (external materials), 19 (boundary treatment) and 25 (approved plans) attached to planning permission 14/00161/FULM (the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car park spaces). The variation includes the addition of a sub station and fibre box cabinet plus amendments to the landscaping, open space, play area, boundary treatments and materials</b>	
<b>Location:</b>	<b>Land To The Rear Of 9 To 18 Hounsfeld Way Off Hemplands Lane, Sutton On Trent</b>	
<b>Applicant:</b>	<b>Mr Matthew Harmsworth - Persimmon Homes</b>	
<b>Registered:</b>	<b>23<sup>rd</sup> May 2019</b>	<b>Target Date: 22<sup>nd</sup> August 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 Site

This site comprises an area of approximately 3.4ha of green field land within the defined built up part of Sutton-on-Trent. Part of the site (to the west) has been allocated for a mixed use site (ST/MU/1) in the Allocations and Development Management DPD 2013, whilst the eastern part of the site is allocated as a 'Main Open Area'. The site lies within the Sutton-on-Trent Conservation Area.

The site previously comprised of three fields. Field 1 is triangular in shape that lies to the west of the site and is bound mainly by hedgerow. Field 2 comprises the remaining allocated part of the site and comprises poor semi-improved grassland, shrub, tall ruderal vegetation and is bound by fencing to the north and east whilst Field 3 forms the existing Main Open Area which comprises semi improved grassland bound by hedgerow to the north and a hedgerow with trees to the south and east. The majority of the site currently has the appearance of a construction site for the development of new houses approved under 14/00161/FULM.

Located on the eastern side of Hemplands Lane, the site comprises land to the south/rear of Hounsfeld Way; a cul-de-sac which accommodates the existing doctor's surgery and residential dwellings comprising a mix of modern single and two storey dwellings. It also lies directly south of modern two storey properties on Nursery Lane. The boundaries to the north comprise a mix of timber fencing and hedgerows. A dyke runs alongside this boundary.

To the south of the site is Grassmere Farm, an active farm which has an associated dwelling, agricultural buildings and agricultural land. This is separated from the application site by a high brick wall and hedgerows. The eastern part of the site (MOA) lies to the north of modern two

storey residential properties at Willow Holt and Rose Farm Drive (off Palmers Road) and dwellings on the western side of Main Street which are bounded by a mix of fencing.

The western part of the site appears to be former agricultural land that is not in active use and is overgrown. This is separated from the network of public footpaths that cross the site by low post and wire fencing. Land to the east comprises a field split and surrounded by hedgerows part of which is used as a pony paddock.

Vehicular access constructed under 14/00161/FULM is visible from the site frontage and there are several public footpaths that cross the site. FP6 runs alongside the northern boundary whilst FP7 links Nursery Lane to the north to Witch Lane to the south and beyond. FP5 extends across the open space towards Main Street to the east and High Street and beyond to the north.

Mature trees and hedgerows form the boundary with Hemplands Lane. There a number of trees within the application site. There are ditches/dykes that run alongside the north, south and eastern site boundaries.

The majority of the site lies within Flood Zone 2 (as of April 2016), with the remaining part falling within Flood Zone 1 (the frontage with Hemplands Lane and a thin strip of land to the north). All of the site falls within an area prone to surface water flooding according to Environment Agency Maps.

#### Relevant Planning History

19/00981/FUL - The installation of 5 x 4000 litre underground tanks with associated Secondary Regulator Housing Cabinet and amendments to the already approved equipped play area – pending determination.

19/00424/FUL - The installation of 5 x 4000 litre underground gas tanks – application refused 18.04.2019

19/00911/ADV - Erection of 5 non-illuminated fascia signs – pending determination.

14/00161/FULM – Planning permission was granted on 24 January 2019 for the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car parking spaces on this site. It was granted under delegated powers following confirmation from the NPCU that they did not wish to call in the application. The application was accompanied by an s106 Agreement which secured a range of developer contributions.

NPCU/EIASCR/B3030/74541 – A request for a screening direction was made to the Secretary of State for the development. On 19<sup>th</sup> November 2014, the Department for Communities and Local Government on behalf of the SoS confirmed that the development is not EIA development within the meaning of the EIA Regulations 2011.

14/SCR/00050 – The planning application has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the LPA has adopted an opinion that the proposal is unlikely to have complex or significant environmental effects that would have more than local significance to constitute EIA development. An Environmental Statement is therefore not required. The opinion was formally issued on 29<sup>th</sup> September 2014.

## The Proposal

The application seeks full planning permission for the variation of Conditions 9 (hard and soft landscaping), 17 (external materials), 19 (boundary treatment) and 25 (approved plans) attached to planning permission 14/00161/FULM (the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car park spaces). The variation includes the addition of a sub station and fibre box cabinet plus amendments to the landscaping, open space, play area, boundary treatments and materials.

Amended plans along with a revised description of development have been received during the lifetime of the application to include additional amendments to the approved plans, some of which are retrospective in nature. The amendments relevant to each condition are summarised below:

Condition 9 of 14/00161/FULM states the following:

*Notwithstanding the details submitted, no development shall be commenced until full details of both hard and soft landscape works associated with the public open space have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:*

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

*existing trees and hedgerows, which are to be retained pending approval of a detailed scheme,*

*proposed finished ground levels or contours;*

*any hard surfacing materials;*

*minor artefacts and structures including furniture, play equipment, refuse or other storage units, signs, lighting etc.*

*proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)*

*retained historic landscape features and proposals for restoration, where relevant.*

*Reason: In the interests of visual amenity and biodiversity.*

This application seeks to amend Condition 9 insofar as development has already commenced meaning that details submitted pursuant to the requirements of this condition can no longer be formally discharged and the variation of this condition enables the Applicant opportunity to rectify this. In addition, the hard and soft landscape plans submitted with this application have been amended. Main amendments include the following:

- Hard surfacing to private shared drives has changed from permeable to block paving;
- Amendments to the play area, including the addition of bow top railings and an additional and upgraded item of play equipment;
- Updated landscaping.

Condition 17 of 14/00161/FULM states the following:

*No development shall be commenced until a full schedule of external materials (including the provision of samples upon request) to be used in the development has 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.*

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

This application seeks to amend Condition 17 as the following changes to materials are proposed:

- Plot 1, 17 and 18 bricks have been changed to Forterra Meadow Red.

Condition 19 of 14/00161/FULM states the following:

*No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatment for each individual plot on site shall be implemented prior to the occupation of each individual dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.*

*Reason: In the interests of residential and visual amenity.*

This application seeks to amend Condition 19 as the following changes are proposed:

- Rear garden fencing changed from Larch Lap fencing to close boarded fencing;
- Plot 10 – northern boundary changed to brick wall from a close boarded fence;
- Properties backing onto southern boundary of the site (plots 46-50, 45, 31, 30, 29) – rear access gates have been removed. The landscape buffer to the rear of these dwellings would be managed by a maintenance company;
- To the south of the parking court serving plots 42-45 a knee rail replaces a close boarded fence. The same scenario applies for the private shared drive which is located between plots 30 and 31;
- Addition of an underground LPG area subject of separate consideration under 19/00981/FUL.

Condition 25 of 14/00161/FULM states the following:

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

*Proposed Site Plan, CPT-193 PL02 Rev H*

*Site Location Plan, CPT-193 PL01 Rev B*

*Foul water pumping station compound elevations, received 31/05/2017*

*Turner House Type, Floor Plans (Plot 31 only) CPT-193 TUR-03 Rev A*

*Turner House Type, Elevations (Plot 31 only) CPT-193 TUR-04 Rev A*

*Turner House Type, Floor Plans CPT-193 TUR-01*

*Turner House Type, Elevations CPT-193 TUR-02*

*Calvert House Type, Floor and Elevations (Plot 24 only) CPT-193 CAL-02*

*Calvert House Type, Floor and Elevations, CPT-193 CAL-01*  
*Holland House Type, Floor and Elevations, CPT-193 HOL-01*  
*Holland House Type, Floor and Elevations (Plot 23 only), CPT-193 HOL-02*  
*Keating House Type, Floor and Elevations, CPT-193 KEA 01*  
*Lewis House Type, Floor and Elevations, CPT-193 LEW 01*  
*Lewis House Type, Floor and Elevations (Plot 32 only) CPT-193 LEW 02*  
*Whitehall House Type, Floor and Elevations, CPT-193 WHL-01*  
*House Type 71, Floor and Elevations, 071-100*  
*House Type 81, Floor and Elevations, 081-100*

*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.*

This application seeks to amend Condition 9 insofar as the following amendments to the approved plans:

- Fibre box cabinet and associated electrical connections cabinet added adjacent to the vehicular access to the site;
- Inclusion of a sub station measuring 3.1 metres by 2.3 metres by 2.3 metres high;
- Doctors surgery signage added with a slight adjustment to its positioning to ensure retention of existing landscaping;
- Fencing details around pump station added;
- Minor amendment to position of play area.

#### The Submission

The application has been accompanied by the following documents:

- Covering letter Dated 27.06.2019
- Fibrenest Technical Information
- Charter Plan SUT-CP-01 Rev P
- Planning Layout SUT-SL-04 Rev A
- Severn Trent Water Standard Security Fence STD6140
- Play Area Layout Q4027\_D
- Detailed Soft Landscaping Proposals, drawing no.S X 2 JBA 13/350-02 Rev P (East and West)
- GRP Enclosure for Unit Substation EKV0031
- HV Diversion Overlay

#### Departure/Public Advertisement Procedure

Occupiers of 77 properties have been individually notified by letter and reconsulted on amended plans/description of development (to widen the scope of variations applied for) during the lifetime of the application.

Site notice posted 06.06.2019.

Press notice published 06.06.2019.

#### Planning Policy Framework

## **The Development Plan**

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

- Spatial Policy 1 -Settlement Hierarchy
- Spatial Policy 2 -Spatial Distribution of Growth
- Spatial Policy 6 - Infrastructure for Growth
- Spatial Policy 7 - Sustainable Transport
- Spatial Policy 8 - Protecting and Promoting Leisure and Community facilities
- Spatial Policy 9 -Site Allocations
- Core Policy 1 - Affordable Housing Provision
- Core Policy 3 - Housing Mix, Type, and Density
- Core Policy 8 - Retail Hierarchy
- Core Policy 9 - Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 - Biodiversity and Green Infrastructure
- Core Policy 13 - Landscape Character
- Core Policy 14 - Historic Environment

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

- Policy ST/MU/1 - Sutton-on-Trent – Mixed Use Site 1
- Policy ST/LC/1 - Sutton-on-Trent – Local Centres
- Policy ST/MOA - Sutton-on-Trent – Main Open Areas
- Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM2 – Development on Allocated Sites
- Policy DM3 - Developer Contributions
- Policy DM5 - Design
- Policy DM7 - Biodiversity and Green Infrastructure
- Policy DM9 – Protecting and Enhancing the Historic Environment
- Policy DM11 – Retail and Town Centre Uses
- Policy DM12 - Presumption in Favour of Sustainable Development

## **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- National Planning Practice Guidance (on-line resource)
- Developer Contributions and Planning Obligations SPD (2013)

## **Consultations**

### **Sutton on Trent Parish Council – *Comments received 12.07.2019:***

The above application was discussed by the Parish Council at its meeting on 9<sup>th</sup> July and I have been instructed to write to you to lodge the Councils subsequent objection to the application on the grounds as set out below.

The Council is concerned that the original application on this site is being continually and significantly altered and feels strongly that the original application requirements and permissions

should be adhered to. In particular, the Council believes that the external materials as suggested are not in keeping with a village environment nor a conservation area within which the site is located.

The application detail includes the addition of a sub station and fibre box cabinet both of which will have a detrimental visual impact for residents of the development in both the proposed locations and colour of the cabinets. The Council notes that the inclusion of the sub station does reduce the need for overhead power lines, however it also reduces the allocated public open space from that detailed in the original proposal.

In addition, the proposed relocation of the designated play area is of concern as access to the eastern boundary ditch which is required by the Internal Drainage Board for maintenance purposes is not clear. The Council is of the opinion that the IDB should be consulted on this particular issue.

It is clear to the Parish Council, through complaints it is receiving from residents, that the developer is causing a lot of frustration within the Parish in that they have sought to obtain a consent which clearly did not include elements that they would have been aware of as being required as a competent developer, and are now retrospectively and continually making applications to address these omissions.

These applications principally affect the Public Open Space areas, rather than the developers net developable area, and in turn profit, where the Parish would hope the developer would be directed to make any required changes that they seem to have negated, being at their cost and not to that of the Parish.

The Public Open Space and lack of regard for the Conservation Area in terms of design and material are both highly important issues for the Parish as part of this development moving forward. It is considered that the impact of omissions made by the developer that retrospectively need to be rectified should be done so within their net development boundaries and not that of Public Open Space Areas and as stated above, greater importance should be attributed to the Conservation Area in terms of material considered acceptable for use within the development.

*Comments received 13.06.2019:*

At a meeting of the Parish Council held on Tuesday 11<sup>th</sup> June, the members voted unanimously to object to this application on the grounds that the proposed landscaping plan previously approved should be adhered to.

**Nottinghamshire Wildlife Trust** - We would like to take this opportunity to remind you that all developments should aim to provide net gains for biodiversity as the NPPF (February, 2019) Paragraph 170 States: *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*

As you will be aware hedgerows are a Nottinghamshire Biodiversity Action Plan Habitat and in this county we have lost over 16,000 miles of hedgerow between 1947 and 1985 alone.

In the case of this application, removal of a hedgerow without replacing it would result in a net loss of biodiversity and BAP Habitat. We therefore recommend that the hedgerow at the very least



should be replaced and any fragmented hedgerows also should be planted up with native species to form intact hedgerows across the site. The development, as stated within NPPF Paragraph 170 should aim for an overall net gain in biodiversity and other biodiversity enhancements are also recommended to be incorporated in order to achieve this.

**Internal Drainage Board** - No comments received to date. Any comments received will be reported in Late Items.

**NCC Highways Authority** – This application has no impact on the public highway (existing or to be adopted). No objections.

**NSDC Parks and Amenities** – No comments received to date. Any comments received will be reported in Late Items.

**5 letters of representation has been received from local resident/interested parties (some of which are from the same address). Main issues raised include:**

- A hedgerow on the north side of the public footpath has been removed contrary to the approved planning application (part of an historic field pattern). This provided screening between the residential dwellings on Hounsfeld Way and the footpath in addition to softening the blank side gable of Plot 1 which has a dominating impact on the rear gardens. Replacement is required otherwise gardens will be further over dominated/overlooked from users of the footpath and there would be added harm to the character and appearance of the Conservation Area;
- The hedge to the rear of Nos 16-18 was also removed but has been replanted. Hedgerow is shown to be planted to the rear of No 15 but there is no existing hedge along this boundary. Persimmon does not own this strip of land. As such, the developer has no reasonable prospect of implementing the landscaping plan as they illustrate;
- Impact of loss of hedgerow on nesting site/habitat for birds;
- This application will need to include changes required to landscaping resulting from the proposed gas tanks application (19/00424/FUL) if approved;
- Trees on the west side of the development adjacent to Hemplands Lane were removed on 1st March 2019 in breach of condition 10;
- Any relaxation of planning conditions will inevitably lead to a constant drip feed of alterations sought that will favour the developer at the cost of local residents.
- Developers have constructed two areas of car parking in the open space by plot 3 with a path to the front of the plot 1 garage which is not shown on the approved plans (to serve a show home).
- The proposed sub-station is located in a prominent position and should be constructed from a red-brick in keeping with the Conservation Area – instead it is a standard type of installation. A hedge would screen 3 sides with the north side open – it is suggested that the east side which is less prominent be made the open side. The cabinet should also be finished in green.

- The application 14/00161/FULM was granted as a balanced judgement and included insertion into the designated Main Open Area and a significant number of additional dwellings over that specified in the allocation on the basis of the public benefits that arose. The open space has been eroded by areas being removed to construct the electricity sub-station; the telephone/broadband cabinets; the foul pumping station compound; and the surface water holding area. The latter of these has just been contoured and is of a depth and steepness of sides that prevents its use for any public use.
- The submitted Western Power Distribution Plan 3258834 refers to the freehold of the sub-station needing to be transferred to them. This strictly conflicts with the s106 Planning Obligation already signed and will need to be included in a Deed of Variation
- The fire box cabinets have been placed in a prominent position adjacent to the site access. Their grey colour increased their prominence and they should be re-painted dark green.

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

#### **Principle of Development**

This application is made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact.

If the application is acceptable a decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

The principle of the development has already been established through the original granting of the permission for the development in January 2018 (14/00161/FULM). It is not therefore considered necessary to rehearse issues previously assessed by this planning application save for issues which require assessing as a result of the current amendments proposed.

I am aware that the relevant Planning Policy Framework has been updated since this time (including the revised NPPF and adoption of the Amended Core Strategy), however key policy considerations in relation to the amendments proposed by this application have not changed.

The main issue for consideration is therefore whether it is appropriate to allow the development to be approved in accordance with the amended conditions and plans proposed with regards to the impact on the impact on the character and appearance of the conservation area and impact on the open space.

#### **Visual Impacts of the Proposed Amendments Including Impact on the Character and Appearance of the Conservation Area, Setting of Listed Buildings and Main Open Area/Open Space**

Core Policy 9 requires that development achieves a high standard of sustainable design that sustains the rich local distinctiveness of the district and is appropriate in scale and form to its context. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale,

form, mass, layout, design and materials in new development. Policies Core Policy 14 and DM9 also apply where the requirements is to either preserve or enhance the character and appearance of the Conservation Area. The NPPF continues to state that good design should be visually attractive as a result of good architecture and appropriate landscaping.

Policy ST/MU/1 states that *'Consideration will be given to a comprehensive mixed use scheme of development on the site extending into the Main Open Area to the east where it can be demonstrated that this is necessary to deliver community facilities within the site and provide access to other parts of the Main Open Area'*. Complementing this, Policy ST/MOA states that *'on the Main Open Area to the east of the site ST/MU/1 consideration will be given to allowing development where it forms part of a comprehensive mixed use scheme that demonstrates it is necessary to deliver community facilities within the site and provide public access to other parts of the Main Open Area'*.

There are a number of changes proposed that have the potential to affect the visual amenity of the area including the addition of a substation and fire box cabinets, altered materials and boundary treatments and amendments to the landscaping of the site including the minor repositioning of the play area and doctors surgery car park.

The proposed substation and fire box cabinets are located towards the west of the site close to the main access into the development site on the part of the site allocated for mixed use development (as opposed to within the east part of the site which is located in the Main Open Area). Whilst these items are relatively small in scale, they would be visible features on entry into the site and potentially from the wider area. The Applicant has confirmed that they would be finished in a dark green colour (to be required by planning condition) and the latest set of revised plans show the addition of landscaping to the north, east and west site of the fire box cabinets and a box hedge around the south, east and west of the proposed substation. In line with comments received from neighbours, I asked if it would be possible for a hedge to be planted around the north, south and east of the substation instead however, the Applicant has stated the following:

*'Unfortunately the sub station cannot be realigned as suggested as the access doors to the substation need to be off the public highway to allow for the maintenance and construction of the internal switch gear'*.

Even so, it is considered that the proposed mitigation would be sufficient so as the items do not result in visual clutter or prominent additions to the detriment of the visual amenity of the area and a neutral impact on the character or appearance of the Conservation Area would result. In addition, the Applicant has highlighted some benefits to the proposal as Western Power Distribution have advised that adding the new substation allows for the removal of approximately 200 metres of 11Kv ohl and Pole Transformer. This would add to the future capacity of the local area (beyond the application site) and provides an alternative 'back feed' for a nearby substation in the event of a fault.

It is noted that unauthorised removal of some sections of hedgerow and trees has occurred since development commenced on site. As a consequence, the Applicant has updated their proposed landscape scheme to put back and mitigate for the losses that have occurred. This includes the replanting of a hedgerow on the north side of the public footpath (which previously formed part of an historic field pattern). Additional tree planting is proposed. The proposed doctors surgery car parking spaces have moved slightly to allow for the retention of existing trees/ planting on the northern boundary of the site. Extra hedging has also been added to help soften the appearance of the car parking spaces. A native hedgerow has also been added around the foul pumping

station. The Applicant has confirmed that all areas identified for the new planting falls within their ownership.

The amendment of the proposed bricks on three of the plots from Forterra Abbey Blend to Forterra Meadow RED, is considered acceptable given that this brick forms an approved brick for other plots within the wider scheme.

Overall, I have assessed the impacts of all of the amendments proposed and I do not consider that they alone or cumulatively would result in a deviation of the original Officer view (14/00161/FULM) which states in relation to the impact on the Main Open Area that:

*'Taking all matters together, I consider that the delivery of a purpose built village hall (which I understand is likely to house a fold away library and play group) together with a decent level of associated outdoor amenity space and the opening up of the MOA to become useable Public Open Space justifies this level of encroachment into the MOA. I therefore consider that the proposal is compliant with ST/MU/1 in this respect'.*

Likewise, I note that a very small area of open space would be lost to the front of the site through the amendments to the doctor's surgery car park and through the proposed substation and fire box cabinets. However, I consider this loss to be negligible given the mitigation proposed and outweighed to a large extent by the benefits of the changes which enable the retention of additional existing landscaping and rationalisation of Western Power Distribution equipment off site.

Nor would the impacts of the amendments either alone or cumulatively result in any deviation from the original Officer view in relation to the impact on the character or appearance of the Conservation Area which concluded that:

*'I accept that the proposal is not one that can be said to be enhancing the Conservation Area (in that it does not replicate the lower density grain of the Conservation Area) but in my view the harm is diminished by the fact that it would sit adjacent to housing development of a similar grain and scale. In any event I agree that the harm is less than substantial and consider that the layout and design is acceptable in other respects and the harm is lessened by the landscaping intentions for the site'.*

Likewise, I do not consider the proposed amendments either alone or cumulatively result in any deviation from the original Officer view in relation to the impact of the setting of listed buildings.

To conclude, whilst no harm arises from the proposed amendments themselves, given that this S73 application represents a new permission for the development overall, I must again conclude (the same conclusion was previously reached) that the development overall would harm both the Conservation Area and the setting of the listed buildings. This is considered to be less than substantial harm and is afforded the appropriate weight in the Planning Balance section of the report.

In other words, no further harm to that identified previously has been found.

The relevance of other conditions attached to Application Number 14/00161/FULM

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.

For ease of reference the conditions as originally imposed are listed in full below (in the Recommendation section) with ~~striketrough~~ text used to represent parts of the condition no longer required and **bolded text** used to indicate new wording. The conditions have been reworded where details have been provided to discharge previously imposed conditions.

[Commentary is also provided where this is considered necessary.]

## Other Issues

### *Deed of Variation (DoV)*

A Deed of Variation to the original s106 attached to 14/00161/FULM (for the erection of 50 dwellings) is required to ensure that all contributions previously secured are provided should Members be minded to approve, is required. This includes the provision of 30% on-site affordable housing, a financial contribution towards community facilities, public open space provision including play equipment, financial contribution towards the upgrading of footpath No. 5, library stock contribution, land for a village hall and its car park, a financial contribution towards a Traffic Regulation Order and the safeguarding of land for a retail unit. In conjunction with application 19/00981/FUL additional amendments to the original S106 are required to ensure the additional provision of children's play equipment and to secure an off-site contribution towards open space (to mitigate for the area of open space lost to the area of the proposed gas tanks should Members also be minded to approved 19/00981/FUL).

An amendment to the triggers for transferring the Village Hall to the Parish Council is also proposed which I understand the Parish Council have agreed to in principle on the basis that Persimmon have offered to construct the Hall car park up to but not including the final top course. The DoV can be amended to reflect this change with agreement from all parties concerned.

### *Other Works*

Letters of representation have drawn my attention to other works that have been undertaken on site which do not appear to be shown on the proposed plans. This includes the construction of a car park and pathway to serve a showroom. The Applicant has confirmed that

'The car park and pathway are only temporary and will be used for customers to the Sales Office. Once the open space needs to be reinstated as required by the S106 these will be removed. I have not included these temporary spaces within the application as they are temporary and will only confuse matters. My intention was to deal with this as part of a separate application. I can confirm at the point the car parks are removed the development will be completed in accordance with the proposed landscaping and charter plan which are submitted as part of this application'.

The knee rail shown to the parking areas to plots 30/31 and 45/46 will be the boundary treatment which will be in place once these plots are occupied. The 1.8m high close boarded fence which has been erected in this area is there for security reasons only whilst these plots are being built.

### *Impact on eastern boundary ditch*

I note the comments received from the Parish Council with regards to the maintenance of this ditch. The comments of the IDB are awaited in this regard and will be reported to Planning

Committee via late items.

### Planning Balance and Conclusion

Overall, the proposed variations are considered to be acceptable and subject to conditions, it is not considered that any additional harm above and beyond that previously identified under consideration of 19/00971/FUL would result. For completeness, the planning balance and conclusion relating to 14/00161/FULM remains relevant and stated that:

*'The principle of developing this site is accepted through the allocation of the site for a mixed use development which envisaged around 37 houses, retail and additional car parking for the adjacent doctor's surgery. The proposal seeks to deliver 50 houses, an additional 11 parking spaces for the adjacent surgery as well as safeguarding land for both the retail unit and facilitating the delivery of a village hall through the gifting of land and through a financial contribution. Development of part of the Main Open Area is in my view necessary to facilitate the delivery of the village hall and this is considered adequate to justify this encroachment along with the opening up of the MOA to become Public Open Space. This is also explicitly allowed for in the adopted site allocation policy.*

*It has been concluded that the scheme will not give rise to unacceptable adverse impacts to residential amenity or highway safety, that the mix and tenure types of dwellings is acceptable and that this scheme would not prejudice the delivery of a retail unit of an appropriate size for the size of the settlement should market conditions allow.*

*However there are a number of matters that need to be considered in the overall balance. Since allocation, the majority of the site has been classified as being within Flood Zone 2, with the majority of the Sutton-on-Trent settlement and the wider Trent Valley villages having been classified within Flood Zones 2 and 3. It is therefore considered necessary to apply the Sequential Test. It is considered appropriate to apply the Sequential Test to the settlement of Sutton-on-Trent given that the development seeks to deliver benefits for the village that cannot be provided elsewhere. The developer has demonstrated to the satisfaction of the Environment Agency and the Lead Local Flood Risk Authority that the development would be safe for its lifetime and would not place third parties at any greater flood risk as a result of the development.*

*It is acknowledged that the development would cause a degree of harm to the character and appearance of the Sutton-on-Trent Conservation Area and the setting of some listed buildings within the wider village. Primarily the harm is due to the contrast between the sub-urban character of the proposed development compared to the lower density more rural character that the CA embodies. However this harm is considered to be less than substantial harm. It is recognised that the proposal site does not require the loss of space or buildings that go to the heart of the significance of the designated CA. It must also be recognised that the site is allocated for housing within the development plan and that the proposed development would sit amongst the context of existing modern dwellings of a similar scale which lie to the north and south of the application site. Having regard to the statutory duties under s66 and s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 it is considered that the development will not result in an unacceptable degree of harm in this context, especially when weighted against all other considerations.*

*The wider benefits of the proposal include the opening up of a large area of Public Open Space which would allow the site to be publicly accessible (at the present time only the footpaths that cross the site are public) and will consolidate the existing footpaths that cross the site, allowing the*

creation of a focal point to the east, the provision of natural play features and areas for ecological enhancement and nature conservation with the creation of SuDS features along with sensitively upgraded footpaths across the site (through lighting and hard surfacing) to encourage residents to walk in the interests of sustainability. The site's central location within the village, the provision of a choice of housing including a policy compliant proportion of affordable housing in accordance with the adopted development plan, the provision of additional community benefits including enabling the delivery of a village hall, the safeguarding of a site for a retail unit and additional parking spaces for the doctors surgery, improved public open space and footpath links all in my view add up to considerable public benefits. Having regard to the guidance at paragraph 134 of the NPPF, it is considered that these significant public benefits outweigh the less than substantial harm in terms of the impact of the proposed development on the character and appearance of the conservation area and on the setting of the identified listed buildings'.

It is not considered that there are any other changes to circumstances which affect the consideration of this application. On this basis, I recommend that the scheme should be approved subject to the recommendation below.

### **RECOMMENDATION**

**That full planning permission is approved subject to:**

- (a) The conditions and reasons shown below; and**
- (b) The signing and sealing of a Deed of Variation to the S106 attached to 14/00161/FULM (for the erection of 50 dwellings) to link it to this permission.**

### **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.~~

~~[Development commenced on site and therefore unnecessary]~~

**02 01**

~~The development permitted by this planning permission shall be carried out in full accordance with the Written Scheme of Investigation for Archaeological Monitoring and Recording by APS Archaeological Project Services dated September 2017 (Updated May 2019). The mitigation measures shall be fully implemented in accordance with the timing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority. No development shall take place within the application site until details of an archaeological scheme of mitigation have been submitted to and approved in writing by the Local Planning Authority. This scheme should be drawn up and implemented by a professional archaeologist or archaeological organisation. This scheme should ensure that all phases of ground disturbance at this site are archaeologically monitored in circumstances that will allow archaeological features to be recorded. Thereafter the scheme shall be implemented in full accordance with the approved details.~~

*Reason: To ensure that satisfactory account is taken of the potential archaeological interest of the site.*

*[A scheme of mitigation has previously been discharged by planning condition and has subsequently been updated to reflect changed proposed by this application].*

03

~~Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence on any phase pursuant to Condition 4 until parts 1 to 4 (below) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.~~

### ~~1. Site Characterisation~~

~~An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:~~

~~(i) a survey of the extent, scale and nature of contamination;~~

~~(ii) an assessment of the potential risks to:~~

~~o human health,~~

~~o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,~~

~~o adjoining land,~~

~~o groundwaters and surface waters,~~

~~o ecological systems,~~

~~o archaeological sites and ancient monuments;~~

~~(iii) an appraisal of remedial options, and proposal of the preferred option(s).~~

~~This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.~~

### ~~2. Submission of Remediation Scheme~~

~~A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.~~

### ~~3. Implementation of Approved Remediation Scheme~~

~~The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.~~



~~Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.~~

#### ~~4. Reporting of Unexpected Contamination~~

~~In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of point 2, which is subject to the approval in writing of the Local Planning Authority.~~

~~Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with point 3.~~

~~*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.*~~

~~*[This matter has previously been dealt with through a discharge of planning condition for this site. Following intrusive sampling, the Environmental Health Officers have confirmed they are satisfied that the risks associated with the new development are deemed low and consider that no further investigation or remedial measures are required].*~~

~~04-02~~

~~No development hereby permitted shall commence until wheel washing facilities have been installed on the site. The wheel washing facilities **installed on site** shall be maintained in working order at all times during the construction period and shall be used by any vehicle carrying mud, dirt or other debris on its wheels before leaving the site so that no mud, dirt or other debris is discharged or carried on to a public road.~~

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

~~*[Amendment required as development is part retrospective].*~~

~~05-03~~

~~Construction works shall only take place between the follows hours; 07.00 to 19.00 on Monday to Friday inclusive, 07.00 to 13.00 on Saturdays and not at any times on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the local planning authority.~~

~~*Reason: In the interests of residential amenity in this rural village.*~~

~~06-04~~

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) 01/04/ 2016 / CSB/HC/E/16762 B4/ Woods Hardwick infrastructure llp and the following mitigation measures detailed within the FRA:

1. Level for level compensation as shown in appendix 9.
2. Flood compensation volume as in section 3.19.
3. Finished floor levels are set no lower than 8.925 m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

*Reasons:*

1. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.
2. To reduce the risk of flooding to the proposed development and future occupants.

07-05

**The development permitted by this planning permission shall be carried out in full accordance with the approved surface water drainage scheme dated 28<sup>th</sup> March 2018 by Armstrong Stokes and Clayton Ltd (received 20<sup>th</sup> April 2018).** ~~No development shall be commenced until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. In addition to dealing with surface water drainage this scheme shall also be designed to maximize biodiversity opportunities. The scheme shall subsequently be implemented prior to first occupation of any dwelling unless otherwise agreed in writing with the Local Planning Authority.~~

*Reason: In the interests of ensuring that the drainage design is appropriate for the site in the interests of ensuring development will be protected from flood risk from ground and surface water. See note to applicant no.4 for more information.*

*[This matter has previously been dealt with through a discharge of planning condition for this site].*

08-06

**The development permitted by this planning permission shall be carried out in full accordance with the approved drainage plans for the disposal of foul sewage including PER104/102/P, PER104/101B/P, PER104/100C/P, PR10282-003 (received 21<sup>th</sup> February 2018) unless otherwise agreed in writing by the Local Planning Authority.** ~~The development hereby permitted shall not commence until drainage plans for the disposal of foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.~~

*Reason: to ensure that the development is provided with a satisfactory means of foul sewage disposal well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.*

*[This matter has previously been dealt with through a discharge of planning condition for this site].*

09

~~Notwithstanding the details submitted, no development shall be commenced until full details of both hard and soft landscape works associated with the public open space have been submitted to and~~

~~approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:~~

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

~~existing trees and hedgerows, which are to be retained pending approval of a detailed scheme,~~

~~proposed finished ground levels or contours;~~

~~any hard surfacing materials;~~

~~minor artefacts and structures including furniture, play equipment, refuse or other storage units, signs, lighting etc.~~

~~proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)~~

~~retained historic landscape features and proposals for restoration, where relevant.~~

*Reason: In the interests of visual amenity and biodiversity.*

*[This condition is unnecessary as the landscape scheme has been submitted as part of this application and included in the list of approved plans in Condition 18].*

~~10~~

~~Notwithstanding the details submitted, no development shall be commenced until full details of both hard and soft landscape works associated with all dwellings (in curtilage) have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:~~

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

~~existing trees and hedgerows, which are to be retained pending approval of a detailed scheme,~~

~~proposed finished ground levels or contours;~~

~~hard surfacing materials;~~

~~proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)~~

*Reason: In the interests of visual amenity and biodiversity.*

*[This condition is unnecessary as the approved details have been previously discharged and associated plans are included in the list of approved plans in Condition 18].*

~~11-07~~

The approved soft landscaping (in respect of Condition 18) 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 scheme (in respect of Condition 10) shall be implemented in accordance with a scheme to be 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.*

~~12~~ 08

~~No development shall be commenced until~~ **For the duration of construction works,** the trees and hedges to be retained (to be as agreed as part of the landscaping schemes ~~forming in conditions 18 9 and 10~~) **shall be** ~~have been~~ protected by the following measures:

- a) a chestnut pale or similar fence not less than 1.2 metres high shall be erected at either the outer extremity of the tree canopies or at a distance from any tree or hedge in accordance with details to be submitted to and approved in writing by the local planning authority;
- b) no development (including the erection of site huts) shall take place within the crown spread of any tree;
- c) no materials (including fuel and spoil) shall be stored within the crown spread of any tree;
- d) no services shall be routed under the crown spread of any tree
- e) no burning of materials shall take place within 10 metres of the crownspread of any tree.

~~The protection measures shall be retained during the development of the site, unless otherwise agreed in writing by the local planning authority.~~

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

[Amendment required as development is part retrospective].

~~13~~ 09

During the construction phase any pipes over 200mm in diameter shall be capped off at the close of construction each day and ramps or scaffold boards shall be placed with their sloping ends in any trenches.

*Reason: to ensure prevent animals entering pipes overnight and to ensure animals that fall in trenches can escape in the interests of ecology and in line with best practice guidance as advocated by the EMEC Ecology Report.*

~~14~~ 10

No hedge, tree or vegetation that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

*Reason: To ensure that adequate provision is made for the protection of nesting birds on site and in line with the advice from the EMEC Ecology Report.*

~~15~~ 11

**Within three months of the date of the permission,** ~~No development shall be commenced until~~ a scheme to provide artificial nesting bird boxes/bricks at the site ~~shall be~~ **has been** submitted to

and approved in writing by the Local Planning Authority. Details of the scheme shall include details of the type(s), location (including height at which the boxes are to be installed) and numbers. The approved scheme shall be installed on site prior to first occupation **of any of the dwellings** unless otherwise agreed in writing by the Local Planning Authority.

*Reason: In order to provide compensate for habitat loss and to provide ecological enhancements in line with the CP12 of the Development Plan and the advice contained in the NPPF as well as in line with the recommendations set out in 6.2 of the EMEC Ecology Report submitted in support of this application.*

[Amendment required as development is part retrospective].

~~16-12~~

~~No development hereby permitted shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority for t~~ **The scheme for surfacing and external lighting, where appropriate, of public footpaths numbers FP6 and FP7 and of a proposed new footpath link to FP5 from the focal point of the public open space as shown on drawings/documents below**

- **5.0m Base Hinged ‘Raise and Lower’ Root Planted Lighting Column, Drawing no. ESD 6/5**
- **Proposed Lighting & Electrical Works, Drawing no. H08630/3092 Rev B**
- **Roadway Lighting Report, by Via, June 2017**
- **Highway Lighting Specification, NCC (5/12 (15) R&L**
- **Public Right of Way Construction Detail, drawing no. SUT-ENG-02 Rev A**

~~The scheme shall provide full details of the surfacing to be laid and its extent. The lighting scheme shall include details of the location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution to adjacent neighbouring properties and shall indicate how its design has taken into account the local nocturnal wildlife. The approved scheme shall be implemented in full prior to first occupation of the 15th dwelling unless otherwise agreed in writing by the Local Planning Authority.~~

*Reason: To promote sustainable travel in a way that respects amenity and nature conservation.*

[Amendment required as the details contained in these plans/documents have previously been discharged by planning condition].

~~17~~

~~No development shall be commenced until a full schedule of external materials (including the provision of samples upon request) to be used in the development has 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.~~

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

[This condition is unnecessary as a materials plan is included in the list of approved plans in Condition 18].

~~18~~ 13

~~No development shall be commenced in respect of~~ Within three months of the date of this permission, details of the features identified below, ~~until details of~~ **including** the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 ~~shall be have been~~ submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.

Treatment of window and door heads and cills

Verges and eaves

Rainwater goods

Coping

Extractor vents

Flues

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

*[Amendment required as development is part retrospective].*

~~19~~

~~No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatment for each individual plot on site shall be implemented prior to the occupation of each individual dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.~~

~~*Reason: In the interests of residential and visual amenity.*~~

~~*[This condition is unnecessary as a materials plan is included in the list of approved plans in Condition 18].*~~

~~20~~ 14

Prior to first occupation of any dwelling hereby approved, the additional parking spaces serving the doctors surgery as shown on Proposed Layout Plan (drawing number SUT-SL-04 Rev A shall be provided and demarked in a manner (including choice of materials) and signposted details of which to be first agreed in writing by the Local Planning Authority and shall thereafter be retained as parking for the lifetime of the development.

*Reason: To ensure that the additional parking is provided in an appropriate and timely manner in the interests of amenity and highway safety.*

~~21~~ 15

No individual dwelling shall be occupied as part of the development until its associated drive / parking / turning area is surfaced in a hard bound material (not loose gravel) for a minimum of 2 metres

behind the Highway boundary. Each surfaced drive / parking / turning area shall then be maintained in such hard bound material for the life of the development.

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

~~22~~ 16

Any garage doors shall be set back from the highway boundary a minimum distance of 5 metres for sliding or roller shutter doors, 5.5 metres for up and over doors or 6 metres for doors opening outwards.

*Reason: To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway.*

~~23~~ 17

All bathroom and ensuite window openings shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which 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*

24

~~Notwithstanding the provisions shown on the drawing entitled 'foul water pumping station compound elevations', received 31/05/2017, prior to the pumping station being first brought into use, precise details of the means of access to it shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved scheme.~~

~~*Reason: In the interests of appropriate access and maintenance.*~~

~~[This condition is unnecessary as relevant plans were previously discharged by planning condition are included in the list of approved plans in Condition 18].~~

~~25~~ 18

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

Site Location Plan, CPT-193 PL01 Rev B

~~Proposed Site Plan, CPT-193 PL02 Rev H~~

**Charter Plan SUT-CP-01 Rev P**

**Planning Layout SUT-SL-04 Rev A**

**Detailed Soft Landscaping Proposals, drawing no.S X 2 JBA 13/350-02 Rev P (East and West)**

**Play Area Layout Q4027\_D**

Foul water pumping station compound elevations, received 31/05/2017

Turner House Type, Floor Plans (Plot 31 only) CPT-193 TUR-03 Rev A

Turner House Type, Elevations (Plot 31 only) CPT-193 TUR-04 Rev A  
Turner House Type, Floor Plans CPT-193 TUR-01  
Turner House Type, Elevations CPT-193 TUR-02  
Calvert House Type, Floor and Elevations (Plot 24 only) CPT-193 CAL-02  
Calvert House Type, Floor and Elevations, CPT-193 CAL-01  
Holland House Type, Floor and Elevations, CPT-193 HOL-01  
Holland House Type, Floor and Elevations (Plot 23 only), CPT-193 HOL-02  
Keating House Type, Floor and Elevations, CPT-193 KEA 01  
Lewis House Type, Floor and Elevations, CPT-193 LEW 01  
Lewis House Type, Floor and Elevations (Plot 32 only) CPT-193 LEW 02  
Whitehall House Type, Floor and Elevations, CPT-193 WHL-01  
House Type 71, Floor and Elevations, 071-100  
House Type 81, Floor and Elevations, 081-100

**Fibrenew Technical Information**

**Severn Trent Water Standard Security Fence STD6140**

**GRP Enclosure for Unit Substation EKV0031**

**HV Diversion Overlay**

**Foul Water Pump Station Kiosk and Plinth Detail (drawing no. PR10382-003)**

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.*

**19**

**Within three months of the date of the permission, the substation and fire box cabinets hereby approved shall be painted/finished in a dark green colour unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: In the interest of visual amenity and the character or appearance of the conservation area and setting of listed buildings.**

**Note to Applicant**

01

This permission should be read in conjunction with the Section 106 that sits hand in hand with this application which secures 30% on-site affordable housing, a financial contribution towards community facilities and open space, public open space provision including play equipment, financial contribution towards the upgrading of footpath No. 5, library stock contribution, land for a village hall and its car park, a financial contribution towards a Traffic Regulation Order and the safeguarding of land for a retail unit.

02

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.

c) The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building



is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

d) It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (or District Council) in writing before any work commences on site.

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

Contact with the Highway Authority can be made via [david.albans@nottsc.gov.uk](mailto:david.albans@nottsc.gov.uk)

03

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

04

The Lead Local Flood Risk Authority make the following comments based on the source-path-receptor methodology to manage the flood risk from the proposed development to 3rd party properties both adjacent and at distance from the proposed sites.

The drainage strategy should use infiltration as the primary means of disposing of surface water. Localised house soakaways should work in this location & permeable hardstandings and roads should perform well.

The site investigation should be revisited having noted the results of the trial pits

The site design should be carefully considered to:

- o enable exceedance flows to be directed to the east,
- o dwellings to be protected from accumulations of water,
- o flows to be retained on the site with no flows across the site boundary for a 100year + 30% climate change event.

It is noted that the local drainage ditch network is controlled by a sluice/pumping station to the northeast of the village. The failure of this should be borne in mind when designing the site levels and drainage system.

05

Please note that the Trent Valley Internal Drainage Board have stated that a 9m wide easement is required for the eastern boundary watercourse; the Cuckstool Dyke which is maintained by them. The Board will need to operate heavy machinery in this area (currently shown as being finished with turf and wildflower seed) and wish it to be known that it cannot be held responsible for damage to the surface of passing machinery. They also note that a Hydrobrake and a small proportion of the attenuation pond within the 9 metre easement which should be repositioned if possible.

Regarding the access from the estate road turning head to 9 metre easement the TVIDB states that at 3 metres wide it would be insufficient for the Board's larger plant machinery. That said, provided there is a clear way through of 5 metres wide their machinery would be able to travel with wheels / tracks on the grass alongside.

With regard to future maintenance of riparian watercourses on the northern and southern boundaries the state that their preference is to have unobstructed access to all boundary watercourses to aid future maintenance of watercourses. They note from Proposed Site Plan CPT-193-PL02 Rev H dated 21.04.17 that accesses are proposed from the individual plots to enable future owners to undertake maintenance. From the information supplied it is assumed that this maintenance will have to be undertaken using hand tools and will lead to piecemeal maintenance by the individual property owners. The owners of the parcels of land adjoining boundary watercourses should be informed of their maintenance responsibilities through the title deeds at the point of sale. Consideration should also be given to any of the land parcels which are communal areas and may need to be maintained by a Management Company.

Regarding the replacement culvert on the southern boundary you are advised that the developer will be required to obtain the Board's written consent under Section 23 of the Land Drainage Act 1991 prior to commencement.

06

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

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

07

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).

#### Back ground Papers

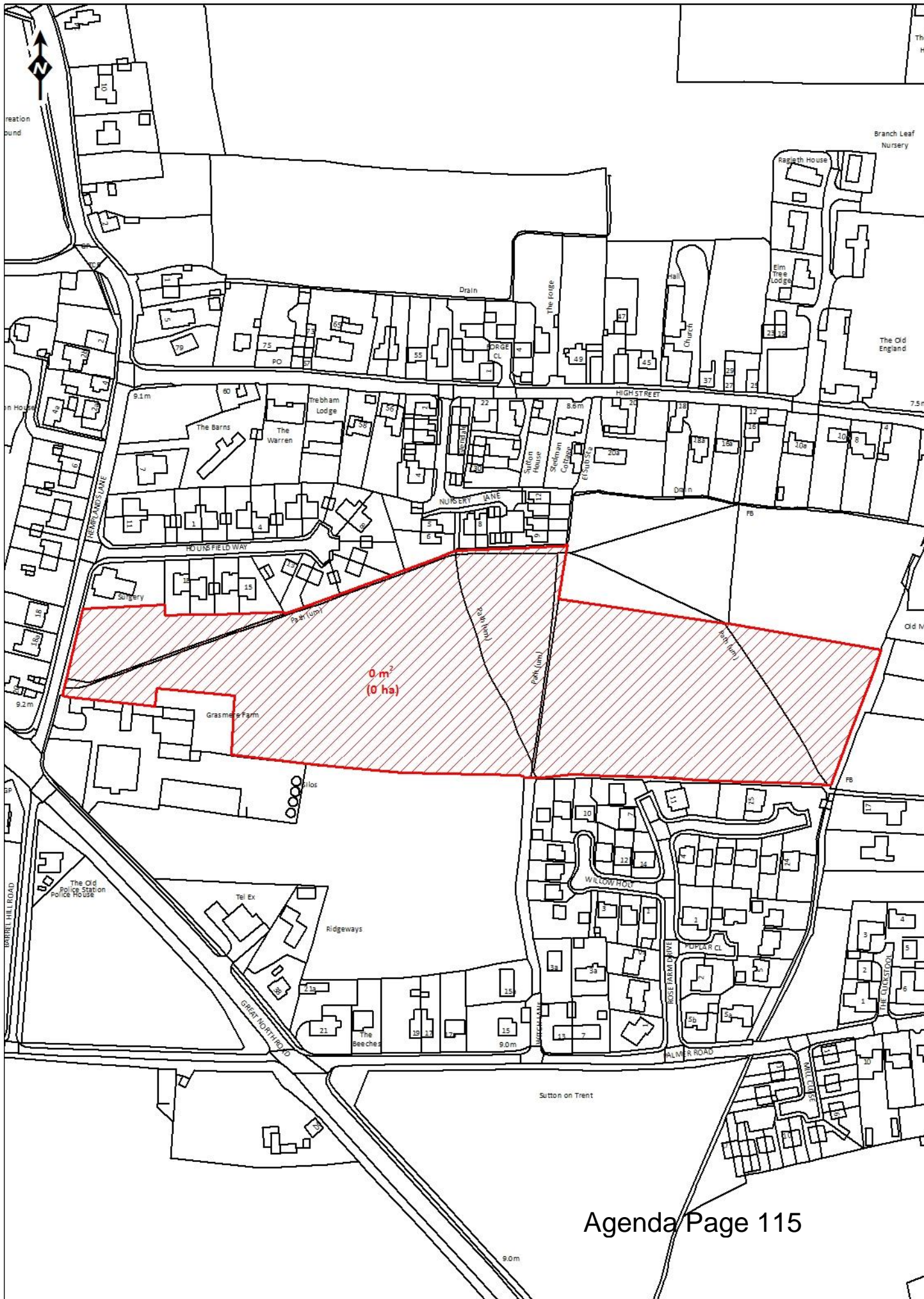
Application Case File

For further information, please contact Helen Marriott on ext. 5793.

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

**Matt Lamb**

**Director of Growth & Regeneration**



## PLANNING COMMITTEE - 23 JULY 2019

<b>Application No:</b>	<b>19/00594/FUL</b>
<b>Proposal:</b>	<b>Erection of 4 houses consisting of 2 No. 3 Bed semi-detached houses and 2 No. 2 Bed semi-detached bungalows (Re-submission of application 18/00792/FUL)</b>
<b>Location:</b>	<b>188 London Road, Balderton, Newark, NG24 3BN</b>
<b>Applicant:</b>	<b>Mr Craig Bell</b>
<b>Registered:</b>	<b>01 April 2019      Target Date: 27 May 2019</b>
	<b>Extension of time agreed until: 30 July 2019</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as the Parish Council has objected to the application which differs to the professional officer recommendation. This follows a Member site visit carried out on 2<sup>nd</sup> July.**

### The Site

The site is approximately 0.15 hectares in area of overgrown former garden plot to the rear of no. 186 and 188 London Road. The site is located within the Newark Urban Area (NUA) as defined within the Allocations and Development Management DPD.

The site is currently only accessible on foot through the neighbouring car garage/workshop Grove Autos.

The area is defined by a mixture of 1.8m high fencing and hedging/overgrown shrubs to the eastern boundary and part of the north and southern boundaries. However the site is so overgrown it is difficult to ascertain the extent of it in visual terms.

The site contains some trees to the west and northern boundaries of the site.

The neighbouring land uses comprise of single and two storey residential properties and associated gardens to the east, west, north and south and a car vehicle repair business to the south-east.

### Relevant Planning History

18/00792/FUL - Construct 4 houses (2 x semi-detached) on land previously used as a large garden.  
Withdrawn 18.07.2018

### The Proposal

The proposal comprises of the resubmission for planning permission following the withdrawal of a previous scheme, for the erection of 4 houses.

Following amendments to the scheme (all 4 units were previously proposed with 3 bedrooms) the proposal is now for two semi-detached 3 bedroomed properties and two semi-detached 2 bedroomed bungalows. All 4 would be located on land to the rear of 188 London Road, utilising and widening the existing vehicular access serving no.188.

Plots 1 and 2 are now 2 bedroomed bungalows. The approximate dimensions of the revised scheme are;

- 12m (width) x 11.6m (depth) x 7.0m (ridge) x 2.8 (eaves)
- Accommodation on the ground floor comprises of, an open plan kitchen/diner/living room, 2 bedrooms and a bathroom.

Plots 3 and 4 are two storey 3 bedroomed dwellings. The approximate dimensions are;

- 11m (width) x 8.5m (depth) x 8.8m (ridge) x 5.1m (eaves)
- Accommodation on the ground floor comprises of an open plan kitchen and living room with a separate WC. On the first floor there are 3 bedrooms (one en-suite) and a bathroom.

Each plot would have two off-street parking spaces provided immediately adjacent to their frontages.

A bin collection point is provided to the east of the site at the junction with London Road on the private driveway. The garage serving no.188 London Road is to be demolished and 2 parking spaces have been provided to the east (front) of no.188 London Road which is also within the control of the applicants.

The proposal relates to the following documents:

- DRWG no. L(03)07 Existing and proposed Option 6;
- Planning Statement;
- BJ Collins Primary Ecological Survey June 2019;

#### Departure/Public Advertisement Procedure

Occupiers of twelve properties have been individually notified by letter.

#### Planning Policy Framework

#### **Development Plan**

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

Spatial Policy 1 Settlement Hierarchy  
Spatial Policy 2 Spatial Distribution of Growth  
Spatial Policy 7 Sustainable Transport  
Core Policy 3 Housing Mix, Type and Density  
Core Policy 9 Sustainable Design  
Core Policy 10 Climate Change

Core Policy 12 Biodiversity and Green Infrastructure  
NAP1 Newark Urban Area

*NSDC Allocations and Development Management DPD (July 2013) (ADMDDP)*

DM1 Development within Settlements Central to Delivering the Spatial Strategy

DM5 Design

DM7 Biodiversity and Green Infrastructure

DM12 Presumption in Favour of Sustainable Development

**Other Material Considerations**

National Planning Policy Framework 2019

Planning Practice Guidance 2014

Consultations

**Balderton Parish Council** – Object to the proposal.

Members are concerned about the impact of additional vehicles using the access located on a very busy stretch of London Road between a garage business and a care home, in addition to the Primary School located next to the care home. It is considered to be over intensive and will have an adverse impact upon neighbouring properties.

Drainage and flooding issues are a real concern from this potential development. There is a very large open pond on the site which may be naturally sourced from a spring. The pond is a haven to a considerable number of amphibious creatures including some rarer species. An ecological survey should be undertaken to assess this before the habitat is lost.

Members of the Planning Committee are urged to attend the site at either school start or finish time to fully appreciate the potential impact of this development proposal.

**Nottinghamshire County Council Highways** – Further formal comments are awaited including conditions, albeit they have verbally advised they have no objections to the scheme.

*24/04/2019* - The plan now demonstrates adequate manoeuvring space behind the parking spaces for House 1 and 2. However, I still have concerns over the additional room (dressing room) on the first floor and its possible use as an additional bedroom. In this location, with such a wide footway/cycle route, there is always the temptation to park a vehicle on London Road, something which I'm trying to avoid. Could the internal layout be altered to ensure only 3 bedrooms are provided?

*Previous comments received 03/04/2019* - This application is the resubmission of application 18/00792/FUL. The development is to be served by a private drive which is shown on plan L(03)06 Rev. B has having a width of 5.5m for a distance of 10m from the edge of carriageway. The minimum width required is 5.25m for a minimum distance of 5 metres from the back edge of highway (in this instance, back of footway).

The following should be addressed:

- A 6m manoeuvring space is required behind the parking spaces. Whilst Houses 3 and 4 are acceptable, Houses 1 and 2 show less than this.

- Houses 1 and 2 have 2 bedrooms on the ground floor with a further bedroom on the first floor and a 'store' room. This room is assessed as an additional bedroom, therefore, 3 parking spaces per unit are required. Only 2 spaces per unit have been provided, which could result in parking on the highway.

It is recommended that the above issues are addressed prior to providing final highway observations.

#### **NSDC Access & Equalities officer – Observations**

**Trent Valley Internal Drainage Board** – The site is within the Trent Valley Internal Drainage Board district. There are no Board maintained watercourses in close proximity to the site. The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required). Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

**Lincolnshire County Council Archaeology** – No archaeological input required.

**Eight letters of representations** have been received from local residents or other interested parties; 7 letters of objection and one letter of support. The objections are on the following grounds;

- Overlooking;
- Loss of property value;
- Security issues due to the siting of the driveway;
- Noise, pollution and dust increase;
- Who will maintain the boundaries?
- New access will cause a potential hazard to pedestrians from masking the exit/entrance;
- Light pollution;
- Drainage concerns;
- Impact on wildlife especially newt, frogs and toad habitat;
- Impact on local facilities i.e. an already stretched hospital;
- No safe place to pass being a single driveway;
- All dwellings are 3 beds with 2 parking spaces per dwelling, no space for visitors, other sources of parking will be sourced;
- Buildings would be visually overbearing and out of keeping;
- Too many houses being built in Balderton/Fernwood/Newark already;
- Suggestion of double yellow lines on Hawton Lane junction onto London Road up to John Hunt School;
- Lower level bungalows would be more acceptable;
- Loss of mature trees;
- Impact on the natural well located close to the site, could become contaminated;
- Naturally high water level, and a known possible flood risk;
- Who's responsibility will it be to pay for major construction to the area in order to allow the water to run-off safely with SUDS and improvements to sewerage system?
- Already been the removal of some trees;
- What is the consideration of emergency services access?

- The junction nearby is a red warning area for accidents as is outside the school, is it a good idea to create a turning point for cars with a single access point with multiple blind spots access across a pedestrian and cycle path?;
- Bin store next to London Road is inadequate;
- Where is the visiting car parking area?;
- We all feel vulnerable especially due to the increased crime rate;

One letter of support stated the following:

- Building on this land would greatly enhance the area and would not be classed as intensive overcrowding;
- The land is overgrown and the mature trees would not be affected by the building works;
- Welcomed new hedging to benefit the wildlife;
- Beneficial use of land.

### Comments of the Business Manager

#### *Principle of Development*

The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the sub-regional centre, service centres and principal villages, which are well served in terms of infrastructure and services.

The Amended Core Strategy outlines the intended delivery of growth within the District including in terms of housing. Spatial Policy 1 sets out a hierarchy which directs development toward the Sub-regional Centre (Newark Urban Area), Service Centres and Principal Villages before confirming and finally 'other villages' in the District. Balderton is within the defined Newark Urban Area (NUA) and has facilities and services to support further residential development. Therefore on this basis I am satisfied that the proposal, in theory, due to the siting within the Urban Boundary, is acceptable. There are however other material considerations which will need to be taken in to account of and these are outlined in the following sections of this report.

#### *Design and character impact*

Policy DM5 of the ADMDPD states that the character of the area and the District's local distinctiveness should be reflected in the built form through scale, form, mass, layout, design, materials and detailing of proposals. Proposals creating backland development will only be approved where they would be in-keeping with the general character and density of existing development in the area, and would not set precedence for similar forms of development, the cumulative effect of which would be to harm the established character and appearance of the area.

Paragraph 124 of the NPPF (2019) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 goes on to state that the LPA should ensure developments create places that are safe, inclusive and accessible....with a high standard of amenity for existing and future users....optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks.



The parcel of land in question is a redundant area of land which was former garden land to 188 London Road, but which has not been used as such for a substantial number of years. The general grain of the immediate area features single dwellings sited in long rectangular plots fronting London Road. However to Hawton Lane and further south and east of the site the grain/character changes to a mixture of house types, layout and plot sizes. Nonetheless within the area backland development is not uncommon and there are other examples of such development meaning this proposal would, in my opinion, not harm the general character or grain of development within the vicinity.

It is considered that the layout of the properties and the density make the most effective use of the site and the amendments to the proposal, especially amending plots 1 and 2 to single storey 2 bed roomed bungalows offer an acceptable mix of properties to the market within the site. The appearance of the dwellings is relatively standard and would reflect the appearance and scale of dwellings nearby.

I therefore consider that the design and layout of the amended scheme is acceptable and accords with policy DM5 of the DPD and the NPPF.

#### *Impact on Amenity*

Policy DM5 seeks to provide a high standard of amenity to residents. Consideration needs to be given to the amenity of the current residents of the neighbouring properties and that of future occupants of the proposed new builds.

Concern has been raised in the consultation process that the proposal would result in an unsatisfactory impact upon neighbour amenity due to the siting of the dwellings, especially no.1 and 2, which are now as a result of those comments, single storey bungalows.

House no. 1 and 2 have no first floor accommodation or windows which would overlook existing properties. They are sited approximately 12m away from the southern boundaries which in turn adjoin the rear boundaries of no. 6 and 10 Hawton Lane. Subsequently they are, due to the length of the gardens at Hawton Lane, approximately 39m from the nearest built property on Hawton Lane. Plots 1 and 2 are also located approximately 34m west from the nearest property fronting London Road. On this basis I consider that these units would not result in harm to amenity to the surrounding residential occupiers.

House no. 3 and 4 are located to the west of the site and are two storey in height with no accommodation within the roofspace. These are located at 90 degrees to house no. 1 and 2 and approximately 38m from the nearest property on Hawton Lane. Whilst these properties abut existing gardens I consider that their proximity and the design of them would not result in harm to the enjoyment of the neighbouring amenity space, namely at no.184 London Road, whose garden runs the entire length of the northern boundary of the site. I have considered the relationship of these properties to all other surrounding occupiers and I consider that due to the juxtaposition and the extent of gardens and the proximity, there would be no direct harm to amenity from house no. 3 and 4. I appreciate there are windows at first floor however these serve a bathroom and can be conditioned appropriately to ensure obscure glazing and top opening only as is shown on drawing no. L(03)07.

The scale and siting of the properties within the site, I consider would also be acceptable and would not result in harm from loss of light or overbearing impacts and overall, the proposal complies with the requirements of Policy DM5 of the DPD in respect to residential amenity.

### *Impact on Highway Safety*

Policy DM5 requires the provision of safe access to the highway and indicates that parking provision should be based on the scale and location of the specific location of the development.

The access onto Main Street is as existing in principle but is to be widened to 5.5m, 10m from the back of the public footpath and then 4.2m thereafter with an additional 1m wide footpath to the north of it. The access road would serve all 4 properties plus the existing property at no.188. This widening work needs to be secured by condition (see no. 10) to ensure this happens.

Nottinghamshire County Council colleagues have not raised any objections to the amended scheme now that the internal parking arrangements have been amended. Final comments and recommended conditions are awaited which will be reported to Members as a late item, albeit in the absence of these I recommend conditions 9 and 10.

The parking provision within the site curtilage is considered sufficient for the size of development however comments have been raised that there is no parking for visitors or additional parking for residents who use more than 2 cars and therefore residents could choose to park on the highway or the wide footpath adjacent to London Road. Whilst this could be an issue for the future, prospective residents would be aware of this parking situation when occupying the properties and whilst there is no provision for visitors parking, this is not something which the LPA could reasonably control in any case. I therefore consider that the parking provision and layout is acceptable and would not result in an overly dominating parking layout. The provision of this is a matter which I consider should be required and retained such that a condition (no. 9) has been recommended to deal with this.

Concern has also been expressed that the proposal would result in vehicles crossing the footpath and resulting in highway safety concerns especially due to the proximity to the school and care home. Whilst this is understandably a concern, such situations as this are common along London Road and visibility within the area is generally good in both directions. Whilst cars park on the highway, which is unrestricted in the immediate vicinity, this is often for sporadic periods and I do not consider this is a justifiable reason to refuse the application, especially whereby Highways colleagues are satisfied with the relationship.

Therefore taking the above factors in to consideration the proposal to intensify the access with four additional properties and widen the access appropriately, is considered acceptable and would not result in a detrimental impact upon highway safety and would accord with Spatial Policy 7 and DM5 of the DPD.

### *Ecology*

Core Policy 12 of the Amended Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. DM7 reflects and elaborates on this.

An overgrown site can often provide a habitat for a variety of species, some of which may be protected by law and indeed concern has been expressed by residents that the site does contain such species. Therefore the applicant has undertaken an Ecology report to establish the impact of the development upon potential inhabitants of the site.

Paragraph 175 of the NPPF (2019) states that when determining application, authorities should apply the following principles;

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

A preliminary ecological appraisal has been undertaken in June 2019 following the concerns raised during the consultation process of the application, namely to the siting of the nearest pond in the grounds of no. 188 London Road.

Data gathered for the survey showed that bats were evidenced in the area although the site does not support roosting habitats. Hedgehogs are also recorded within 1km of the site and notably within adjoining gardens. There are no records of reptiles or badgers but invasive plant species of Japanese Knotweed is recorded within the area although not on site.

The report concluded that the main impacts from the development would be from the site clearance in that due to the overgrown nature of the site, it has potential to support/house hedgehogs and contain nesting/breeding birds. Therefore a precautionary approach is advised at site clearance stage for hedgehogs and no clearance between March-September. It is also advised that mitigation measures are proposed to house hedgehogs and provide access through any fencing.

As it has been raised about the siting of a nearby pond, the ecologist reviewed this and considered that it had minimal potential for amphibians to be present on site however should they be then they recommend a procedure in order to resolve it (paragraph 5.10 of Ecology Report).

Therefore although the comments raised during the consultation process have been taken in to account, the ecology survey carried out does not conclude that the site is of such ecological value that it is not able to be developed upon without mitigation measures resolving such factors. I consider that the ecological impact of the development is acceptable and would result in no harm to the surrounding ecology subject to the mitigation measures proposed as outlined in Section 5 of the Ecology Survey. Such mitigation measures and methods and timings for site clearance would be controlled by condition on any approval. In addition to mitigation, in line with the NPPF and the DPD it is considered that ecological enhancements should be sought through appropriate soft landscaping and bird/bat boxes within the site. As such the proposal is considered to accord with policy DM7 of the ADMDPD and the Chapter 15 of the NPPF (2019).

### *Trees*

Policy DM5 of the ADMDPD states that natural features of importance within or adjacent to development site should, wherever possible, be protected and enhanced.

There are some trees to the west of the site which are shown on the site plans as being a conifer and a chestnut tree, the remainder of the site is overgrown shrubs. I note the concerns of residents with regard to the loss of trees. However the proposed dwellings are to be retained and in any case are located approximately 16m from the tree trunk and 11m from the canopy. I do not consider the proposal would have any impact upon the siting or longevity of the existing trees on the site.

Due to the location of the trees they are not located within the public realm or specimens which would be worthy of imposition of a Tree Preservation Order for their retention. They are also not located within a defined conservation area which ensures them sufficient protection. However should Members resolve to approve the application then a condition could be imposed to ensure the trees are protected during construction works and this is listed within the suite of conditions in the recommendation section of this report.

It is therefore considered that the proposal would not have a harmful impact upon the longevity of the trees or the character of the area and the proposal accords with policy DM5 of the ADMDPD.

### *Other matters*

Due to the size of the surrounding amenity space and the ability to extend in to the roofspace of the bungalow, I consider it necessary to restrict development under Class A (extensions/alterations), Class B (extensions to the roof), Class C (other works to the roof) and Class E (outbuildings) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), to ensure the dwellings retain a reasonable amount of amenity space and the erection of extensions to the roof do not result in neighbour amenity impacts and minimise parking issues.

### *Conclusion*

The principle of new housing within this sustainable settlement is considered acceptable and in line with the Development Plan. The revised proposal is considered to provide adequate amenity to existing and future occupants and adequate access, parking and turning can be provided within the site. The proposal is also acceptable in terms of residential amenity, ecology and design and accords with the Councils Development Plan DPDs and the NPPF and PPG which are material considerations.

### **RECOMMENDATION**

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

## Conditions

01

The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004.

02

The development hereby permitted shall be carried out in complete accordance with the following approved plan references:

DRWG no. L(03)07 Existing and proposed Option 6;

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

Reason: So as to define this permission.

03

Before any construction occurs above slab level, samples or detailed specifications of all external materials (bricks and tiles) to be used on the development hereby permitted shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed materials.

Reason: In the interests of visual amenity.

04

No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatment for each individual plot on site shall be implemented prior to the occupation of each individual dwelling and shall then be retained in full for the life of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

05

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. The details shall include:

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants,

noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

existing trees and hedgerows which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.

car parking layouts and materials;

existing and proposed floor levels;

Reason: In the interests of visual amenity and biodiversity.

06

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping shall be 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.

07

Prior to any landscape work being undertaken a landscape management plan, including long term objectives, management responsibilities and maintenance schedule for all landscape areas, other than privately owned, domestic gardens, has been submitted to and approved in writing by the local planning authority. The landscape management plan shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: There are some areas of the site that sit outside of defined residential curtilages and this condition is necessary to ensure that the work is carried out within an agreed appropriate period and thereafter properly maintained in the interests of visual amenity and biodiversity.

08

The first floor bathroom window openings on the north and south elevations of the two storey properties (houses 3 and 4) 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.

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

09

Prior to each dwelling being first brought into use, the associated off street parking spaces as shown on drawing no. L(03)07 shall be provided and shall thereafter be retained for parking for the lifetime of the development unless otherwise agreed by a separate application.

Reason: To ensure that adequate parking provision is provided at an appropriate time and retained to avoid on-street parking in the interests of highway safety and amenity.

010

No part of the development hereby permitted shall be brought into use until the private driveway has been widened as shown on drawing no. L(03)07 to the satisfaction of the Local Planning Authority.

Reason: To ensure that an appropriate vehicular access is provided in the interests of highway safety.

011

During the construction period the following activities must not be carried out under any circumstances.

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

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

012

Unless otherwise agreed in writing by the local planning authority, no machines shall be used and only hand digging shall be undertaken when excavating beneath the crown spread of any trees on site. Any roots exposed over 25mm diameter, shall be retained, undamaged and protected i.e. from unnecessary damage and drying out. All backfilling over exposed roots shall be of top soil or

washed sand, carefully tamped by hand around and over all roots before continuing to backfill with other materials required for the finished treatment.

Reason: To ensure that adequate protection is afforded to the existing vegetation and trees to remain on site, in the interests of visual amenity and biodiversity.

013

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

Class A: The enlargement, improvement or other alteration of a dwellinghouse.

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

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

Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.

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

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) Order 1995 or any amending legislation) and in order to safeguard the amenity of neighbours and to prevent parking issues.

014

No clearance of vegetation or tree management works within the site shall take place during the bird nesting season (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority. If such works are required with such period specified then a detailed nesting bird survey should be carried out prior to any such works taking place by a suitably qualified ecologist in accordance with paragraph 5.12 of the Ecology Survey dated June 2019 by BJ Collins the findings of which shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

015

No building on site shall be occupied until details of bat/bird boxes/bricks and hedgehog houses/access gap measures have been submitted to and approved in writing by the local planning authority. The nest boxes/bricks shall then be installed, prior to occupation of each property, in accordance with the approved details and retained thereafter for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of maintain and enhancing biodiversity.



016

The development shall be undertaken in full accordance with the recommendations contained within Chapter 5 of the Ecology Survey dated June 2019 by BJ Collins particularly paragraphs 5.5, 5.6, 5.7, 5.8 (hedgehogs), 5.10 (amphibians and reptiles) and 5.12 (further surveys) unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of maintain and enhancing biodiversity.

017

No development shall be commenced until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

018

Prior to the occupation of the first dwelling, details of the bin store to London Road shall be submitted to and approved in writing by the local planning authority. The bin store shall thereafter be constructed in accordance with the details submitted and retained for the life of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity

#### 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

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

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the

Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

#### BACKGROUND PAPERS

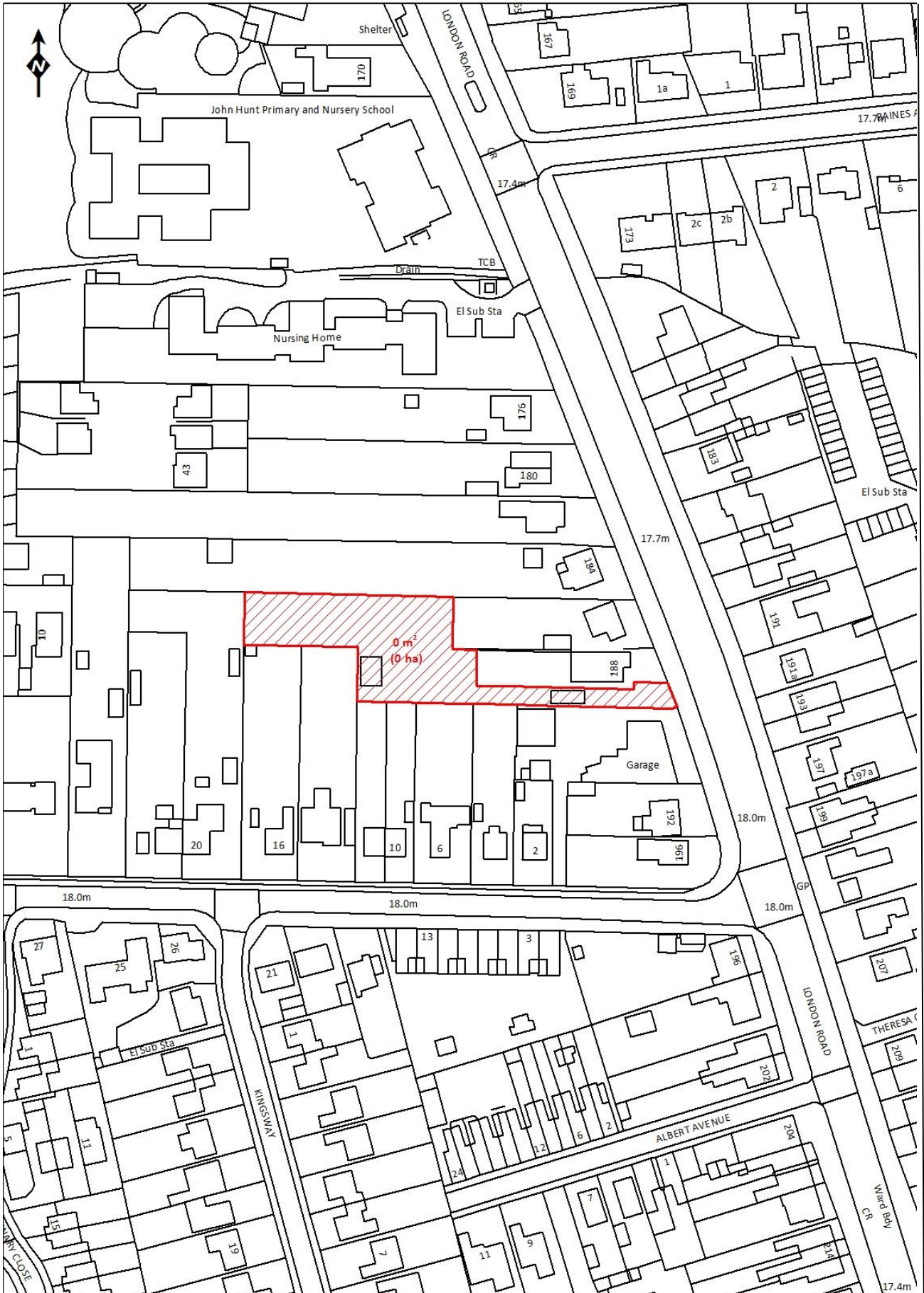
Application case file.

For further information, please contact Lynsey Preston 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 & Regeneration**

Committee Plan - 19/00594/FUL



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## PLANNING COMMITTEE – 23 JULY 2019

<b>Application No:</b>	<b>19/01003/FUL</b>		
<b>Proposal:</b>	<b>Construction of a four bedroomed dormer bungalow with associated access arrangements and all other works</b>		
<b>Location:</b>	<b>Land To The Rear Of 51 The Ropewalk Southwell</b>		
<b>Applicant:</b>	<b>Mr Niall Buggy</b>		
<b>Registered:</b>	<b>30.05.2019</b>	<b>Target Date:</b>	<b>25.07.2019</b>
	<b>Extension of Time Agreed Until 09.08.2019</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 site is a broadly rectangular plot of land approximately 0.11ha in extent which current forms part of the rear garden amenity space to no. 51 The Ropewalk. The site is within the urban boundary of Southwell. The surrounding area is characterized by neighbouring residential curtilages forming both single storey and two storey development. The plot to the south west of the site is currently vacant however as addressed throughout assessment, there is an extant permission on the site for the erection of two dwellings.

The site is located within Flood Zone 1 according to the Environment Agency maps and considered to be at very low risk of surface water flooding. The north eastern boundary of the site is shared with a public footpath which connects The Ropewalk and Leeway Road.

### Relevant Planning History

***17/01286 / FUL – Erection of a two bedroomed dormer bungalow with associated access (revised application).***

This application was approved by Planning Committee in September 2017 following the recommendation of Officers. The scheme remains extant.

Planning permission was refused for the erection of a dwelling on the plot in 1981. Prior to the approval of the extant permission the applicant submitted an application for the erection of a dormer bungalow under reference 17/00794/FUL. This was withdrawn prior to determination owing to concerns raised by officers.

Whilst not in relation to the site itself, the following planning history surrounding the site is deemed to be of relevance to the current application:

*14/02172/FUL – Erection of two dwellings.*

This application relates to the land immediately south west of the application site. Whilst the application was refused, there exists an extant permission on the land from the 1970s which allows for the erection of 2 dwellings. It is understood that there is an intention to commence building works in relation to these plots in the near future.

*07/00460/FUL – Proposed dwelling with car port and access.*

This application relates to land to the north east of the site and was permitted. The dwelling is now built on site.

*05/02219/OUT – Erection of dwelling.*

This application relates to the same land to the north east of the site and was allowed at appeal.

The Proposal

This application seeks full planning permission for the erection of a single detached dormer bungalow with an internal garage. The dwelling would provide four bedrooms at first floor. The dwelling would be orientated with its principle elevation facing south west at a perpendicular angle to the host dwelling at no. 51 The Ropewalk but broadly in line with the building line established by the bungalows at Nursery End to the north west.

The maximum pitch height of the proposed dwelling would be approximately 7.6m with an eaves height of approximately 2.6m. Plan annotations imply that materials used will be facing brickwork and tiles.

An additional highways access would be created from The Ropewalk to serve the dwelling. The intention of the proposal is to retain existing boundary hedgerows and separate the plot from the host dwelling through a new boundary treatment comprising a fence, hedgerow and wall.

The application has been assessed on the basis of the following plans and documents:

- Planning, Design and Access Statement;
- Site Location Plan;
- Existing Site Layout – 244 2016 01;
- Proposed Site Layout – 244 2019 02;
- Proposed Floor Layouts – 244 2019 03;
- Proposed Elevations – 244 2019 04.

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 (made October 2016)**

Policy SD1 - Delivering Sustainable Development  
Policy E3 - Green Infrastructure and Biodiversity  
Policy E4 - Public Rights of Way and Wildlife Corridors  
Policy E5 – Green Link  
Policy DH1 – Sense of Place  
Policy TA3 – Highways Impact

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 7 - Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 -Sustainable Design  
Core Policy 13 – Landscape Character  
SoAP1 – Role and Setting of Southwell

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

Policy So/HN/1 – Southwell Housing Need  
Policy So/PV – Southwell Protected Views  
DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
DM5 – Design  
DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

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

### **Consultations**

**Southwell Town Council** –Southwell Town Council considered application 19/01003/FUL Land To The Rear Of 51 The Ropewalk and agreed unanimously to object to this application for the following reasons:

It is in contravention of the neighbourhood plan E1 Flood Risk Assessments and Mitigation pg 24- this development is less than 200mts from a high risk area, therefore as a minimum a statement on the SUDS management should be included

The creation of the splays will involve the removal on an unacceptable amount of hedgerow.

It is a back land development which overlooks surrounding properties.

**Southwell Civic Society** - No objections.

**NCC Highways** - This proposal is for the construction of a new dwelling, served by a new vehicular access onto The Ropewalk. Visibility splays of 2.4m x 43m are required from the access point, however, these have not been accurately demonstrated on the site layout plan, drg. no. 244/2019/02.

As such, whilst there are no highway objections in principle to this development, the following conditions should be imposed:

1. No part of the development hereby permitted shall be brought into use until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority's specification.

Reason: In the interests of highway safety.

2. No part of the development hereby permitted shall be brought into use until the access, as shown on drg. 244/2019/02, is surfaced in a bound material for a minimum distance of 5m rear of the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

3. No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The area within the visibility splays referred to in this Condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.

4. No part of the development hereby permitted shall be brought in use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than parking/turning of vehicles.

Reason: in the interests of highway safety.

5. Pedestrian visibility splays of 2m x 2m shall be provided on each side of the vehicular access. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstruction over 0.6m above the carriageway level at all times.

Reason: In the interests of pedestrian safety.

*Note to applicant*

The development makes it necessary to construct a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway

Authority. You are, therefore, required to contact VIA, in partnership with NCC tel: 0300 500 8080 to arrange for these works to be carried out.

**Environment Agency** – We have reviewed the submitted documents and on this occasion the Environment Agency has no formal comment to make, this is because there are no environmental constraints associated with the site which fall within our remit.

**NCC Flood** – No objections subject to the following:

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.
5. Due to the history of flooding in the area it is recommended that flood resistance construction techniques and materials are used where possible.

**Trent Valley Internal Drainage Board** – The site is outside of the Trent Valley Internal Drainage Board district but within the Board's catchment.

There are no Board maintained watercourses in close proximity to the site.

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

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

**Severn Trent Water** – No comments received.

**Anglian Water** – No comments received.

**Ramblers Association** - As long as there is no encroachment onto the adjoining right of way (Southwell Footpath 54) we have no objection.

**One letter of representation has been received which can be summarized as follows:**

- The development would be overdevelopment of a valued green area;
- Four dormers are not a common feature of traditional built bungalows in the area;
- The windows should be roof lights only;
- Two mature trees have already been felled;
- Shoehorning developments into back gardens creates a negative impact on neighbouring properties;
- Surface run off would be increased there is a gradient to Leeway Road;
- There is no need for development on this site;
- There are already bungalows for sale in Southwell;



- The Ropewalk suffers heavy traffic and is a bus route;
- There is an inaccuracy on page 15 the text and photo is 53B not 53A;
- A four bed bungalow was previously withdrawn and revised in line with the Neighbourhood Plan;

### Comments of the Business Manager

#### Planning History

As is identified above, there is an extant permission on the site which allows for the erection of a single detached dormer bungalow. This must form a strong fallback position to the current assessment. Nevertheless it remains necessary to fully assess the differences between the extant permission and the current application against the existing development plan (particularly noting that both local and national planning policy has been updated since the last approval). The changes namely relate to minor design revisions (including an approximate 0.5m increase in ridge height) and the increase from two to four bedrooms.

#### 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, at its council meeting on 10<sup>th</sup> October 2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

Spatial Policy 1 of the Core Strategy outlines the settlement hierarchy for the District identifying Southwell as a Service Centre. It is intended that Service Centres will act as a focus for service provision for a large local population and a rural hinterland. As such residential development within the site is acceptable in principle provided the proposal accords with the remainder of the development plan.

The Southwell Neighbourhood Plan (SNP) seeks for sustainable development that has regard for the town's unique character, historic environment and landscape setting; I am satisfied that the site is located within the main built up area of a sustainable settlement, and as such there is no objection in principle to the residential development at the site. However matters such as housing need, the impact upon the character of the area, residential amenity of neighbouring properties and highway safety will all need to be taken into consideration and are discussed below.

#### Housing Need

It is fully appreciated that the stance of the Neighbourhood Plan shows an encouragement for the provision of smaller homes for young people and families including through the emphasis of

bungalow accommodation. It is equally acknowledged that Policy So/HN/1 of the Allocations and Development Management DPD seeks to ensure that the majority of new housing on windfall sites within Southwell will be one or two bedroom units in line with the identified housing need. However, the policy which dictates Housing Type and Density – Policy HE1 of the NP relates to developments of 11 dwellings or more and therefore would not be directly applicable to the current proposal for a single dwelling.

It is a material planning consideration that the authority has been previously challenged on its application of Policy So/HN/1 through an appeal at Brooklyn on Lower Kirklington Road (APP/B3030/W/17/3179351). The Inspectors decision allowing the appeal was dated 17<sup>th</sup> January 2018. In respect to matters of housing need the Inspector makes the following comments:

*“9. However, the ADMDPD was adopted in 2013 and the justified reasoning for policy So/HN/1 explains that it is based upon the Housing Needs Assessment which informed the preparation of the Core Strategy. As the Core Strategy was adopted in 2011, the data upon which this policy is based is at least 7 years old.*

*10. The most recent evidence on housing need is the Housing Market Needs Sub Area Report which was published in 2014. It found in Southwell that there was a greater need for houses of 3 or more bedrooms than there was for properties of two bedrooms or less. As a result, the proposed development would provide housing of a size for which the current local evidence is the greatest need exists in Southwell. This is an important material consideration which, in my judgement, given that policy So/HN/1 of the ADMDPD is based upon significantly older evidence, outweighs non-compliance with this policy. Owing to the more recent evidence on housing, I find that the proposal would comply with Core Policy 3 of the Core Strategy.” (emphasis added)*

Bearing in mind the conclusions the Inspector drew regarding So/HN/1, I have therefore considered the most up to date evidence of the housing need in Southwell which is contained within the Housing Needs Survey Sub Area Report 2014 by DCA. This provides that in the Southwell Sub Area (where this site falls) the most needed type of accommodation are 2 beds (37.9%) followed by 4 beds (33%) followed by 3 beds (16.3%) followed by 1 beds (10.1%) and finally five or more beds (2.7%). It confirms that *‘In the market sector the main size of property required by both existing and concealed households moving is two bedrooms.’*

On the face of it therefore, the Inspectors conclusions appear to be incorrect. However, following further interrogation it appears that the Inspector was making reference to a cumulative need, i.e. the cumulative percentage need for 3, 4 and 5 beds is 52% which is greater than the cumulative percentage need for 1 and 2 beds at 48%. This does not change the position that the *greatest* need in the market sector is for 2 bed units.

Whilst it would undoubtedly be preferable for the extant permission of a two bed unit to be delivered, it is notable that a four bed property is the second most required in terms of market need. In the absence of a strong NP policy justification (noting this is not a major scheme) Officers are of the view that it would be difficult to resist the application purely on the basis that it would no longer deliver a 2 bed unit. The reason for refusal would have to rely on the 2014 survey which demonstrates a marginal difference of preference of less than 4% (i.e. 37.9% vs 33%) but more importantly is now an evidence base that is over 5 years old. Furthermore the application would still contribute towards the Districts Housing Supply to an identified need.

Thus, whilst it is an less desirable position in the context of the Neighbourhood Plan aspirations, when taking account of all of the matters discussed above, Officers do not consider that it would be reasonable to resist the application purely on the basis that it does not deliver a two bedroom unit on this occasion.

### Impact on Character

In respect to character impacts, a significant proportion of the assessment made for the extant scheme remains relevant:

*Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 mirrors this. Policy DM5 goes on to state that proposals creating backland development will only be approved where they would be in keeping with the general character and density of existing development in the area.*

*The submitted Design and Access Statement (D&AS) has addressed matters of character and layout seemingly acknowledging that the proposed dwelling could readily be interpreted as backland development. The dwelling is proposed to be sited in the rear garden of the host dwelling; 51 The Ropewalk which fronts the highway in a building line established with neighbouring properties immediately to the north east and south west. Nevertheless I would concur with the stance of the D&AS that the character of the area has already been significantly impacted on and governed by previous approvals in the immediate vicinity of the site. Notably the dwelling at 53b The Ropewalk which was approved at appeal, the following being an extract from the Inspectors decision:*

*‘...whilst the proposal is for backland development, it would be comparable in dwelling type and density to nearby properties and I am satisfied that the scheme would not result in material harm to the residential environment of neighbours, nor have a significant impact on the appearance of the area.’*

*I am also conscious of the extant permission which exists to the south west of the site. Recent applications to discharge conditions on this adjacent site suggest that works are likely to commence on the erection of the final two dwellings from the 1971 permission. I have also taken into account the positioning of the proposed dwelling in line with the bungalows on Nursery End. With all these factors, I feel it would be difficult to resist the application on the basis of a detrimental character impact in relation to backland principle.*

*Matters of character also relate to the design of the dwelling itself. I am conscious that due to the set back of the dwelling from the highway and landlocked nature of the site, there would be few public vantage points in which the dwelling would be visible. Whilst the presence of a public footpath along the boundary of the site is noted, in real terms, because of the high hedges which screen this footpath, the dwelling would be largely screened.*

*There are a wide variety of house types and design in the immediate vicinity including both single storey and two storey dwellings. Given the existing variety, I do not consider that there is a specific design type that the proposed dwelling would have to conform to. Nevertheless I have also considered the content of an appeal decision on the adjacent site to the south west where one of the main issues for consideration was the impact on the character and appearance of the surrounding area. The appeal was dismissed partially on the basis that the design of the proposed dwellings (being fundamentally different from existing development) would be inappropriate.*

*However, it is noted that the Inspector acknowledged that predominantly properties in the vicinity are constructed of red brick with traditional design tiled pitched roofs. The application form is not prescriptive to the intended materials but there is a suggestion on the submitted plans that the dwelling would be of brick and tile construction. This could be secured by condition if the application were to be approved. Given this, and the otherwise fairly traditional design of the dwelling, I have found no reason to resist the application on the basis of character impacts.*

The current application varies in some respects from the extant permission in that the footprint is marginally increased as well as an approximate increase in pitch height of 0.5m. It is my view that these factors would be barely perceptible in the finished product of the development and therefore I have identified no reason to resist the current application on character impacts.

### Impact on Amenity

An assessment of amenity, as confirmed by Policy DM5, relates both to an assessment in relation to existing neighboring residents but also to the proposed occupiers.

It is acknowledged that in plan form the proposed dwelling would share a close amenity relationship to numerous neighbouring residents being surrounded by existing residential curtilages. However, the following assessment also takes into account site specific factors which have a bearing on the actual amenity impacts which would be experienced.

The proposed block plan includes annotations indicating distances between the proposed dwelling and neighbouring plots. It is confirmed that the closest spatial relationship would be with no. 11 Nursery End to the north west of the site. The distance between the two gable ends would be approximately 5m. The neighbouring dwelling is a single storey bungalow in the truest sense of the word, whilst the proposed dwelling, although being correctly described as a dormer bungalow, has accommodation set across two floors and thus would have an overall pitch height approximately 2.7m greater than no. 11 Nursery End. Having visited the site it is also acknowledged that there is a window serving the side gable of the neighbouring dwelling. It is not clear whether or not this serves a main habitable room. The proposed dwelling would broadly sit along the building line of 11 Nursery End. Although the dwelling would have accommodation at first floor, this is provided through dormers and thus the overall bulk of the dwelling would be reduced. The closest element of the built form would be the gable end with a pitched roof. There are no windows proposed in this gable end. Taking these factors into account I find that the proposal would represent an appropriate amenity relationship with no. 11 Nursery End.

Another existing dwelling which would share an amenity relationship with the proposed dwelling is the aforementioned dwelling to the north east of the site which was allowed at appeal; 53b The Ropewalk. The annotated block plan demonstrates a distance of approximately 20.1m between the side gable of the existing dwelling and the rear elevation of the proposed dwelling. This distance also features the designated public right of way which is heavily screened by high vegetation alongside both boundaries. Given this, I do not consider that the outlook of the proposed dwelling would have an uninterrupted view of the neighbouring dwelling to such a degree that it would be harmful to neighbouring privacy. The dormer bungalow nature of the proposed dwelling would restrict any harmful overbearing impacts. Moreover, only one of the dormer windows proposed on the rear elevation would serve a bedroom. The outlook of this window towards the side elevation of 53b would be at an oblique line of site across a distance of around 25m. On this basis no harmful amenity impact has been identified.

The introduction of the rear dormer window serving a bedroom is however a change to the extant scheme (where the rear windows were solely bathrooms and landings) and therefore also requires an additional assessment in respect to the impacts to other properties, specifically the semi-detached property at 17 Arnold Avenue. The distance between the proposed dwelling and the rear elevation of this property would be around 28.5m. When taking into account the aforementioned screening afforded by the boundary of the public footpath, this is considered to be an appropriate relationship.

The block plan demonstrates the footprint of two dwellings on land to the south west of the site. However, as is alluded to above, these are in relation to an extant scheme and as existing the land is vacant. Nevertheless, I am satisfied that even if these dwellings were to be built in the future there would be an appropriate distance between built form such that any proposed boundary treatment would alleviate any harmful amenity impacts.

It is acknowledged that at the present time no. 51 The Ropewalk is within the same ownership as the application site. However, an assessment against amenity should not be influenced significantly by land ownership given the likelihood that the ownership will change in the future to allow for separate occupation of the proposed dwelling. The proposed dwelling would be built at a perpendicular angle to the host dwelling such that the outlook of the rear elevation of no. 51 The Ropewalk would be towards the blank gable end of the proposed dwelling. Given a separation distance of approximately 20.5m (increased in comparison to the extant scheme) and the opportunity to create a boundary treatment between the plots, I am satisfied that an appropriate amenity relationship could be secured.

On the basis of the above discussion, no amenity impacts to existing residential neighbours have been identified which would warrant a resistance of the proposal in their own right.

Moving on, it is also necessary to assess the amenity provision available for the proposed occupiers. The dwelling proposed is a four bedroom property. Amenity space is demonstrated to the rear of the dwelling (as well as small areas to the side and front). Whilst the garden area is relatively modest in area I am satisfied that this would be sufficient to serve the needs of a single property. I am equally conscious that there would be an element of 'buyers beware' for any prospective occupiers. Moreover, the rear amenity provision, given both existing and proposed boundary treatments would be relatively private in nature.

Overall the proposal is deemed compliant with the amenity elements of Policy DM5 subject to further details of boundary treatment which could be secured by condition.

#### Impact on Highways and Rights of Way

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

It is noted that the site shares a boundary with a designated public right of way. I do not consider that the development as proposed would have any adverse impact on the usability of this footpath.

NCC Highways have provided comments on the scheme. It is suggested that the proposal could be considered acceptable subject to conditions including a condition requiring an appropriate

visibility splay to be kept free from obstruction from a height of 0.6m. Despite the concern raised by an interested party, I do not consider that the additional access from The Ropewalk would amount to a significant increase in vehicular traffic which would be harmful to highways safety. It would not be the role of the current application to fix current issues experienced on The Ropewalk in terms of the quality and use of the road. On this basis the proposal is in compliance with SP7 and the relevant elements of Policy DM5.

### Impact on Flooding / Drainage

In terms of traditional flood risk (i.e. that from rivers), the site to be located outside of Flood Zones 2 and 3. New mapping has been released by the Environment Agency on surface water flood risk. This surface water mapping provides a useful indication of low spots where water is likely to 'pond', where surface water flooding is deeper or shallower, direction and approximate speed of flowing water (indicating flow paths) and the spatial location of surface water flood risk in relation to sites.

I note the concern that has been raised during consultation in respect of experienced surface water flooding from the site at times of heavy rain (noting the change in land levels to the north west boundary of the site.)

No objections have been raised from relevant statutory consultees in relation to matters of surface water drainage. The submitted D&AS confirms that surface water will be dealt with in a sustainable manner through a soakaway drainage system. Notwithstanding the acknowledgement that the proposed dwelling would replace existing permeable green area with impermeable built form thus potentially affecting surface water run-off, I am satisfied that matters of surface water drainage could be adequately dealt with through an appropriately worded condition as discussed with colleagues at NCC Flood.

### Planning Balance and Conclusions

The proposal relates to the erection of an additional dwelling in Southwell. It is acknowledged that the site is not allocated for residential delivery through the Development Plan and thus would represent a windfall site. It is equally noted that it is appropriate to refer to the development as backland development. However, Southwell is accepted as a sustainable settlement in principle.

Whilst noting the Town Council concerns, it is the view of Officers that having regard to other backland sites in the vicinity and indeed the extant scheme which exists on the site it would now be unreasonable for the application to be refused purely on the basis of its backland nature.

It is unfortunate that the current proposal seeks a four bed unit in comparison to the extant two bed unit but in the absence of robust policy evidence and taking into account a previous appeal decision in respect of So/Hn/1, Officers are of the view that it would be difficult to resist the application purely on this basis acknowledging that a four bed unit would meet the second most desired need of the 2014 housing needs survey.

No other detrimental issues on matters such as amenity, highways or flooding have been identified which would warrant refusal of the scheme. Officers have attached weight to the delivery of a housing unit in a sustainable settlement which would assist in overall housing delivery and recommend approval subject to the conditions outlined below.

Therefore, on balance a recommendation of approval is offered.

## **RECOMMENDATION**

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

### Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

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

02

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

- Proposed Site Layout – 244 2019 02;
- Proposed Floor Layouts – 244 2019 03;
- Proposed Elevations – 244 2019 04.

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

Reason: So as to define this permission.

03

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

Facing Materials

Bricks

Roofing Tiles

Reason: In the interests of visual amenity

04

No part of the development hereby permitted shall be brought into use until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority's specification.

Reason: In the interests of highway safety.

05

No part of the development hereby permitted shall be brought into use until the access, as shown on drg. 244/2019/02, is surfaced in a bound material for a minimum distance of 5m rear of the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

06

No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The area within the visibility splays referred to in this Condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.

07

No part of the development hereby permitted shall be brought in use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than parking/turning of vehicles.

Reason: in the interests of highway safety.

08

Pedestrian visibility splays of 2m x 2m shall be provided on each side of the vehicular access. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstruction over 0.6m above the carriageway level at all times.

Reason: In the interests of pedestrian safety.

09

No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the occupation of the dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

10

Other than the window annotated as serving 'Bedroom 1', the dormer window opening on the



rear (north east) 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.

11

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

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.
- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.
- proposed finished ground levels or contours;
- car parking layouts and materials;

Reason: In the interests of visual amenity and biodiversity.

12

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping shall be implemented on site prior to first occupation.

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

13

No development shall be commenced until details of the proposed surface water drainage system have been provided to and agreed in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To prevent the increased risk of flooding elsewhere.

## Notes to Applicant

01

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

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

02

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 development makes it necessary to construct a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with NCC tel: 0300 500 8080 to arrange for these works to be carried out.

## Community Infrastructure Levy

			A	B	C	
Dev Types (use class)	Proposed floorspace (GIA in Sq. M)	Less Existing (Demolition or Change of Use) (GIA in Sq. M) Includes % splits	Net Area (GIA in Sq. M)	CIL Rate	Indexation at date of permission	CIL Charge
Residential	276	0	276	100	327	£27,600.00
<b>Totals</b>						£27,600.00

## BACKGROUND PAPERS

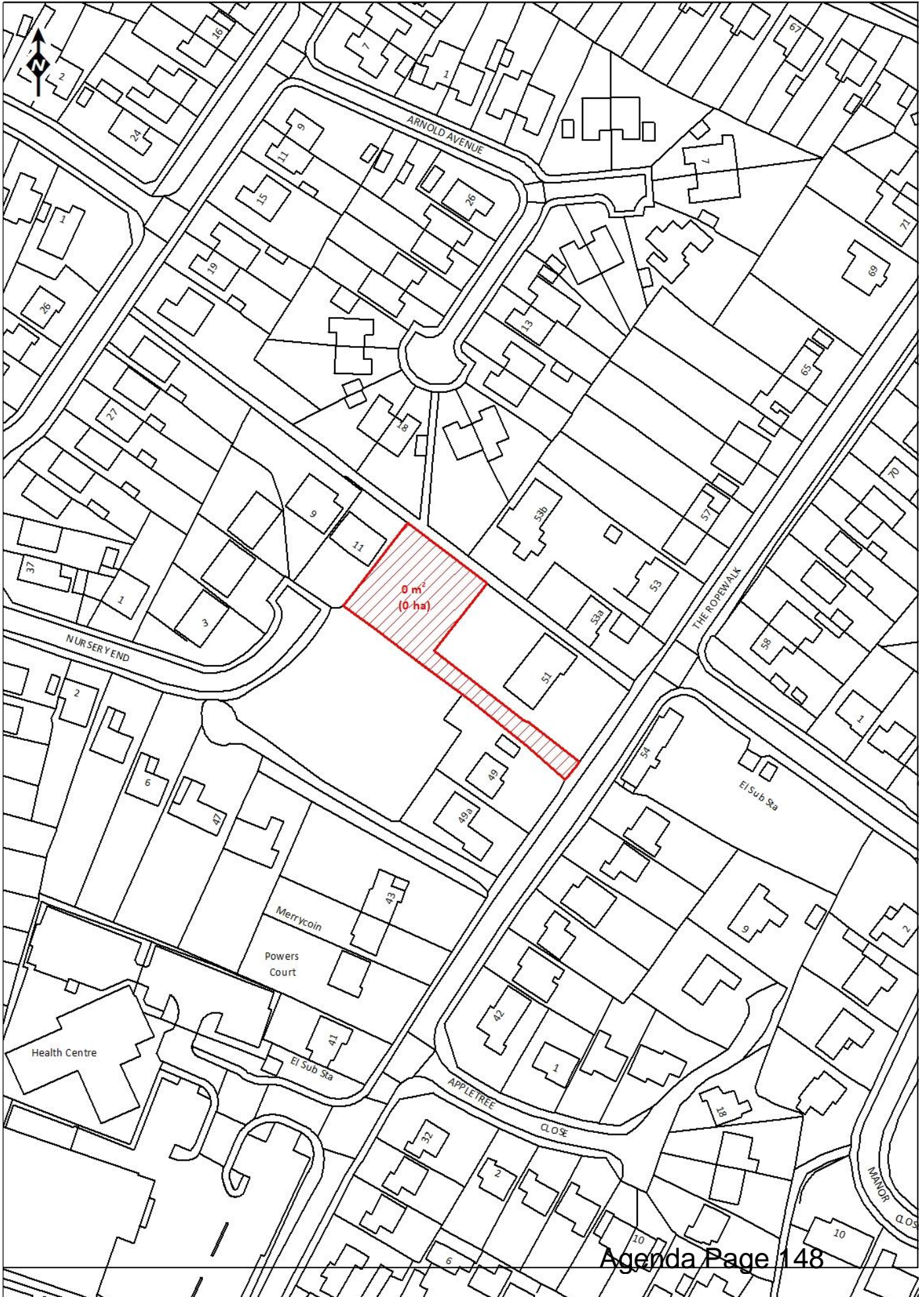
Application case file.

For further information, please contact Laura Gardner on extension 5907.

All submission documents relating to this planning application can be found on the following

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

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



## PLANNING COMMITTEE – 23 JULY 2019

<b>Application No:</b>	<b>19/00982/FUL</b>	
<b>Proposal:</b>	<b>New single storey 3 bed dwelling and separate garage (Re-submission of 19/00219/FUL).</b>	
<b>Location:</b>	<b>High Vistas, 24 Robin Hood Avenue, Edwinstowe, NG21 9LG</b>	
<b>Applicant:</b>	<b>Mr Domenic Genghi</b>	
<b>Registered:</b>	<b>28.05.2019</b>	<b>Target Date: 23.07.2019</b>

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

### The Site

The application site relates to an irregular shaped site of approximately 0.043 hectares in area and comprises part of the front, side and rear garden of no. 24 Robin Hood Avenue, Edwinstowe. The site is located within the settlement boundary of Edwinstowe, and on the south-eastern edge of the village. The site is located within a residential area characterised by a mix of post-war suburban single and two storey detached and semi-detached dwellings. The site borders a two storey detached dwelling to the west (no. 22), a modern single storey dwelling immediately to the northwest (no. 24 Robin Hood Avenue), and a modern dormer bungalow to the north (no. 26). The fields to the south have planning permission for the erection of 72 dwellings which are currently under construction.

The application site comprises predominantly open softly landscaped rear gardens with a number of trees located centrally and towards the eastern boundary. The application site includes a narrow strip running between nos. 22 and 24 Robin Hood Avenue. A hedgerow runs along the frontage of the site, with a mix of close boarded fencing and trees along the side boundaries with open boundaries to the fields to the rear.

### Relevant Planning History

15/01716/OUT – Outline permission was sought (with all matters reserved save for the means of access) for the demolition of a garage and the proposed erection of 1 bungalow. This was approved on 23<sup>rd</sup> November 2015 under delegated powers. Condition 1 required the submission of a reserved matters application within 3 years which has not been received and therefore the permission is no longer extant.

19/00219/FUL - Construction of a new 4-bedroom dormer bungalow and separate garage on land to the rear. Application withdrawn.

## The Proposal

The proposal seeks full planning permission for the erection of a single storey bungalow and detached garage, positioned to the rear of 24 Robin Hood Avenue.

The proposed access would utilise an existing dropped crossing and access onto Robin Hood Avenue that currently serves the host dwelling. The host dwelling would retain an existing separate access on to Robin Hood Avenue towards the south eastern corner of the dwellings frontage.

The submitted layout plan shows the proposed dwelling to be sited towards the south-eastern corner of the site adjacent to the side boundary with no. 22 Robin Hood Avenue and rectangular shaped turning area immediately in front. A number of large mature trees would be removed in order to accommodate the development, with new planting shown along the north-eastern boundary with No. 26.

The proposed dwelling would measure 12.7m in width and 12.4m in maximum depth. The roof design of the main dwelling would be dual pitched and incorporate front and rear facing rooflights. There is also a flat roof projection on the rear elevation with a large glazed lantern feature.

The detached garage would be positioned immediately adjacent to the front elevation of the proposed bungalow and measure 4.6m in width and 6.6m in depth. The roof would be dual pitched and measure 3.8m to the ridge.

## Submission documents

18005AL(0) 002 Site Plan  
18005AL\_010 REV F Proposed Site Plan  
18005AL\_011 REV F Proposed Floor Plans  
18005AL\_012 REV E Proposed Elevations  
18005AL\_013 REV D Proposed Elevations  
Tree Survey Plan from Forest Farm Tree Service  
Design and Access Statement

## Public Advertisement Procedure

Occupiers of eight properties have been individually notified by letter.

## **Planning Policy Framework**

### **The Development Plan**

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 7 - Sustainable Transport  
Core Policy 9 - Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 11 – Rural Accessibility

Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character

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

DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

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

### **Consultations**

**Edwinstowe Parish Council** – Objects to the proposal. Concerns regarding back land development, proximity of the proposal in relation to Abbey Road and the proposals boundary in relation to neighbouring property no. 22.

**Tree Officer** – The layout and impact on trees is similar to that in previous application 19/00219/FUL.

Given the proposed tree removals there is sufficient room to construct the planned access and dwelling.

If approval is given I would recommend conditioning of tree protection and mitigation soft landscaping.

### **Conditions:**

1. No works or development shall take place until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the District Planning Authority. This scheme shall include:
  - a. A plan showing details and positions of the ground protection areas.
  - b. Details and position of protection barriers.
  - c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
  - d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
  - e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - f. Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - g. Details of any scaffolding erection and associated ground protection within the root protection areas

h. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

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

3. Prohibited activities

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

a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.

b. No equipment, signage, fencing etc. shall be attached to or be supported by any retained tree on or adjacent to the application site,

c. No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.

d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.

e. No soak- aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

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

**Representations have been received from 1 local resident which can be summarised as follows:**

- The proposed dwelling will be at one corner only a metre away from the boundary with adjacent property and along the whole of that elevation of the proposed property only 2.4 metres from the boundary. This does not comply with the previous condition attached to the 15/01716/OUT.

Comments of the Business Manager

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

Principle of Development

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that the determination of planning applications must



be made in accordance with the development plan *unless* (emphasis added) material considerations indicate otherwise.

The site is located within the urban boundary of Edwinstowe which is defined as a Service Centre within the Settlement Hierarchy set out by Spatial Policy 1 of the Amended Core Strategy and where the provision of housing is sought to secure a sustainable community. As such, there is no objection to the principle of the development at the site subject of course to an assessment of site specific impacts.

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

Core Policy 9 requires proposals to demonstrate a high standard of sustainable design and that proposals should be of an appropriate form and scale to their context complementing the existing built and landscape environments. This policy also provides that applications 'demonstrate an effective and efficient use of land that, where appropriate, promotes the re-use of previously developed land and that optimises site potential at a level suitable to local character. Furthermore, The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping

Policy DM5 states that proposals creating backland development will only be approved where they would be in keeping with the general character and density of existing development in the area, and would not set a precedent for similar forms of development, the cumulative effect of which would be to harm the established character and appearance of the area. This is consistent with Paragraph 53 of the NPPF which states that 'Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area'.

Members should note that this authority granted permission in outline form for a single storey dwelling on the site in November 2015. Whilst this is no longer extant and does not represent a fallback position, it nevertheless has the ability to carry weight in the determination of this application. This is because the policy in terms of backland development has not significantly changed in adopting the new Amended Core Strategy (nor the NPPF). The weight attached is however is for the decision maker.

I am mindful of the overall conclusion made within the previous officer report on this issue of its impact upon the character and appearance of the area which was deemed to be acceptable. Whilst recognising that the development would in my view be contrasting to the clear linear patterns of houses fronting onto the estate road, I acknowledge that due to the position/set back from the highway and the utilisation of the existing access serving the host property, the proposed dwelling would not be unduly prominent. Weight was also given to the development to the rear of the site which is within the allocated site for housing and an opinion expressed that the proposed dwelling would be ameliorated into the built form to the south and therefore would not appear incongruous.

I concur with my previous colleagues' assessment on this issue to an extent. In terms of long range views of the proposed development, I agree that the existing development along Robin Hood Avenue and the development currently under construction to the rear would screen the proposed dwelling from view from the majority of long range public vantage points. However, when standing directly opposite the application site on Robin Hood Avenue, I am of the opinion that the

proposed development would be clearly visible due to the open frontage of the site and relatively small change in levels. The siting of a dwelling in this location, as previously mentioned would jar somewhat with the linear grain and pattern of development along this section of Robin Hood Avenue and while there would not be many, if any, long range views of the development, there would be a view of the development from Robin Hood Avenue, which in my opinion would result in some harm to the character and appearance of the site and wider street scene. Nevertheless, there has been a previous grant of outline planning permission for a dwelling in this position to which I attach substantial weight to and feel that an objection to the position of the proposed dwelling would be unreasonable given its site history.

In terms of Local Distinctiveness Policy DM5 (4) requires the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

The previous outline scheme did not cover scale as a matter for determination, although condition 9 of this scheme set the approved parameters of the dwelling and stated that the dwelling should not exceed 1 storey in height. This parameter was set in the interests of the protecting the character and appearance of the site and surrounding area.

Whilst I am mindful that this section of Robin Hood Avenue contains dwellings which range in size, scale and design, in also bearing in mind that the existing property at the site is a single storey bungalow I am of the opinion that the proposed dwelling, which has been re-designed to have a single storey design, would appear in keeping with the scale of the existing property at the site. Furthermore, the single storey design is considered to minimise the visual harm arising from additional built form in this position.

### Trees

Policy CP12 of the adopted Core Strategy states that proposals should provide for the continued protection of the Districts ecological, biological and geological assets.

The application site comprises the rear and side garden of a dwelling within a post-war residential estate which comprises predominantly manicured lawned garden with shrubs but also includes a collection of mature trees towards the northeastern boundary and centre of the rear garden. The application has been supported by an Arboricultural Survey and Arboricultural Method Statement. The survey highlights that all these trees are of fair quality.

I am mindful that the submitted layout plan identifies a number of trees that would need to be removed in order to accommodate the proposed development, including a common beech tree which is located centrally within the site and the most prominent tree at the site when viewed from Robin Hood Avenue. However, this tree has been the subject of significant pruning, therefore given its current condition, its loss, whilst regrettable, is not considered to result in significant harm to the landscape features and character of the area and nor is the tree considered to be worthy of protection with a Tree Preservation Order. Nevertheless, a condition attached to any grant of planning permission requiring a scheme for replacement planting is considered appropriate in order to mitigate for the loss of trees at the site.

The comments of the tree officer are noted, and the conditions recommended in relation to protection measures for the trees identified to be retained at the site are also considered to be appropriate.

## Impact on Neighbours

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

Policy DM5 of the DPD provides that the 'layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy'. In addition a core planning principle of the NPPF is to 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'.

The submitted layout plan shows the separation distance from the proposed dwelling to No.22 Robin Hood Avenue to be approximately 23m and the closest distance between the existing property, 24 Robin Hood Avenue, to be 22m. The distance to 26 Robin Hood Avenue to the north would be in excess of 26m. Given this level of separation and the single storey design of the proposed dwelling, I am satisfied that the proposal would not result in any material overbearing or overshadowing impact on the closest neighbouring properties. I am mindful that the submitted layout plan shows the new rear boundary of 24 Robin Hood Avenue to be set at a distance of 12m from the rooflight on the front facing elevation serving the proposed dwelling. However, as this rooflight would be recessed into the roof pitch and set at a high level from finished floor level, I am satisfied that there would be no material overlooking impact on the privacy of 24 Robin Hood Avenue from this feature. Furthermore, with the inclusion of suitable boundary treatment scheme which would prevent overlooking from the ground floor windows of the proposed dwelling, I am satisfied that the proposal would not result in any material impact on neighbouring amenity. Finally I consider that removing permitted development rights by condition in terms of alterations to the roof will protect the amenity of neighbours moving forward.

Turning to the impact on the future amenity of the occupiers of dwellings approved under application Ref. 16/01436/RMAM which are currently under construction, I am mindful that the dwellings within plots 26 and 27 of this development would share a boundary with the application site. Plot 26 would contain a 3 bedroom detached bungalow and plot 27 would contain a 3 bedroom detached two storey house. In considering the relationship with these future dwellings, including the level of separation, and the relatively small section of shared boundary with these future properties, I am satisfied that the proposal would not result in any material impact on the neighbouring amenity of these properties.

I am also satisfied that both the host dwelling and the bungalow hereby proposed would benefit from a garden of adequate size commensurate for each.

## Highway Matters

Spatial Policy 7 of the Core Strategy seeks to ensure development proposals provides safe, convenient and attractive accesses for all and provide appropriate and effective parking provision, both on and off site, and vehicular servicing arrangements. Policy DM5 of the DPD reflects the aims of SP7 and adds that parking provision should be based on the scale and specific location of the development.

I note that the proposed access to the serve the new dwelling remains the same as the previously approved scheme, and I am of the view that this is an acceptable access point from a highway

safety perspective. The parking and turning area shown to serve the proposed dwelling within the site is also considered adequate and would allow vehicles to turn and exit the site in a forward gear. The dedicated driveway serving the existing property 24 Robin Hood Avenue would be retained and unaffected by the proposed development and as such I am satisfied that the proposal would not result in any material impact on highway safety.

### Planning Balance and Conclusion

The principle of development within the settlement is acceptable having regard to the settlement hierarchy and spatial distribution of development.

I have concluded that the previous planning history which approved outline permission for a bungalow on this site, whilst no longer extant, should carry considerable weight given that the planning policy context has not changed significantly since that time. It is considered that the provision of a new dwelling would have a degree of harm in terms of the established character, grain and appearance of the area given there are no other backland development plots in the vicinity. Notwithstanding this I have also given weight to the fact that new housing is built in the field beyond on an allocated site and therefore would be viewed in this context. My conclusion overall on this matter that whilst there is some harm, it is outweighed by other factors including the weight to be attached to the site history.

The proposal would not result in harm to the amenity of neighbouring residents, and nor would there be an adverse impact on the safety and operation of the surrounding highway network. In addition, it is considered that subject to conditions to require mitigation there would be no significant harm caused by the loss of trees and landscape features.

On balance it is considered that the proposed development would be in accordance with identified policies of the Amended Core Strategy DPD, policies DM1, DM5, DM7 and DM12 of the Development Management Policies DPD. It is therefore recommended that the application be approved subject to the following conditions.

### **RECOMMENDATION**

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

#### Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

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

02

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

18005AL\_010 REV F Proposed Site Plan  
18005AL\_011 REV F Proposed Floor Plans  
18005AL\_012 REV E Proposed Elevations  
18005AL\_013 REV D Proposed Elevations

Tree Survey Plan from Forest Farm Tree Service

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

Reason: So as to define this permission.

03

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

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme.
- means of enclosure;
- hard landscaping details including boundary treatments
- car parking layouts and materials;

Reason: In the interests of visual amenity and biodiversity.

04

The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use.

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

05

No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) have been

submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

06

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

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

Reason: In the interests of visual amenity and biodiversity.

07

All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme approved as part of condition 3.

Reason: In the interests of visual amenity and biodiversity.

08

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

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
- b. No equipment, signage, fencing etc. shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.

- e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

Reason: In the interests of visual amenity and biodiversity.

09

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

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

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

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

Class E: Development within the curtilage of a dwellinghouse.

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) Order 1995 or any amending legislation).

#### Notes to Applicant

01

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

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

02

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

BACKGROUND PAPERS

Application case file.

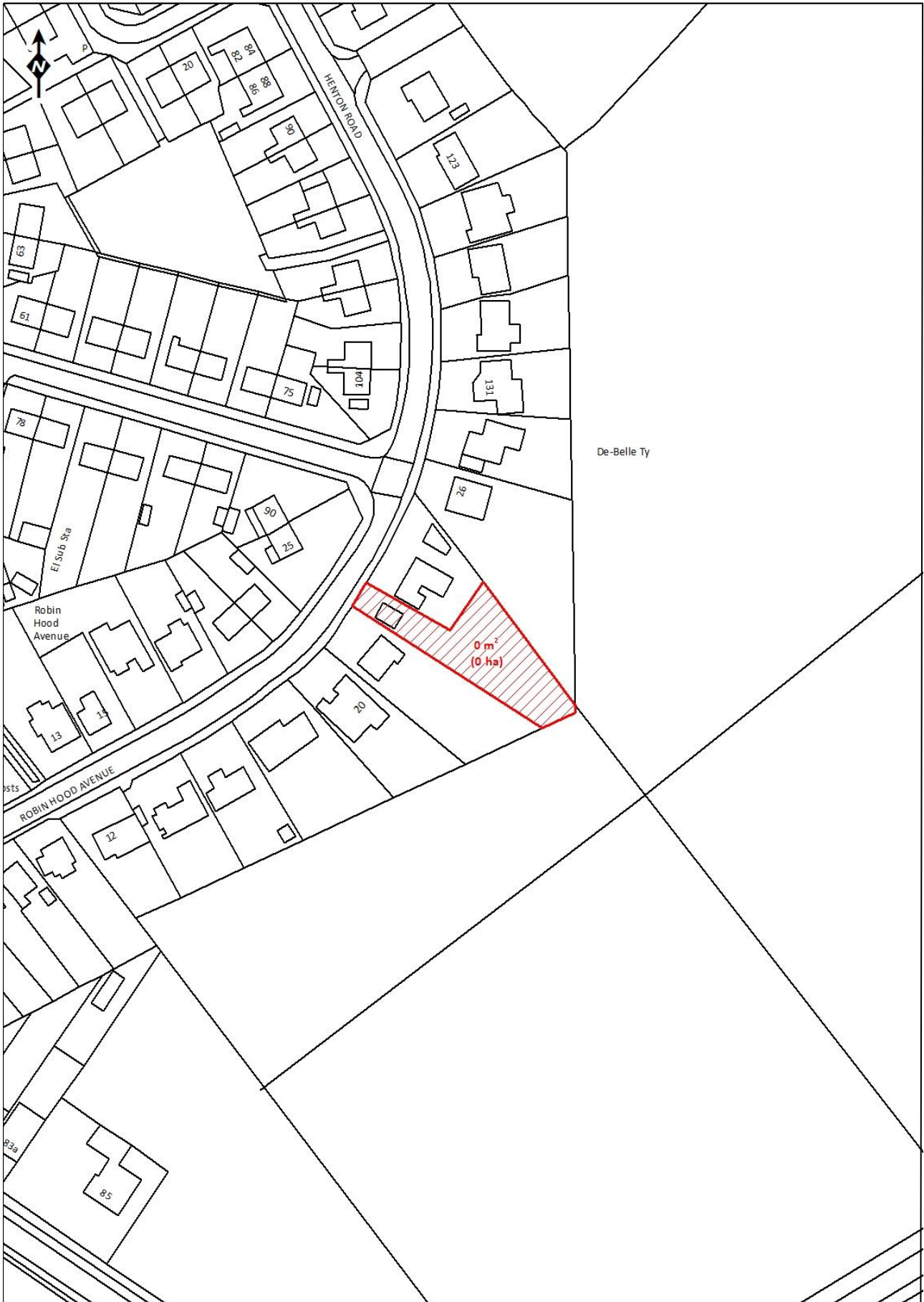
For further information, please contact Gareth Elliott on ext 5836.

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

**Matt Lamb**

**Director Growth & Regeneration**





## PLANNING COMMITTEE – 23 JULY 2019

<b>Application No:</b>	<b>19/00870/FUL</b>		
<b>Proposal:</b>	<b>Householder application to change existing pitched roof of rear bathroom extension to flat roof to increase internal hoisting height</b>		
<b>Location:</b>	<b>111 Wolsey Road Newark On Trent NG24 2BH</b>		
<b>Applicant:</b>	<b>Newark And Sherwood District Council - Mr John Robinson</b>		
<b>Registered:</b>	<b>09.05.2019</b>	<b>Target Date:</b>	<b>04.07.2019</b>
	<b>Extension of Time Agreed until 24.07.2019</b>		

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

### The Site

The application relates to a semi detached mid C20 built property situated within the settlement of Newark. The surrounding area is predominantly residential with very similar semi detached and terraced properties. To the north is no. 113, the adjoining property, and to the south is no. 109, a similar semi detached property situated approximately 4m from the application dwelling. The front elevations align with one another and are set back approximately 6.5m from the public highway.

The property has an existing rear extension with a pitched roof which was built under permitted development rights through prior approval. The rear garden has a minimum depth of 7m (11m from the original rear elevation) and is enclosed by timber fencing approximately 1.5m high. There is access to the garden to the south side of the house.

### Relevant Planning History

13/01508/HPRIOR - Householder prior approval for a rear extension

The length that the extension extends beyond the rear wall of the original house: 4.265 metres.

Eaves height of the extension: 2381mm. Maximum height of the extension: 3401mm

Planning permission not required 15.11.2013

### The Proposal

The application seeks permission for the alteration of the existing pitched roof of the rear extension to create a flat roof to increase the height of the internal ceiling. The width and depth of

the extension would remain as existing. The eaves height (and maximum height) would increase to 3.27m.

### Submitted Documents

Site Location Plan received 8 May 2019  
Drawing No. 2 Block Plan  
Drawing No. 3 Existing Layout  
Drawing No. 4 Existing Section  
Drawing No. 5 Existing Elevations  
Drawing No. 6 Proposed Layout  
Drawing No. 7 Proposed Section  
Drawing No. 8 Proposed Elevations

### Departure/Public Advertisement Procedure

Occupiers of seven properties have been individually notified by letter.

### **Planning Policy Framework**

#### **The Development Plan**

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

Core Policy 9 -Sustainable Design

*Allocations & Development Management DPD*

DM6 – Householder Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance
- Householder Development SPD Adopted 2014

### Consultations

**Newark Town Council** - raise no objection to the application.

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

Both comments question the need for the alteration.

## Comments of the Business Manager

### **Principle of Development**

Policy DM6 of the DPD accepts householder development in principle provided that it meets a number of site specific criteria including impact on neighbouring amenity and the character of the area.

### **Impact on Visual Amenity and the Character of the Area**

Core Policy 9 seeks to achieve a high standard of sustainable design which is appropriate in its form and scale to its context, complementing the existing built and landscape environment.

Policy DM6 states that proposals should respect the design, materials and detailing of the host dwelling.

Section 12 of the NPPF (Achieving Well Designed Spaces) paragraph 127 states inter-alia that development should be visually attractive as a result of good architecture, should be sympathetic to local character and history, and should maintain or establish a strong sense of place.

The Householder Development SPD advises that flat roofs are generally considered less aesthetically pleasing and can be potentially harmful to the character of the area in locations where the roof form would be prominent and/or out of keeping with the roof types of surrounding properties.

Although the pitched roof design is preferable, the alteration to a flat roof would not impact the character of the area given that it would be situated to the rear of the property. As such I do not consider that the amendment would be so detrimental to the character and appearance of the wider area to warrant the refusal of the application.

The scale of the extension would increase only slightly in overall size and would therefore remain subservient to the host dwelling. The bricks used to increase the eaves height would match the existing and the materials for the flat roof would not be visible. As such I consider the materials to be sympathetic to the original building.

### **Impact on Residential Amenity**

Policy DM6 accepts extensions and alterations to dwellings provided that there is no adverse impact on the amenities of neighbouring users including loss of privacy, loss of light and overbearing impact, and that the host dwelling retains a reasonable amount of amenity space relative to its size.

Given that the extension itself is already in existence, it is only the alteration of the roof and the increase in eaves height that requires assessing. The existing eaves height is approximately 2.6m.

The proposed height is 3.27m, an approximate increase of 0.87m. The maximum height however would reduce from 3.4m to 3.27m.

I accept that the extension may cause some loss of light for the adjoining neighbour as the window to the dining room is adjacent to the extension. Given that the extension itself is already in place lawfully, I do not consider that the increase in eaves height would significantly alter the existing relationship between the two properties. As such I do not consider a slight further loss of light to warrant a refusal of the application. Considering the built up nature of the area, I do not feel that the alteration would cause an overbearing impact to no.113. There are no new windows proposed and as such I do not consider the proposal would cause a loss of privacy.

No. 109 is located south of the application site. With this in mind, the separation distance and the intervening boundary treatment, I do not consider that the proposal would cause any undue impact to the amenity of no. 109 in terms of loss of light, overbearing impact or loss of privacy.

### **Planning Balance and Conclusion**

To summarise I consider the proposed alteration to a flat roof to be less desirable than the existing pitched roof, however within the context of the application site, feel it would not have a detrimental impact upon the character of the area nor cause undue impact upon neighbouring amenity. Furthermore, the reason for the application is the need for an increased internal hoisting height which is necessary for the occupant's disabled child which I attach some but limited weight to. On balance I consider the application to be acceptable 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:

Site Location Plan received 8 May 2019

Drawing No. 2 Block Plan

Drawing No. 6 Proposed Layout

Drawing No. 7 Proposed Section

Drawing No. 8 Proposed 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. The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority through an application seeking a non material amendment.

Reason: In the interests of visual amenity.

### Notes to Applicant

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

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

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

### BACKGROUND PAPERS

Application case file.

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



## PLANNING COMMITTEE – 23 JULY 2019

<b>Application No:</b>	<b>19/01173/FUL</b>
<b>Proposal:</b>	<b>Erection of a single storey side extension to Rainworth Village Hall</b>
<b>Location:</b>	<b>Rainworth Village Hall Management Committee Kirklington Road Rainworth Nottinghamshire NG21 0JY</b>
<b>Applicant:</b>	<b>Rainworth Parish Council - Mr Mark Buttery</b>
<b>Registered:</b>	<b>26.06.2019</b> <b>Target Date: 21.08.2019</b>

**This application is being referred to the Planning Committee as Newark and Sherwood District Council own the building.**

### The Site

The application site relates to the existing village hall and its associated curtilage at the corner of Kirklington Road and South Avenue. The existing village hall is a large building which occupies a significant proportion of the plot with parking to the east of the site. There is a rising gradient southwards within the site which is evidenced by steps serving a small outdoor seating area at the southern boundary. Boundaries to the site are defined by close boarded fences; estate fencing; and vegetation.

The site is within the urban boundary of Rainworth opposite the sports ground which represents a protected playing field according to the Proposals Map of the Development Plan. Adjoining land uses to the south form adjacent residential curtilages to dwellings on South Avenue and St Peters Drive. The site is close to the District Centre such that overall land uses in the area are mixed including commercial uses such as the Tesco supermarket.

### Relevant Planning History

There is no planning history of direct relevance to the current proposal.

### The Proposal

The application seeks full planning permission for the extension of the existing village hall in the form of a single storey extension to the south elevation. The footprint of the extension would be around 110m<sup>2</sup> and include a multifunction room with associated entrance foyer and disabled toilet facilities. The design of the extension would follow the hipped roof form of the existing building with an overall maximum height of approximately 3.2m albeit this would be reduced to just 2.8m for the bulk of the extension due to changes in gradient within the site. The rear of the extension would be approximately 1.1m away from the rear southern boundary of the site.



The application has been assessed on the basis of the following plans and documents:

- Site Location and Block Plans;
- Existing Layout and Elevations – S118/1085/1 Rev. 01;
- Proposed Layout and Elevations – S118/1085/2.

#### Departure/Public Advertisement Procedure

Occupiers of 10 properties have been individually notified by letter.

#### **Planning Policy Framework**

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

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 9 -Sustainable Design

MFAP1 – Mansfield Fringe Area

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

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM5 – Design

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

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

##### Consultations

**Rainworth Parish Council** – No comments received at time of writing.

**No comments have been received at the time of the agenda going to print. Any comments received will be reported to Members as a late item.**

##### Comments of the Business Manager

##### Principle of Development

The site falls within the urban boundary of Rainworth which is identified by the Spatial Strategy of the Core Strategy as one of five Service Centres within the District. Service Centres have the function of acting as a focus for service provision for a large local population and rural hinterland.

The site forms the existing village hall which serves the community and can be considered as a community facility under Spatial Policy 8. This policy seeks to enhance community facilities to

meet local needs. MFAP1 of the Core Strategy also demonstrates support for the provision of new community infrastructure appropriate to their size.

The application relates to a modestly sized extension to the existing village hall but will nevertheless add an additional multifunctional room which will enhance the overall offer of the site. The principle of development is acceptable subject to considerations against the remainder of the Development Plan.

#### Impact on Character

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings.

The existing building is of red brick construction with a hipped roof set at varying heights and projections. The most imposing elevation is the north elevation towards Kirklington Road which is a full two storey height. As the building moves southwards within the plot (and therefore where the proposed extension would affect) the first storey of the building is served by roof dormers on the eastern elevation which lessens the visual prominence.

The proposed extension would be positioned at the south of the site which due to the set back from the highways access is a relatively discrete part of the site. The extension would follow the design of the existing building with a hipped roof which maintains and follows the height of existing single storey projections. As such the extension would assimilate well with the existing built form and be a discrete addition to the site which ultimately would have a limited impact on the overall character of the area. Subject to a condition ensuring that materials would match the existing building, no character harm has been identified which would warrant concern.

#### Impact on Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development.

The positioning of the extension at the south of the site means that the closest receptors would be the residential neighbours at no. 27 St Peters Drive and no. 1 South Avenue. Neighbouring residential land uses have an established shared relationship with the activities which take place within the village hall.

Both of these neighbouring properties are set at a higher level in comparison to the site such that the single storey development would not impose additional overbearing impacts. The site is well screened from the rear of no. 1 South Avenue by a fence and high hedging (the majority of the shared boundary is with the existing car park) and I do not consider that the extension or indeed the proposed entrance to the extension would introduce any harmful amenity impacts to this dwelling in terms of loss of privacy or additional noise and disturbance.

The dwelling at no. 27 St Peters Drive already has side gable first floor windows which overlook the site but due to the differences in land level these would very much look down onto the proposed extension (notwithstanding that they appear to be secondary windows) which would be largely screened by the existing vegetated boundaries in any case.

As such I have identified no harmful amenity impacts which would prevent the application being compliant with the relevant elements of Policy DM5.

### Other Matters

The village hall is well served by an existing car park access on the eastern boundary of the site. The proposed extension would not affect the highways access nor the existing parking provision available and therefore there would be no impacts to the highways network.

### Conclusion

The proposal relates to the extension of an existing community facility to enhance the facilities available to the community. The extension very much follows the design of the existing building such that it would be a modest addition. No harmful impacts have been identified which would prevent the grant of planning permission subject to the conditions as outlined below.

### **RECOMMENDATION**

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

#### Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

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

02

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

- Proposed Layout and Elevations – S118/1085/2.

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

Reason: So as to define this permission

03

The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building in terms of type, colour and texture, size, profile and bonding pattern unless otherwise agreed in writing by the local planning authority through an application seeking a non-material amendment.

Reason: In the interests of visual amenity.

## Notes to Applicant

01

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

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

02

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

## BACKGROUND PAPERS

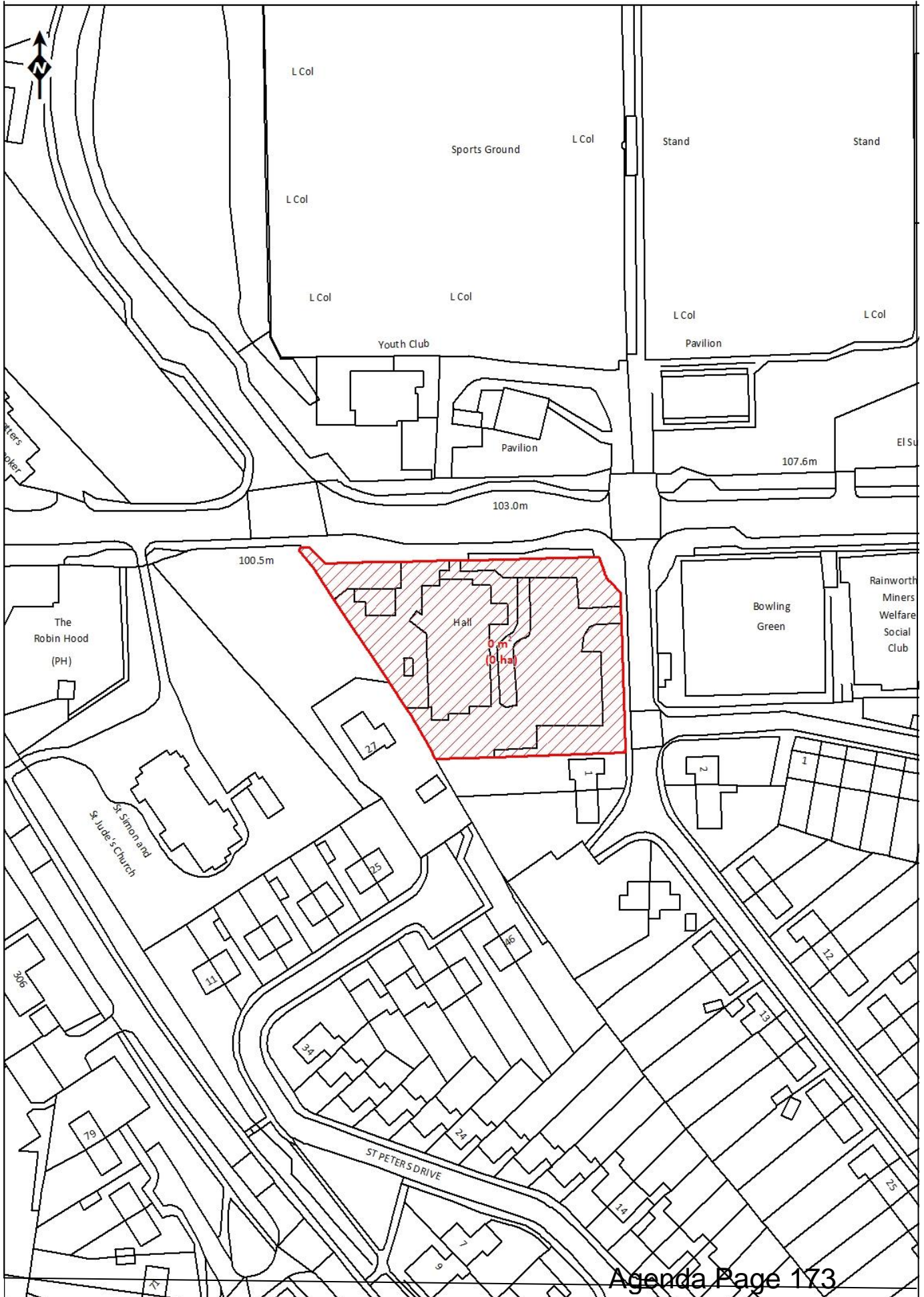
Application case file.

For further information, please contact Laura Gardner on extension 5907.

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

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

Committee Plan - 19/01173/FUL



## PLANNING COMMITTEE – 23 JULY 2019

<b>Application No:</b>	<b>Newark and Sherwood District Council: 18/00995/NPA Lincolnshire County Council: PL/0055/18</b>
<b>Proposal:</b>	<b>Neighbour Planning Application Reference PL/0055/18 - Demolition of existing animal by products processing plant and all associated installations. Construction of a new animal by products processing plant, composed of: raw material reception and process buildings; engineers building; boiler house; oxidiser building and flue; DAF plant; effluent treatment plant; bio filter bed; general office; weighbridge and weighbridge office; hardstanding areas for accessing the processing plant and for parking of cars, commercial vehicles and trailers used in connection with the operation. Residential development to provide 3 environmentally sustainable eco affordable homes and 1 manager's house for the processing plant. Alterations to the existing site access from Jerusalem Road. All associated development, including landscaping.</b>
<b>Location:</b>	<b>Jerusalem Farm, Jerusalem Road, Skellingthorpe, Lincoln LN6 4RL</b>
<b>Applicant:</b>	<b>DS Developing Ltd</b>

This full application will be determined by Lincolnshire County Council (as top-tier minerals and waste authority in Lincolnshire) and the site is located within the District of North Kesteven. Newark and Sherwood District Council have been consulted on the proposals due to the proximity of the development to our District boundary (approx. 1.5 miles or 2.4 km as the crow flies) and the potentially contentious nature of the proposed use.

This report sets out what officers consider those comments should be for Members to consider. The views of the Planning Committee will be reported back to Lincolnshire County Council who will take the contents into account in the determination of the application.

This application is being referred to the Planning Committee for consideration by Cllr Dobson due to the proximity of the proposals to the eastern boundary of the District and its potential impact on the built and natural environments and people in the villages of Harby, Wigsley and Thorney.

### The Site

The site is located within the defined district boundary of North Kesteven District Council and is approx. 1.5 miles or 2.4 km as the crow flies, from the common boundary with Newark and Sherwood District Council.



The A46 Lincoln by-pass is roughly 1.5k to the east of the site in a straight line. However, to reach it vehicles have to travel significantly further, either passing through the village of Skellingthorpe; or by using the B1190 from the Doddington roundabout and then travelling north on Black Lane.

The map above shows the application site in red, relative to local roads and in particular the villages of Harby, Wigsley and Thorney.

The overall application site covers a roughly rectangular area of 14.7ha, approximately 330m wide and 460m long, which is relatively flat. The site is located to the south-west of the village of Skellingthorpe, just off Jerusalem Road at a point where the road turns sharply through a 90 degree bend. Most of the land is currently occupied by an existing Animal By-Products plant which has evolved over several decades. The applicant has stated that the existing tenants and operators – A Hughes and Son Ltd, owned by Lincoln Proteins Ltd – have decided to cease operating the plant, and move their business to a new site at Villa Farm, Norton Disney. A planning application

for development at the Villa Farm site is pending and will be brought to Planning Committee if necessary for consideration in due course when additional information requested by the County Council has been received and our Authority is re-consulted.

The existing site is made up of different areas with a variety of uses and development. On entering the access off Jerusalem Road, there is a weighbridge to the left, and a largely open area to the right which is used for vehicle parking. Beyond that, the main buildings, plant and equipment of the processing facility extend through the central area of the site – including waste reception and processing buildings, storage silos and tanks, a 25m high chimney stack, as well as ancillary development such as offices and workshops.

There are several waterbodies, located in the northern corner, and towards the south-west end of the site beyond the main plant area. There are also blocks of trees and woodland, particularly along parts of the south-eastern boundary, and around a large waterbody in the northern corner. There are also areas of grassland and scrub around the outer areas of the site in between woodland and water areas. Not all of this land is in active use in connection with the plant.

To the south and east there are largely open fields, but with a line of houses along the southern side of Jerusalem.

### Background and Planning History

The wider site is already in use as an Animal By-Products (ABP) processing plant but this application site comprises a smaller part of a larger existing ABP facility operated by A. Hughes and Sons Ltd and the replacement facility would be generally located towards the eastern part of that existing wider operational area.

The detailed history of the site will be known to North Kesteven District Council, as the local planning authority, within whose boundary the site is located.

The applicant is part of the Leo Group of businesses which operates animal byproduct processing plants elsewhere in the UK. The applicants own the site, and the current plant operators – A Hughes and Son Ltd, owned by Lincoln Proteins Ltd – are their tenants. The application documents state that the proposed plant is “.... a direct alternative to the tenant’s proposed ABP plant at Norton Disney ...”. The applicant of Jerusalem Farm considers it would be better to retain the plant at Skellingthorpe and invest in the provision of new plant and machinery to improve efficiency and environmental performance, rather than transfer the operation to an entirely new greenfield location, approx. 12km to the south-west of this existing site.

NSDC officers have previously raised concerns to LCC regarding this application, specifically in relation to the routing of HGV vehicles to and from the site in July 2018 and since then LCC have requested additional information from the applicants on a number of issues. Following receipt of this additional information, NSDC has been re-consulted on the proposals.

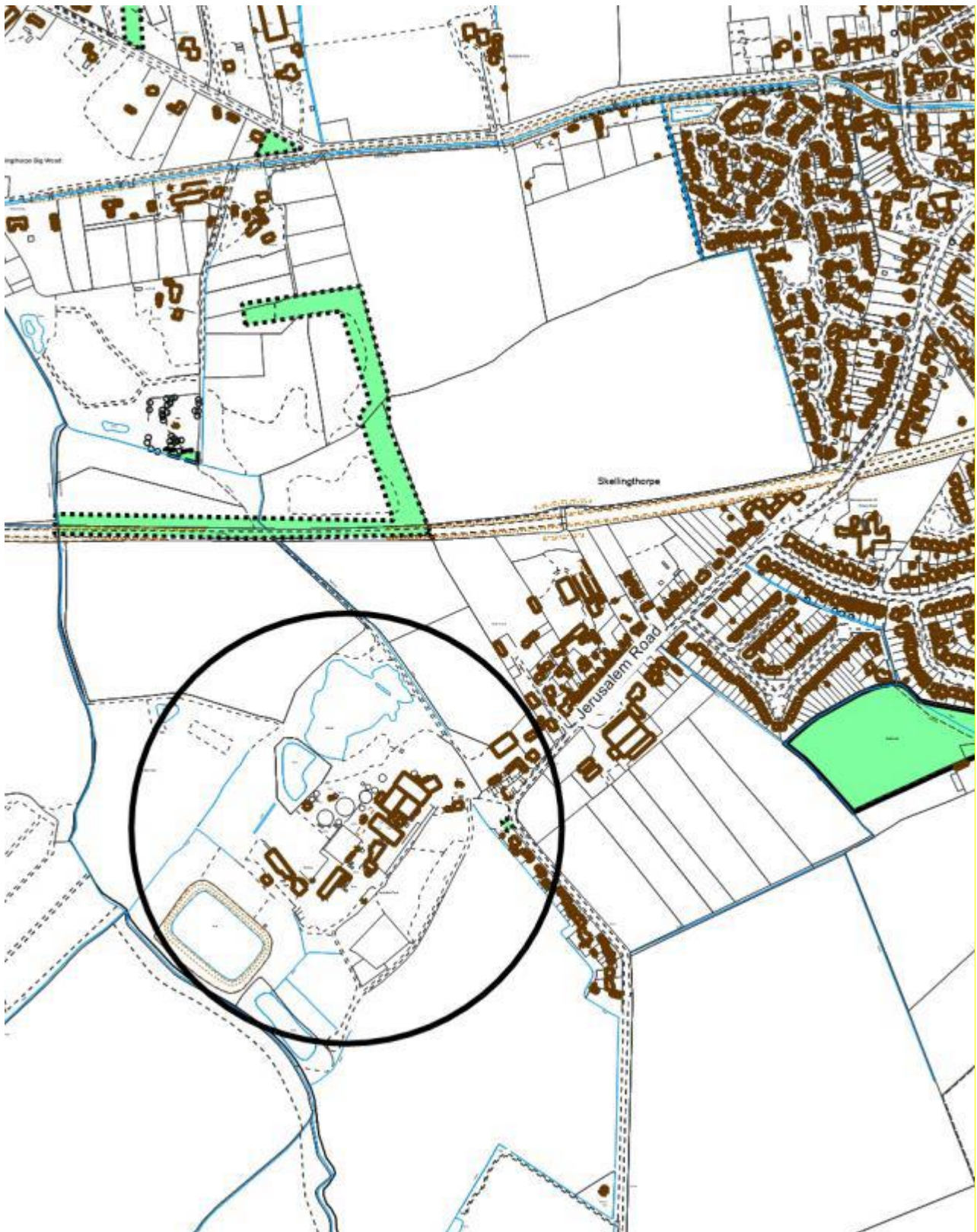
The application will be considered by Lincolnshire County Council, as decision maker, at their Planning Committee on 29<sup>th</sup> July 2019.

### The Proposal

A full planning application has been submitted to Lincolnshire County Council for the development



of a replacement Animal By-Products (ABP) processing plant with associated development, together with four new dwellings (one to be provided as a manager's accommodation) and a further three affordable 'eco-homes.'



The ABP processing plant proposal includes the following elements:

- Main, improved site entrance off Jerusalem Road – with improved visibility, greater width for vehicles to pass more easily, and footways connecting to rights of way;

- Lorry and staff parking area moved further into the site than at present ;
- Internal roadway leading to a weighbridge, with a secure yard in the centre of the site;
- The main processing infrastructure (see below) located further to the southwest of the current plant;
- Water treatment equipment, together with retention of an existing water storage ponds, located at the western end of the site;
- Additional trailer parking at the southern end of the site.

The main processing area has a number of significant buildings, structures and items of plant, including:

- two raw material reception buildings - one for lowest risk Category 3 material, one for higher risk Category 1 & 2 material - each with a footprint of 35m x 12m, and a maximum of 11.52m to the highest point of the roof.
- two process buildings, one for each waste category line, and each linked to its reception building – these would be the same height, but with a footprint of 20m x 25m. These would house hoppers, cookers, filters and centrifuges
- a boiler house, 15m x 10m, and just under 7m in height
- a bio-filter bed, 50m x 20m, surrounded by a 1.5m concrete wall
- a water effluent tank surrounded by a 6m high wall
- an oxidiser building 48m x 12m, and just over 8m in height – with an associated emission stack 25m in height, 2m in width taking emissions from the oxidisers and boilers

There would also be a number of ancillary items such as stores and workshops, offices and storage silos, and perimeter security fencing. The application proposals include the installation of a new gas main to fuel the replacement plant, with benefits in terms of emissions and consistency of energy use. Landscaping around the site is proposed in order to screen and reduce the visual impact of the scheme, as well as provide gains for biodiversity.

The planning application documents state that the replacement plant would handle the same quantity and type of animal by-products as the existing plant, accepting and treating Category 3 material Category 1 & 2 material. No information has been provided regarding what that the existing plant through-put is, but it is stated that the site would employ approximately 75 full-time equivalent staff, though usually no more than 38 would be on site at any one time.

The waste would arrive in specialist, covered heavy lorries designed for the purpose. Measurements of existing traffic have recorded 123 lorry movements over a 24 hour period, and it is estimated that over a week there would be approximately 550 two-way movements per week (275 in, 275 out). Deliveries could take place during a 24 hour period, though it is anticipated that the numbers would be significantly lower during the night. The plant itself is intended to operate 24 hours per day over a 6 day week, with the sixth day allocated for cleaning and maintenance.

After recording at the weighbridge, lorries would be directed to the appropriate reception building, and in due course pass through an air-lock system to minimise the escape of odours. Negative pressure is maintained, with air extracted to pass through treatment processes to remove odours. Lorries would deposit their loads into one of four (two in each building) 100 tonne capacity hoppers, and be washed and disinfected at the same time. Lorries would then drive out of the building via the air lock.

The raw materials would then be crushed and passed to a cooker, with one in each Category 1&2

and Category 3 building, indirectly heated by steam from a natural gas boiler. Some moisture would be driven off and sent to thermal oxidisers to treat odours. These oxidisers would in turn send emissions to the 25m high stack, which would also handle emissions from the boilers. There would be a back-up system available in the case of failure or unplanned maintenance of the oxidiser – fumes would be sent to an air-cooled condenser, with the liquid treated in the effluent tank, and any cases incinerated in the boiler.

The “greaves” resulting from the cooking process would be pumped to high pressure extruders, so that the tallow oil is separated from the bulk of the solid meat and bone meal (MBM). The tallow would be further screened and spun in centrifuges to remove more solids, before being stored in tanks. The meal would be stored briefly before despatch.

The tallow is mostly sold to bio-fuel manufacturers. Meal from the Category 3 waste process is a primary ingredient in farm animal and pet food. Meal is used mainly for power plant fuel. Waste water would be sent through a Dissolved Air Flotation (DAF) plant, then passed through a further cleaning in the effluent tank – before either being recirculated through the processing plant, or discharged to the public sewer.

The four proposed dwellings would be served by the improved plant site access, and all would be single storey. One 2-bedroom property measuring 8m x 12m and a height of 4.3m is intended as a plant manager’s home, located to the south of the access road, near to the site entrance. This would have a fairly conventional design with brick facing walls, and a tiled roof having a shallow pitch.

The other three x 3-bedroom affordable dwellings would be larger, with footprints of 14m x 14m, but the same roof height of 4.3m. They are termed ‘eco-homes’ on the submitted layout plan. These would be located on the opposite, northern side of the access, with gardens extending north-west towards the larger pond. These would have a more contemporary design, with a central corridor/hall flanked by side areas having mono-pitched roofs sloping away. Each dwelling would have a detached double garage, again with a mono-pitched roof.

One feature of the application proposals is that the implementation of different components of the development would be phased. The applicant intends that the new plant would be constructed first (to the west of the existing plant), while the existing plant is still operating – access improvements would take place at an early stage. Once the new plant has been tested and commissioned, the existing plant would be decommissioned and eventually demolished; any remaining external works for the new plant could be completed. Then works to develop the proposed housing would take place.

The application is accompanied by an Environmental Statement (ES) pursuant to the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It is the responsibility of Lincolnshire County Council as decision maker to ensure that the content of the ES accords with the requirements of the 2017 Regulations, including the minimum information requirements set out in Schedule 4. This includes the need to consider the significant effects of the development on the environment.

#### Departure/Public Advertisement Procedure

As the District Council is not the decision making authority in this instance, the responsibility for undertaking consultations and taking representations into account lies with Lincolnshire County

Council as Waste Planning Authority. Full details of all representations submitted to Lincolnshire County Council can be viewed via the County Council's Planning Online service.

However, this local planning authority has consulted:-

- Harby Parish Council
- Wigsley Parish Council
- Thorney Parish Council
- Spalford Parish Council
- NCC, Highway Authority
- NCC, Landscape
- NSDC, Environmental Health
- NSDC, Conservation
- Local ward Members

No third party consultations have taken place.

### **Planning Policy Framework**

NSDC have received the application as a consultation request and therefore it remains that LCC will be the determining authority for the application. LCC will assess the application against their adopted development plan. Notwithstanding this, it is accepted that the NPPF and its associated guidance, together with National Planning Policy for Waste 2013, will form part of the material considerations against which LCC will make their assessment of the proposal.

### **Consultations**

**Thorney Parish Council** – “Councillors fully understand the need for such animal by products processing plants & accept that this plan attempts to make this site & its surroundings palatable. They also have no desire to indulge in NIMBYism or to hamper employment opportunities in the area.

However:

- They are very concerned about the very likely impact of this development on traffic on local roads, including those over the county border into Nottinghamshire. Roads in our Parish are already badly affected by an increase in heavy vehicles.
- It is felt that such developments should, where possible, be built in less populous areas, preferably easily accessed via major roads such as the A46.
- It is noted that this development does not seem to offer any additional employment as it is a largely automated site.
- Concerns were expressed about the inevitable issue of odour, despite the modernisation.

In the light of these observations, Thorney Parish Council feels it cannot support this application.”

**Harby Parish Council** – “No comment.”

**Collingham Parish Council** – “The Parish Council considered this application at its last meeting and voted unanimously not to support this proposal

The Material Planning reasons for this were:

- Traffic and
- Health & Safety

There was a great deal of concern about a development of this size and the impact that this would have should there be any requirement for a diversion from the A46/A1 or A57. As Collingham is the only principal village in the county with an A road through the middle, the use of the high street is not appropriate due to the resulting conflicts between an increased number vehicles and the existing village traffic and non-motorised users which inevitably will occur through the village.”

**Wigsley Parish Council** – no comments received.

**Spalford Parish Council** – no comments received.

**NCC Highways Authority** – “This application will have negligible impact on roads maintained by Nottinghamshire County Council. Therefore, no objections.”

**NCC, Landscape** – no comments received.

**NSDC, Environmental Health** – “I have looked at the application associated documents and in particular and the comments from the district council with regard to environmental controls.

I would see odour being the only issue that may have an impact on the Newark and Sherwood District. Whilst I share some of the concerns raised I am not aware that, in the past, we have received any substantial number of complaints about odour from this site and that is such a problem for me to formally object. However, the points raised with regard to odour are relevant and I would like to endorse the comments of North Kesteven DC.”

**NSDC, Conservation** – “We have reviewed the submitted planning application and do not wish to comment in this case. If you have any specific heritage concerns, please do not hesitate to get in touch.”

#### Comments of the Business Manager

#### **Principle of Development**

There is a national need to manage such waste in a sustainable manner. Some of the waste is used to produce fuels; the remainder of the waste is processed to form new products such as fertilisers, or new raw materials for use in cosmetics and animal feed. Therefore the proposal involves both waste recovery and recycling, thereby avoiding and minimizing the need for disposal. This process moves animal waste up the waste hierarchy which in general terms is consistent with the objectives of the NPPF, the NPPW and the National Waste Management Plan for England. Planning Practice Guidance advises that waste planning authorities should not assume that existing waste facilities are appropriate for expansion or extension; but should consider their impacts on environmental quality, community well-being and economic potential.

The application proposals are for the replacement of an existing plant and the applicant states that this is intended to process a similar through-put of waste material as at present, although the new facility would largely occupy a different part of the overall landholding. The existing established plant is to be decommissioned and demolished. It is concluded therefore that in general terms, the principle of the replacement of the existing ABP plant on the same site to process similar volumes as existing is considered to be acceptable.

Given the location of the site, outside our District boundary, the main planning considerations that need to be assessed by this proposal are those impacts that are felt at a distance from the site itself, by residents across the Nottinghamshire border, within our District. It is considered that these matters are largely restricted to matters of odour and traffic, which are set out in more detail below.

## **Odour Impacts**

Paragraph 170 of the NPPF requires that planning decisions should contribute to and enhance the natural and local environment by, among other things: 'preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water, noise pollution or land instability.' Appendix B of the NPPW and PPG identify odour and air quality as issues which should be addressed when determining planning applications for waste management developments.

The proposed plant would have a maximum capacity to process 40 tonnes of material per hour, using processing lines each with a limit of 20 tonnes per hour. This would lead to a total through-put of 5,760 tonnes per week, as a worst case scenario. However, the operating capacity and through-put of the existing plant is not known definitively, as this information is not known to the applicant (the site currently being under separate ownership) or North Kesteven District Council. This means that a direct comparison of through-puts between the existing and proposed plants at Skellingthorpe cannot be made.

The applicant maintains that for the purposes of assessing odour impacts and identifying criterion thresholds, the material to be processed at the plant should be placed in the "moderately offensive" category (within the Environment Agency's guidance on odour classification), due to the process systems and mitigation measures which would be in place to control and treat emissions.

North Kesteven District Council employed Odour Consultants alongside their own Environmental Health officers to advise them on these matters who consider that this is incorrect, and the "most offensive" odour categorisation should be used in assessing the impacts of the proposals – which Environment Agency guidance states includes 'processes involving decaying animal or fish remains'. This is considered to be an appropriately precautionary response, given the nature of the waste materials which would be handled. A key issue stemming from the ongoing disagreement regarding odour categorisation is that differing Odour Unit (OU) thresholds are applied depending on whether the activity is classed as 'most offensive' or 'moderately offensive'. The 'most offensive' category provides for a lower threshold for odour levels for sensitive receptors such as dwellings.

It is relevant in this respect that the plant proposed in this application would be permitted to handle Category 1 and 2 material, as well as Category 3 material. Category 1 & 2 animal wastes include materials such as decaying animal carcasses. These materials require different handling due to the greater hazards associated with them, compared to Category 3 materials which include food grade wastes including those otherwise fit for human consumption. The North Kesteven District Council's odour consultant has advised that there are several factors which could influence how odorous material might be – including how it is handled and transportation temperatures. This means that Category 1 and 2 material is not necessarily more odorous than Category 3 material.

However, other odour generation factors include the age of waste material, time taken to transport it for treatment, and the proportion of liquid to solid material. Furthermore, it is noted that there are fewer ABP plants (13 in the UK) licensed to handle Category 1 & 2 material across

the country than there are Category 3 plants (135 in the UK), so that there may be a tendency for those wastes with different odour profiles to travel further and for longer periods. The North Kesteven District Council's odour consultants advise that this could increase the potential for biological decomposition/degradation of the waste, in turn increasing the potential for odour generation compared with Category 3 material.

However, notwithstanding this, in terms of odour predictions North Kesteven's odour consultant advises that the applicant's additional information and general approach to odour modelling is broadly acceptable. The applicant has plotted predicted odour levels across the site and immediate surroundings arising from operation of the proposed plant. These indicate that none of the existing dwellings around site at Jerusalem Road would be close to the threshold criterion level, even if the waste material is assigned the "most offensive" category (rather than the "moderately offensive" category favoured by the applicant). This is an important finding, as it indicates that operation of the proposed plant itself is unlikely to have an unacceptable odour impact on the existing local community.

This view is reflected in the comments of NSDC's Environmental Health officer who considers that there is no ground to object to the proposals in relation to unacceptable odour impacts on residents within our District boundary, given they are located further away from the site than residents of North Kesteven who would be less than 300m from the proposed plant.

### **Highway Impacts**

It is acknowledged that road haulage will remain the predominant mode of transport for waste materials. It is also recognized that the varying sources of animal waste and level of investment required for an ABP processing plant (which would meet required environmental and health standards) are likely to mean that facilities will draw in material from across a widespread catchment. (Alternative means of waste transport are therefore unlikely to be a realistic option.) Waste will travel significant distances whether they are located in or near urban areas to relatively few processing plants.

This site is located a relatively short distance from the A46 trunk road, therefore providing good accessibility from waste sources in general terms. However, it is recognized that access to the site has to involve travelling along more minor roads to reach it, however, there is concern that there can be no guarantee that all lorries would use this trunk road as the only access to the site and that rural Nottinghamshire roads through villages may be used.

The application contains a transport statement within the Environmental Statement which assumes that lorries and other traffic to and from the new plant would not exceed those of the current plant, as waste through-put would remain the same. Based on traffic count data for the existing plant, the assessment suggests that there would be in the order of 123 lorry movements (roughly 62 in, 62 out) in any 24 hour period. Staff and other vehicle movements are also predicted to stay the same, measured at 176 movements (88 in, 88 out).

The applicant proposes to formalize the current informal arrangements to require vehicles to adhere to a routing agreement to ensure HGV's travel to and from the site from the south, thereby avoiding passing through the main part of Skellingthorpe. Despite further information being requested by LCC from the applicant regarding proposed HGV routing plans, no further information has been submitted relating to any Nottinghamshire roads and villages. The applicant maintains that it is appropriate to continue to route HGV traffic through the village of Doddington, which is located much closer to the site.

The Highway Authority at NCC has not raised any objection to the proposals on highway grounds, and neither has the Highway Authority at LCC.

Whilst a routing agreement could be secured via a S106 planning obligation, given that there are no restrictions on current HGV routing, and that similar levels of HGV movements are anticipated, it is also considered that an on-going objection on these grounds would not be sustainable, and so is not supported – however clearly this would be a matter for the decision maker to consider.

## **Conclusion**

It is clear that the proposed development is likely to have indirect effects on the residents that live close to the north-eastern boundary of our District. These impacts are considered to be largely matters of odour and local HGV movements. The information presented in relation to odour has led to both NSDC and NKDC Environmental Health officer's as well as odour consultants employed by NKDC concluding that the proposed new plant would not result in unacceptable levels of odours by receptors adjacent to and locally within the area.

Given the existing ABP plant on the site with a similar capacity level can currently operate without routing restrictions, it is considered that an objection would not be sustainable on the grounds of the movement of HGV's on rural roads and through Nottinghamshire villages. Furthermore, neither the Nottinghamshire nor Lincolnshire Highway Authorities have raised any objection in this regard.

As such, provided the cessation of the existing processing plant on the site prior to the commencement of the new processing plant can be properly secured, it is recommended that a consultation of "no objection" be referred to Lincolnshire County Council as the determining authority of this application.

## **RECOMMENDATION**

**That NSDC raise no objection to the scheme.**

## **BACKGROUND PAPERS**

Application case file.

For further information, please contact Julia Lockwood on ext 5902.

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

**Matt Lamb**  
**Director of Growth & Regeneration**



## REPORT TO PLANNING COMMITTEE – 23 JULY 2019

### REVIEW: SCHEME OF DELEGATION

#### Introduction

The current Scheme of Delegation (SoD) forms part of the Council's Constitution and sets out a set of criteria for committee and officer decisions.

The purpose of this report is to set out the findings of an internal review of the SoD in relation to planning matters and to request that Members consider amending the SoD in line with the concluding recommendations. Should the Planning Committee support the proposed changes, the matter would then be advanced to the Councillors Commission and finally Full Council in due course.

The reason for the review is due to a number of factors.

- The SoD was last updated in July 2018. It is best practice to review this from time to time and it makes sense to do this early into the new Council's administrative term.
- Also of importance is to see if there is scope to reduce the size and frequency of agendas (and the length of time that these meetings last) thereby reducing Member time and officer resources. More importantly by reducing agenda sizes it would help focus attention on the more complex and strategic applications as well as improving the (perceived) quality of decision making, particularly towards the end of long committee meetings.
- Furthermore, reducing the number of planning matters that need to be reported to the Planning Committee should assist in helping to meet the stretched internal performance targets introduced in the NSDC Community Plan (adopted 2019) which aspires that 90% of all applications should be determined within a specified target date, as opposed to current national performance targets of 60%, 65% and 80% depending on the type of application.
- There are a number of application types that the SoD does not currently capture which needs to be rectified, such as the new 'Planning in Principle' and 'Technical Details Consent' application type.

#### Scope of Review

This review has focused upon the SoD which in simple terms is what effectively sets the agenda for who determines what.

The operational elements of how the Committee is serviced, arrangements for site inspections, the amount of debate, officer presentations and public speaking are all matters for the Planning Committee itself to review. They do not require any decision-making at a constitutional level, which this report seeks to cover. I am aware for example that public speaking has been examined previously and there was no appetite to allow this beyond the existing arrangements which allows for a representative of the Town/Parish Council and Local Ward Member to address the committee for 5 minutes each. This was on the basis, I understand, that Town/Parish Councils are elected to represent the voice of their parishioners as a whole. Additionally I understand it was concluded that allowing third party members of the public and applicants/agents to speak would

be unacceptably disproportionate in terms of capturing the material planning considerations of relevance. Members are invited to review public speak as part of any operational review of the Committee once it has been operational for 6 months in the new Council cycle.

**PART 1: REVIEW OF EXISTING COMMITTEE ARRANGEMENTS**

**Existing Committee Arrangements at NSDC**

The Local Planning Authority as a whole generally deals with over 1,000 planning and related applications a year.

The Planning Committee at Newark and Sherwood District Council (NSDC) is scheduled to meet once a month. Over the past few years a number of additional committee meetings have been required due to the volume and importance of applications requiring determination.

During 2017, an additional four committees (so 16 for the whole year) had to be scheduled due to complexities and volume of matters and during 2016 an additional 3 committee meetings were held.

During 2018 there were a total of 14 planning committee meetings starting at 4pm lasting on occasions for almost 4 hours. Last year alone the time spent in planning committee was 39h12m minutes, excluding site inspections, which are ordinarily conducted by bus on the morning of the planning committee.

This pattern looks set to continue into 2019 as the number of applications being determined by the planning committee during the first quarter was 43, (a total sitting time of 10hrs46m) averaging at over 14 applications per month. Furthermore, the June committee meeting opened at 4pm and lasted until almost 9pm.

**Existing Committee Arrangements at other Authorities**

*Frequency of Meetings*

Like NSDC, most authorities meet monthly. South Kesteven meet 3-weekly and North Kesteven District Council only meeting when required, which was 5 times during 2018. Some authorities held additional meetings (Rushcliffe and Bolsover) during 2018. The number of meetings together with the sitting time of the committee meetings is set out in the table below for comparative purposes:

*Table 1: Other Authority Committee Arrangements*

<b>Council</b>	<b>Total 2018 hours</b>	<b>Total number of meetings 2018</b>	<b>Site visit?</b>
Mansfield District council	Not specified	13	Not stated
Bassetlaw District Council	16hrs 49 mins	11	yes
Rushcliffe Borough Council	35hrs 15 mins	14	Not stated

Gedling Borough Council	10hrs 16 mins	11	Not stated
Bolsover*	12hrs 6 mins (2 extraordinary meeting timings unknown)	12	yes
South Kesteven District Council	43hrs 28 mins	13	yes
North Kesteven District Council	7hrs 53mins	5	Not Stated
West Lindsey District Council	14hrs 8mins	12	yes
Broxtowe	Not specified	12	yes
<b>Newark &amp; Sherwood District Council</b>	<b>39 hrs 12 mins</b>	<b>14</b>	<b>yes</b>

(\*): Cancelled meetings on the 10<sup>th</sup> of January and the 11<sup>th</sup> of April due to lack of business. Hosted extraordinary meetings on 18<sup>th</sup> of April and 26<sup>th</sup> of June

As can be seen from the table above, the NSDC Planning Committee is amongst the council's having the longest sitting time, second only to SKDC who sat for longer, bearing in mind they meet 3 weekly. North Kesteven sat for just 7hrs 53m over the entire year, with the average sitting time for the council's where data was available being 16h 38m.

#### *Levels of Delegation*

In order to inform options for potential amendments to the SoD, analysis was initially undertaken on the applications considered by NSDC planning committee during the first quarter of 2019 in terms of agenda sizes which was then compared to other authorities. It was established that during the first quarter (January to March 2019) the Planning Committee at NSDC determined 43 applications (see Table 2 below), which was the highest in the sample of other authorities considered and over 3 times the average of the other authorities combined.

*Table 2: Number of applications determined by committees during Quarter 1 of 2019*

<b>Name of Authority</b>	<b>Number of Applications determined in Q1, 2019</b>
<i>Newark &amp; Sherwood District Council</i>	43
Mansfield District Council	12
Bassetlaw District Council	10
Rushcliffe Borough Council	16
Gedling Borough Council	17
Bolsover	3
South Kesteven District Council	10
North Kesteven District Council	0
West Lindsey District Council	10
Broxtowe	19
<b>Average</b>	<b>14 (an average of 4.66 items per committee)</b>

It was also established that the level of delegation at NSDC was 88.75% in 2018 which is lower than other authorities (where figures have been provided) which the table below sets out.

Table 3: Levels of Delegation in 2018 by Council

<b>Name of Authority</b>	<b>% of Delegation in 2018</b>
<i>Newark &amp; Sherwood District Council</i>	88.75
Mansfield District Council	90
Rushcliffe Borough Council	96
Gedling Borough Council	95
Erewash	92
Broxtowe	92
<b>Average</b>	<b>92.29%</b>

### **Existing Scheme of Delegation at NSDC**

The existing SoD is attached for your convenience. However in simple terms the existing scheme of delegation sets out the following:

Applications that **WILL** be determined by the Planning Committee:

- Major applications (10 dwellings or more, floorspace of 1,000m<sup>2</sup> or greater, site area of 1 hectare or more) where officer recommendation does not align with views of Parish/Town Council, or where contrary to view of a statutory consultee\*;
- Minor applications of between 1 and 9 dwellings including Gypsy and Traveller Sites, where the officer recommendation doesn't align with Parish/Town Council views or statutory consultee\*;
- Applications referred by Ward Councillor or adjacent ward Councillor and there are planning reasons for this;
- They would either generate significant employment or where submitted by community or voluntary organisation and result in community benefit and would otherwise be refused;
- Applications made by Members or officers that have direct involvement in the application.

\* provided the view is based on material planning considerations

Applications that will **NOT** be determined by the Planning Committee where:

- Major applications where the recommendation aligns with the views of the Town/Parish Council;
- All applications where recommendation is in line with representations from all consultees (but doesn't necessarily align with views of neighbours)
- All applications where the recommendation for refusal is based on Environment Agency representation regardless of others support;
- Highways England have directed refusal;
- All non-housing minor applications (including applications on sites of less than 1 hectare in size or are 999m<sup>2</sup> or less in new floorspace, householders, changes of use, listed building consents, advertisement consents, plus notifications) contrary to views of Parish/Town Council's/statutory consultee.

The existing SoD refers to Q codes (codes used to categorize the type of applications and these are used in the planning performance returns submitted quarterly to the government) which can be confusing as these have changed over time. It is therefore proposed that reference to these codes

is deleted to simplify matters.

### **Existing Schemes of Delegation at Other Authorities**

There are many ways in which other Authorities set out their SoD and committee arrangements.

For example Gedling Borough Council only take 'major' application types to the committee or those submitted by officers or members.

Rushcliffe Borough Council underwent a Review by the Planning Advisory Service (PAS; a peer review) in 2017 and the result made amendments to the SoD so that the main driver for what needs to be determined by the committee is now the local ward member's views rather than those of the parishes or town council's.

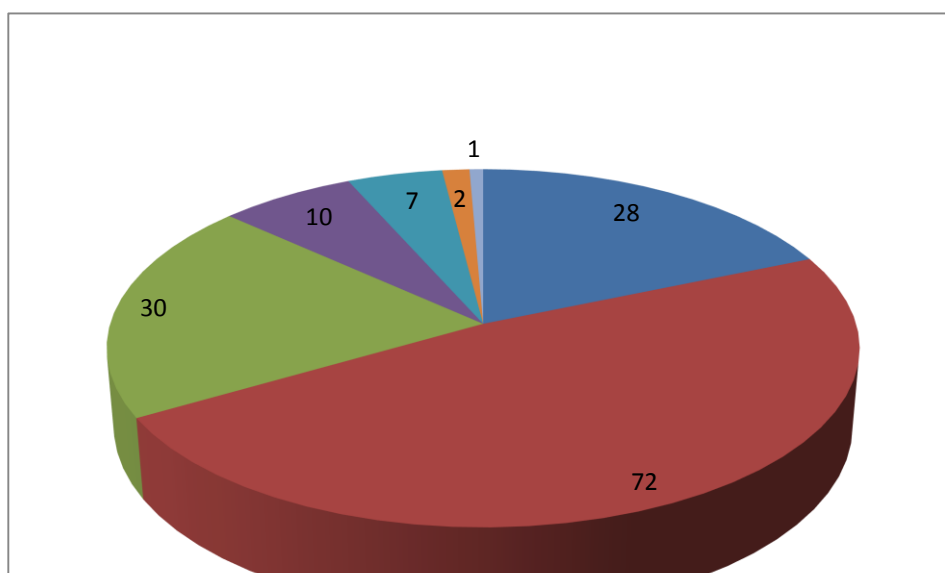
Other Authorities such as Mansfield District Council are able to delegate most non-major applications so long as there are less than three objections and this has been agreed with the Head of Services and the Chair plus another member of the planning committee. Erewash Borough Council delegate all decisions unless they receive 4 or more representations, are called in by members, are a departure to the Development Plan or are council applications or on land the council owns. These are just a few examples of how others choose service their functions.

### **Types of Applications being considered by NSDC Committee**

A detailed analysis of the types of applications that are being considered by the NSDC planning committee over a sample period of one year (2018) has been undertaken.

As can be seen from the figure below, it was established that of the 150 applications that Members considered (it should be noted that some of these 150 applications had to be considered by the committee on more than 1 occasion for various reasons) the majority were minor dwellings (between 1 and 9 dwellings) followed by other minor applications (including non-residential applications with floor space of 999m<sup>2</sup> or less, site areas of 1 ha or less, changes of use etc) followed by majors (all types) with householders, listed buildings, advertisements and neighbouring planning authority consultations following.

*Figure 1: Type of Applications determined by Committee 2018*



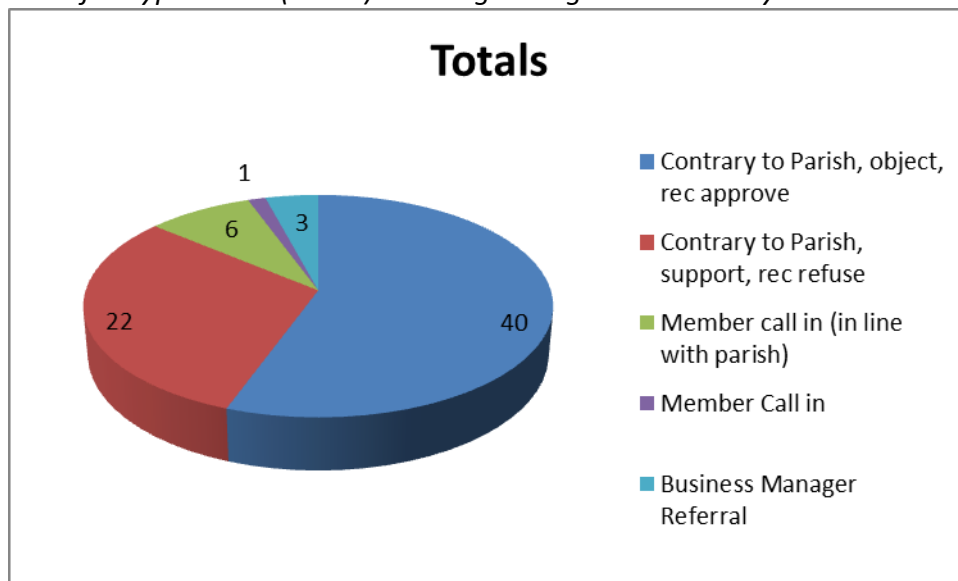
## Reasons why Applications were considered by NSDC Committee

Having established which types of application were determined by the committee, attention was then turned by the reasons as to why these required committee consideration.

### Minor Dwellings

The majority (72 in no.) of applications determined by the planning committee were for between 1 and 9 dwellings (minor dwellings type) during 2018. The reasons for this are presented in the table below:

*Figure 2: Reasons for Type Minor (1 to 9) dwellings being determined by committee in 2018*

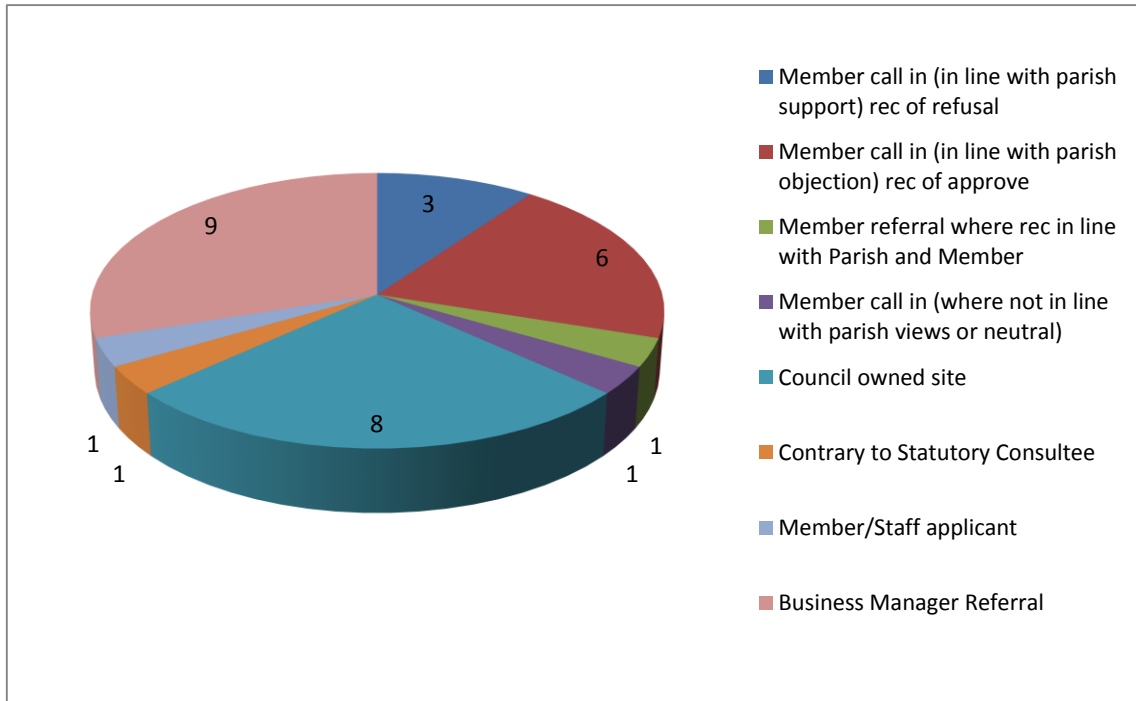


As can be seen, the vast majority of these types of applications were determined by the Planning Committee because the officer recommendation was for approval, contrary to the view of the Parish or Town Councils. The second highest reason was where, conversely, the recommendation was for refusal but the Parish/Town Council supported the scheme. Most member referrals were in line with the views of the Town/Parish Council (so would have gone to committee anyway) with only 1 being referred by Members either against the Town/Parish views or where they were silent. Three were determined based on the Business Manager referring these to committee under existing arrangements as it was judged that these cases warranted debate by the committee.

### All other 'minor' developments

The current SoD does not require applications that are non-residential minor types of development to be determined by committee where the recommendation is contrary to the parish or town councils view. Therefore the reasons why these are determined at committee are different. The figure below shows that the majority of time, they are called to committee by Members (9 in total) with referrals by the Business Manager following closely behind with council owned sites being the third most frequent reason they go before the committee.

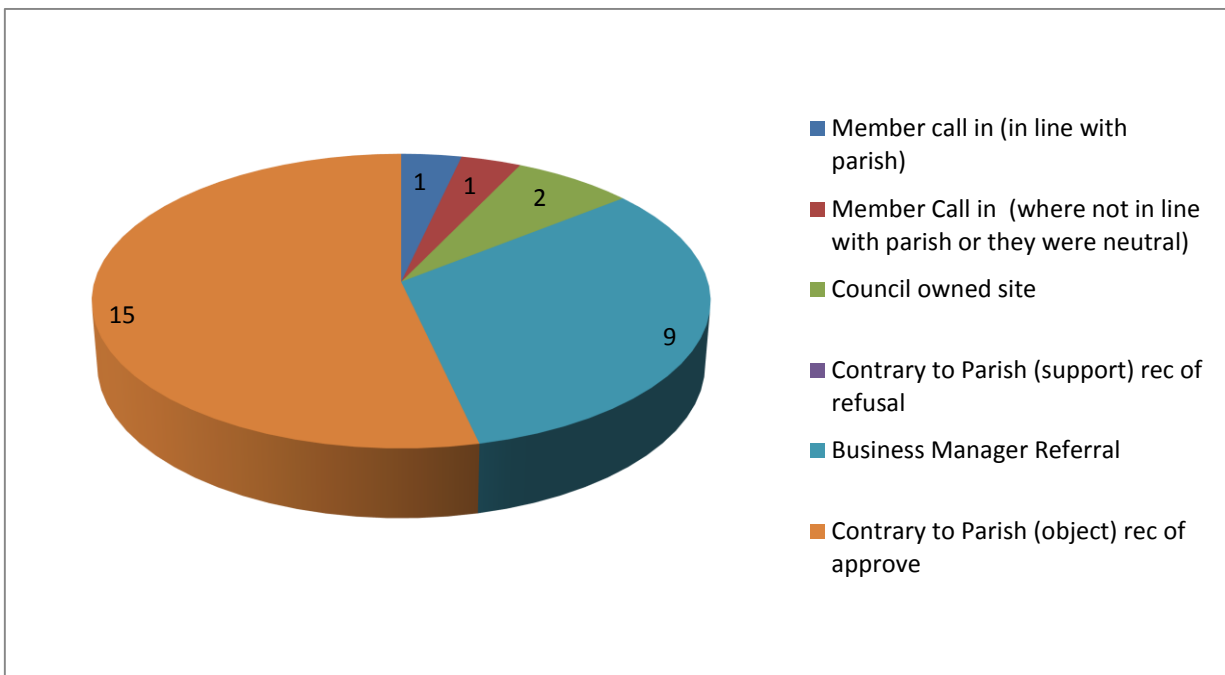
Figure 3: Reasons for Type Minor non-residential types of applications being determined by committee in 2018



All Major Applications

The vast majority of major applications are determined by the committee because the officer recommendation does not align with the views of the parish/town council. The Business Manager referrals include applications that are particularly controversial or sometimes relate to schemes which are at appeal and require members to provide a steer in order to help successfully defend a previous decision. The figure below shows the split.

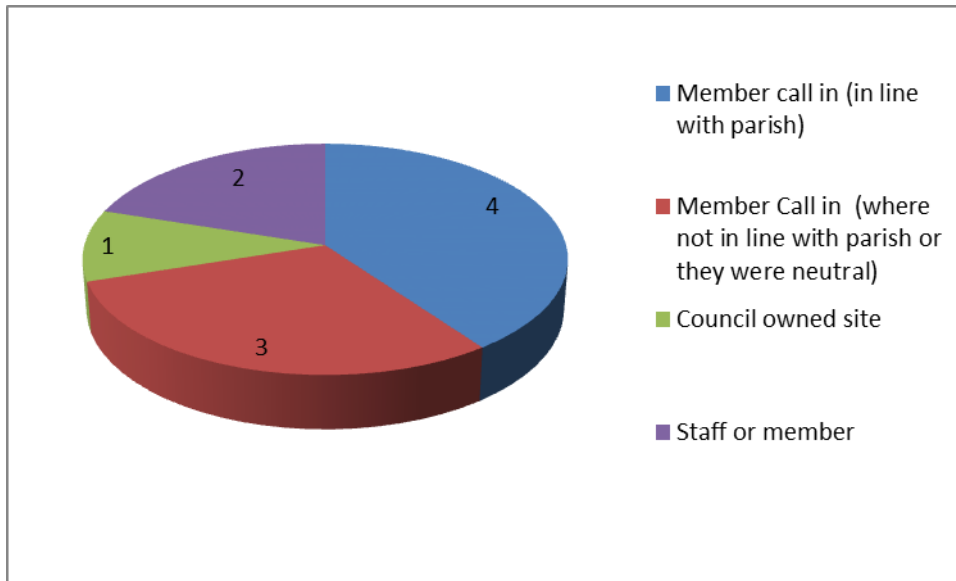
Figure 4: Reasons for 'Major' applications types determined by the committee in 2018



### Householder applications

The current SoD requires householder applications to be determined by the committee only where these have been referred by members, where the site is owned by the Council or where a staff member or councilor has had a direct involvement in the scheme; such as they are the applicant. Over the year 10 such applications were determined by the committee, which whilst not seeming many, is almost the size of a current planning committee agenda.

*Figure 5: Reasons for 'Householder' applications types determined by the committee in 2018*



### Other types of applications

Other types of applications include 7 listed building applications, a neighbouring planning authority consultation requiring member input and an advertisement consent. The principal reason that the 7 listed building applications were presented to the committee was because these were associated applications that related to another type of application also on an agenda. Whilst not all were not necessarily required to be determined by committee, they were taken for completeness and consistency. No further analysis was considered necessary for these application types given the relatively low numbers involved.

## **PART 2: PROPOSED CHANGES TO THE SCHEME OF DELEGATION**

Based on the findings of the analysis undertaken, a number of options were considered as to how the SoD could be amended in order to achieve the objectives.

These options center largely around the way in which minor dwelling applications types are considered given that these were the largest type of applications that committee considered last year.

### Option 1

Considers changes as follows:



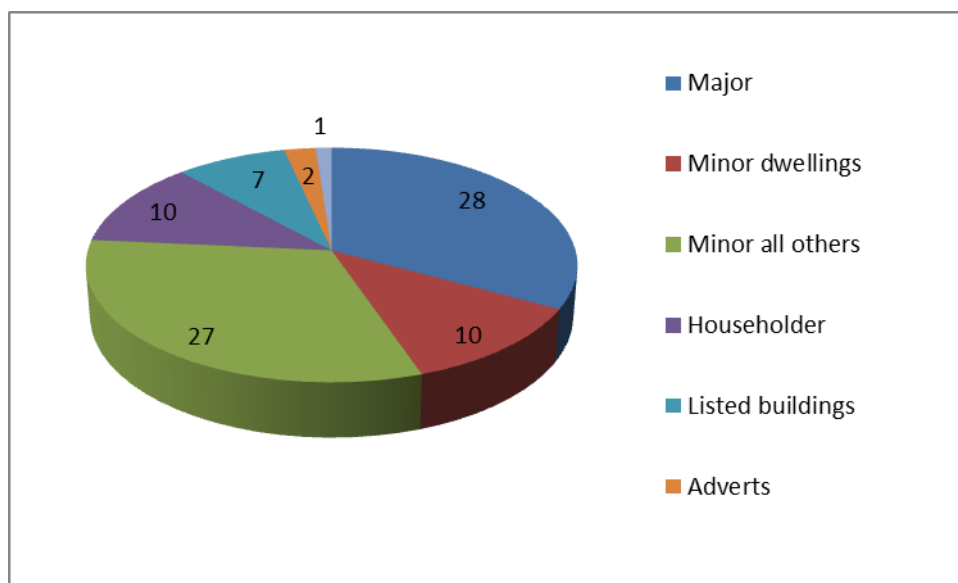
➤ **Minor Dwellings to be delegated contrary to Parish/Town Council regardless of the professional recommendation**

Removing the need to refer minor dwelling applications where that recommendation is contrary to parish/town council (regardless of what that recommendation is) to the committee would allow a greater increase in delegation which more aligns with how other councils operate. In other words, it would allow all minor application types to be treated in the same way whereby they would only go before committee if they were called in by a Member.

This option is caveated that there would be a new onus on the case officer to first contact the local ward Member(s) to discuss the application and allow them the opportunity of ‘referring’ the application to committee. This would increase dialogue and fostering and improving good member-officer relations.

Profiled over the year of 2018 it would have reduced the number of matters presented to committee by 43.33% to 85 items if this had been in place. It may have negated the need for the two additional committee’s and would have produced an average agenda size (taken over 12 months) to c7 items. This is what the types of application would have looked like if this approach had been undertaken.

Figure 6: Example annual agenda on basis of Option 1



It would of course be reasonable to assume that should this option be adopted, Members may choose to refer a proportion of minor housing type applications to committee as they currently do for non-residential minor developments. If this amendment resulted in a similar level of referrals to those experienced now for the non-residential applications it would be reasonable to assume that this may increase agenda sizes by 17 to 102 per year which would result in agenda sizes of around 10 per month. As such setting out clearer criteria for Member referrals is considered appropriate which will be explored shortly.

Option 2

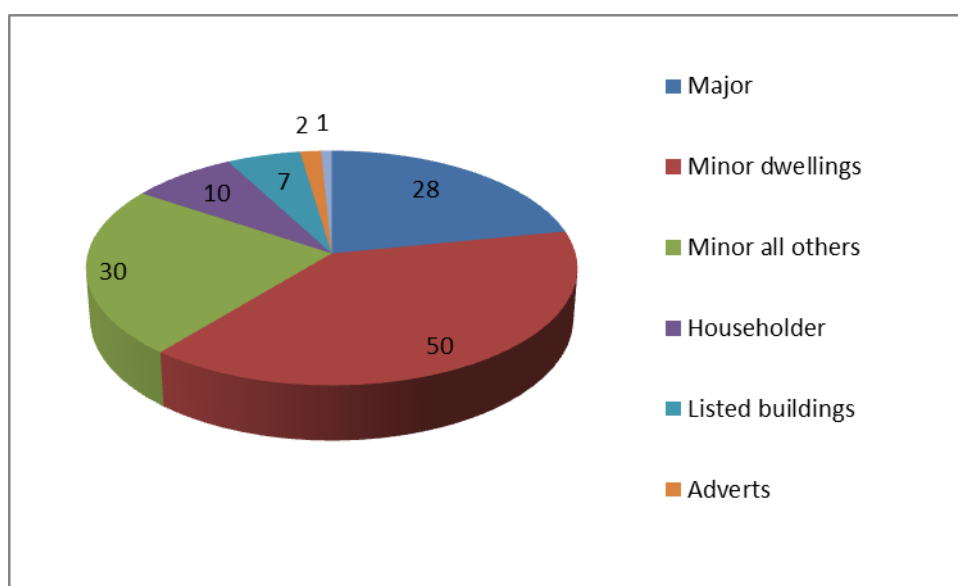
Considers changes as follows:

➤ **Minor Dwellings to be delegated Contrary to Parish/Town Council where officer recommendation is for refusal only**

Officers have considered other options including the option that minor dwellings could be delegated where the recommendation is for refusal only regardless of Town/Parish Councils support. This was attractive on the basis that there is a right of appeal for refusals that can be exercised.

However profiled over the year of 2018 it would have reduced the number of matters presented to committee by just 14.66%, from 150 to 128 which in my view, does not go far enough in reducing the volume of matters for committee to consider. As illustrated by the figure below this still would mean that the majority of applications determined by the committee remain as minor dwellings; Figure 7 illustrates what would this would have meant for committees during 2018 if this had been in place. I am aware that where the Planning Advisory Service (PAS) has been involved in reviews of other Council’s committee arrangements one of the criticisms that has been levelled, is that committee were focusing on minor developments rather than operating on a more strategic level and dealing with major schemes, which could well be the case here with this option.

Figure 7: Example annual agenda on basis of Option 2



Option 3

Considers firming up:

➤ **Member Call In/Referral Powers**

Members currently have powers to call in applications/cases to the committee. In simple terms this operates as follows:

Local Members call in powers for their own ward provided:

- A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.
- The request sets out clear planning reasons behind the referral request.

- The recommendation of officers is different to the opinion of the local member having regard to the interests of their ward area.

Adjacent Ward Members have call in powers subject to the above 3 criteria provided also that:

- The relevant ward members has been notified prior to the request being made

Any Member may call in any application where in their opinion it would have a material impact on the whole or part of their ward subject to the above 4 criteria and subject to:

- The Group Leader of the relevant group of the Members making the request has agreed to the referral

All of these are currently determined at the discretion of the lead planning professional (usually the Business Manager) together with the Chair and Vice Chair.

This current system operates reasonably well however would benefit from minor changes. As discussed above, it is considered appropriate that in exchange for allowing more delegation, there should be a more open dialogue between Members and officers such that a new caveat is proposed so that before the application is referred to committee the Member first discusses the application with the case officer or lead planning professional. In practice this already occurs but this proposed change would seek to firm up the process. Finally the lead planning professional together with Chair and Vice Chair will then need to be satisfied that the reasons for call in are based on planning grounds that warrant debate by the Planning Committee.

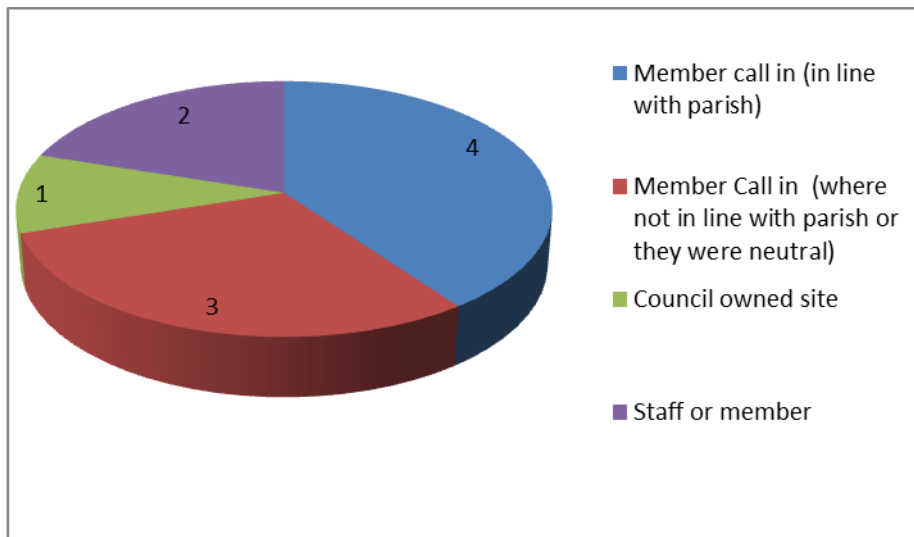
#### Option 4

Considers changes as follows:

##### ➤ **Possible Change to Householder Call-In**

Given that householder applications regularly feature on planning committee agenda's, consideration has been given to how more delegation could take place for these types of applications. Householder applications only go before the committee when called in by the local Member. One possibility could be that these Member referrals are required to align with the views of the Parish Council unless agreed otherwise by Chair and Vice Chair. However of the 10 householder applications that were determined by the committee during 2018, this would only have reduced the number that would have gone by 3 applications as demonstrated below. It is therefore not recommended that this be specifically amended at this time. It is hoped that the minor changes to the reinforcement of the Member call in process which seeks to open dialogue will assist with this.

*Figure 8: Example annual agenda on basis of Option 4*



### Option 5

Considers changes as follows:

- **Applications to Vary or Remove Planning Conditions not automatically determined by Committee**

It is also recommended that Members consider removing the need to take applications to the planning committee where applications are made pursuant to Section 73 of the Planning Act (i.e. they relate to the proposed removal or variation of planning conditions) regardless of the parish or town council's views unless the parish/town council's comments give rise to any new material planning impacts not previously considered.

This is recommended because sometimes a parish/town council might object to the principle of the development or a highway impact when the council is only tasked with looking at for example a design change to a dwelling and is not able to reconsider the matters which have been raised as objections again. This would reduce false hope of the matter being considered afresh when decision makers are simply not able to.

Last year there were 11 such applications that were determined by the committee, the majority of these were relating to minor dwellings so would be potentially be reduced if changes were made to the SoD in respect of these anyway. Having reviewed the statistics on this, it may have avoided 3 applications being brought before the committee overall.

These applications will from now on have a new suffix of S73 or S73M (instead of FUL/OUT etc) to assist in these types of applications being easily identifiable.

### Option 6

Considers changes as follows:

- **Major Applications where Parish/Town Council Support Contrary to Recommendation**

Another option that has been explored is for officers being able to delegate major applications for refusal even when the parish/town council support these. This was not a situation that arose

during 2018 and overall it is not considered a matter that needs to be amended at this time.

## **Conclusions**

This review has shown that the 'planned' frequency of Planning Committees of once per month generally works well and is consistent with how other authorities operate in our area generally. Additional planning committee's over and above the 12 planned meetings each year could potentially be avoided if more delegation was possible, albeit there is on occasions a necessity for additional committees for other reasons. No changes are recommended to the general frequency of meetings.

The current level of delegation at 88.75% is amongst the lowest compared to other Council's in the area. During the first quarter of this year, at 43 items, NSDC Planning Committee determined more than 3 times more than the average number of items than other authorities in a sample comparison. The average committee sitting times for last year amongst peers was 16h38m whereas NSDC sat for more than double that time (39h 12m) over the year, excluding site visits. Officers are acutely aware that decision making needs to be fair and equitable to all, which when agendas are long can be perceived by some to not help with this given concentration levels naturally drop as meetings run on.

The majority of matters that currently need to be determined by the Planning Committee are 'minor dwellings' (between 1 and 9 dwellings) types and this is largely because the officer recommendation is contrary to the Parish/Town Councils which under the current SoD requires committee intervention.

If these were able to be delegated, subject first to liaising with the local ward member, without reference to the committee it could (if profiled against last year's agendas) increase delegation to 92.05% and result in more manageable committee agenda sizes. This would also align with the average levels of delegation across other authorities that were considered. The matters on the committee are likely then to relate to major and more complex applications of importance to the district. Members would retain their call in powers subject to a number of caveats, with a new one of requiring discussion with the case officers first and convincing the Chair and Vice Chair of the Planning Committee and the lead planning officer (usually the Business Manager or Senior, known as the Authorised Officer in the attached SoD) that it warrants debate by the committee.

Other proposed amendments relate to not automatically bringing applications for the variation or removal of conditions back to committee, regardless of Parish/Town Council views unless new material planning issues have been raised which the decision would influence.

Of the options considered above it is recommended that options 1, 3 and 5 are all pursued.

## **OVERALL RECOMMENDATIONS**

That the attached proposed revisions to the SoD are noted and Members consider ratifying the following recommendation to the Councillor's Commission:

These changes summarized are that **ALL 3** of these options are taken forward:

- **Option 1:** Minor Dwellings to be delegated Contrary to Parish/Town Council regardless of the professional recommendation subject to officers first contacting the relevant Local

- Ward Member(s) to allow opportunity of referral; **and**
- **Option 3:** More Clarity on Member referral/call in powers; **and**
  - **Option 5:** Removing the need to take applications (major and minor types) to the planning committee where applications relate to the proposed removal or variation of planning conditions regardless of the parish or town council's views unless the parish/town council's comments give rise to any new material planning impacts not previously considered.

Background Papers

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

**Matt Lamb**  
**Director for Growth and Regeneration**

## **APPENDIX 1: PROPOSED CHANGES TO THE COUNCIL'S CONSTITUTION**

Members will be aware that under the terms of the Council's constitution the Planning Committee is able to delegate any matters within its remit to Officers.

As set out in the accompanying report, it is proposed to amend the Scheme of Delegation to allow a greater level of delegation. In addition I also seek to add matters of clarification for the avoidance of any doubt.

The Scheme of Delegation (SoD) outlines which applications and notices of various types are normally determined at Planning Committee and which are determined by an Authorised Officer of the Council.

The following sets out the approved SoD with ~~striketrough~~ text used where it is proposed to be omitted and **bolded text** where it is new or amended. Members will note that reference to DCLG codes has been omitted to simplify matters. The main change is that the emphasis has flipped, with the default position now being that the Authorised Officer may determine matters and applications unless expressly stated within the list of exceptions.

### **"PART 2 of the Constitution, Scheme of Delegation**

The following functions are those of the Local Planning Authority which under the Constitution are delegated to the Planning Committee. It is then for the Planning Committee to allow further delegation to Authorised Officers.

#### **"PLANNING COMMITTEE**

Remit

- 1.0 To discharge functions relating to town and country planning and development ~~control~~ **management**, including:
  - 1.1 Power to determine applications for planning permission.
  - 1.2 Power to determine applications to develop land without compliance with conditions previously attached.
  - 1.3 Power to grant planning permission for development already carried out.
  - 1.4 Power to decline to determine any application for planning permission.
  - 1.5 Duties relating to the making of determinations of planning applications.
  - 1.6 Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
  - 1.7 Power to respond to consultation by neighbouring local planning authorities or the Secretary of State.
  - 1.8 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
  - 1.9 Power to determine applications for Non Material Amendments to a planning permission.
  - 1.10 Power to discharge or refuse to discharge planning conditions attached to a planning permission or any other relevant consents.
  - 1.11 Power to enter into **and vary** agreements regulating development or use of land.
  - 1.12 Power to issue a certificate of existing or proposed lawful use or development, **including those under Listed Building powers.**
  - 1.13 Power to serve a completion notice.
  - 1.14 Power to grant consent for the display of advertisements.
  - 1.15 Power to authorise entry onto land.

- 1.16 Power to require the discontinuance of a use of land.
  - 1.17 Power to determine whether it is expedient to take enforcement action in instances where there has been a breach of planning control.
  - 1.18 Power to serve a planning contravention notice, breach of condition notice temporary stop notice or a requisition for information or stop notice.
  - 1.19 Power to issue an enforcement notice.
  - 1.20 Power to apply for an injunction restraining a breach of planning control.
  - 1.21 Power to determine applications for hazardous substances consent and related powers.
  - 1.22 Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
  - 1.23 Power to require proper maintenance of land.
  - 1.24 Power to determine applications for listed building consent and related powers **granted to local authorities pursuant to the Listed Building and Conservation Areas Act 1990.**
  - 1.25 Power to determine applications for ~~conservation area consent~~ **Permissions in Principle and the related Technical Details Consent.**
  - 1.26 Duties relating to applications for listed building consent, ~~and~~ **conservation areas, Listed Building Heritage Partnership Agreements, and Local Listed Building Consent Orders consent.**
  - 1.27 Power to serve a building preservation notice and related powers.
  - 1.28 Power to issue enforcement notices and related powers.
  - 1.29 Power to take action under Sections 224 and 225 of the Town and Country Planning Act 1990 - enforcement of control over advertisements, and regulations made under section 220 thereof.
  - 1.30 Powers to acquire a listed building in need of repair and to serve a repair notice.
  - 1.31 Power to apply for an injunction in relation to a listed building.
  - 1.32 Power to execute urgent works **and recover costs by any appropriate means.**
  - 1.33 Rights of way functions for which the Council is responsible.
  - 1.34 Protection and preservation of trees and hedgerows, including as necessary the making, confirmation, modification and revocation of Tree Preservation Orders.
  - 1.35 Power to determine applications for works and felling of trees covered by a Tree Preservation Order.
  - 1.36 Power to determine notifications for works to Trees in Conservation Areas.
  - 1.37 To exercise the Council's powers with regard to the Hedgerows Regulations 1997.
  - 1.38 To exercise the Council's powers with regard to the Community Infrastructure Levy Regulations 2010 (as amended).**
  - 1.39 Power to determine prior approval notifications and consents.**
  - 1.40 Power to make screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).**
- 2.0 To consider and make recommendations to the Policy & Finance Committee and/or Council on the formulation of the Local Development Framework and other plans, policies, protocols or guidance impacting on functions within the remit of the committee.
  - 3.0 Power to make payments or provide other benefits in cases of maladministration ~~etc~~ **and in respect of the local settlement of complaints** pursuant to Section 92 of the Local Government Act 2000 in respect of matters falling within the remit of **the planning function.**
  - 4.0 To make recommendations to the Policy & Finance Committee and Council on the formulation of the budget insofar as it impacts on the remit of this Committee.



**NOTE:**

~~Some of the functions set out above are delegated to officers (see Section 6 post). However, for the avoidance of doubt, the following functions, are expressly reserved to committee for determination and cannot be discharged by an officer:~~

**The functions set out above are delegated to officers with the exception of the following functions, which are expressly reserved to committee for determination and cannot be discharged by an officer:**

- ~~1. Planning applications which involve a significant departure from the statutory development plan.~~
- 2. 1 Applications submitted on behalf of the Council or where the Council has an interest in the development save for any applications submitted on behalf of the Council or where the Council has an interest in the development as part of its HRA housing development programme.**
- 3. 2 Matters of significance to the district or which may potentially give rise to significant financial consequences except in cases of extreme urgency where delegated powers may be exercised.**

~~The Planning Committee has approved the following Scheme of Delegation. It outlines which applications are normally determined at Planning Committee and which are determined by an Authorised Officer of the Council.~~

~~Below are the details of the Scheme of Delegation operated by the Council. The Authorised Officer(s) of the Council may determine the following planning and related applications without reference to Planning Committee:~~

- ~~1. Applications for smaller developments, (DCLG Codes 14-27 excluding 17 Gypsy & Traveller Pitches)[previously codes 10-19], and applications for prior notification in relation to, agricultural works, telecommunications, tree and hedgerow removal works can be dealt with under delegated powers by the Authorised Officer of the Council having considered comments received in relation to the application.~~

~~The Authorised Officer(s) of the Council may determine all applications and deal with all matters listed above with the exception of the following which will be reported to Planning Committee in the following circumstances:~~

- ~~1. 3. Minor or All major applications (defined as 10 or more dwellings, where new floor space would be 1,000m<sup>2</sup> or greater or have a site area of 1 hectare or greater) for residential (including Gypsy and Traveller Pitches), office, industrial, storage, distribution or retail developments (DCLG Codes 1-13 and 17)[previously codes 1-9] can be dealt with as follows: where:~~
  - The recommendation is contrary to the response received from the Town or Parish Council or Parish Meeting, provided that such a response is based on material planning considerations<sup>1</sup> unless the recommendation is for refusal based on The Environment Agency's representations or Highways England direct refusal of an application regardless of whether or not other consultees support the application; or**
  - The recommendation is contrary to the response received from a statutory consultee.**

4. The relevant planning application has been submitted by a community or voluntary organisation, a town or parish council or a social enterprise and could in the opinion of the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee, result in a significant community benefit and would otherwise be recommended by officers for refusal.
  - ~~The relevant planning application involves a commercial proposal which could potentially deliver significant employment opportunities (the determination of "significant" to be decided by the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee (significant to be determined according to local circumstances) and the application would otherwise be recommended by officers for refusal.~~

~~An application may be determined under delegated powers by an Authorised Officer of the Council when:~~

- ~~The decision is in accordance with the representations received from all consultees;~~
- ~~The decision accords with representations from statutory consultees and the Town/Parish Council (provided such a response is based on material planning considerations<sup>1</sup>) but is contrary to representations from non-statutory consultees, such as neighbours;~~
- ~~The decision is for refusal based on The Environment Agency's representation whether or not other consultees are supporting the application;~~
- ~~The Highways Agency direct refusal of an application;~~
- ~~Representations raise only non-planning matters.~~

~~3-~~

5. Applications which have been submitted by District Councillors, Senior Officers\* or Officers who may otherwise have a direct involvement in the determination of the application or where Councillors or Officers have a direct interest in the application, will be determined by Planning Committee. (\*Senior Officers shall be defined as Chief Officers and Deputy Chief Officers as defined by the Local Government and Housing Act 1989 (currently members of the Corporate Management Team and Business Managers)

~~4-~~

6. Where an Authorised Officer has delegated powers he or she may refer the matter to Planning Committee for determination rather than exercise that delegated authority themselves particularly where, in their judgement, the specifics of an application warrant determination by the Planning Committee.

### Caveats

- A) Where a major application is made under Section 73 of the Act to vary or remove planning conditions these will only be considered by the planning committee where they raise new material planning impacts arising from the subject of the conditions themselves.
- B) For proposals of between 1 and 9 dwellings, where the officer recommendation is contrary to the views of the host Town or Parish Council (or Parish Meeting), the relevant Ward Member(s) shall be first notified and given the opportunity to request 'referral' (see Section 7 for process) to the planning committee.

<sup>1</sup> The determination of what constitutes a material planning consideration should be determined by the Planning Manager, Planning Development Growth and Regeneration in consultation with the Chairman of Planning Committee.

- Enforcement Notices (including requisitions for information, stop and temporary stop notices), and Notices under Section 215 of the Town and Country Planning Act 1990 (as amended) relating to untidy land may be served by an Authorised Officer and the matter pursued through to prosecution at magistrates court when ~~consultation~~ **notification** has first taken place with the Ward Member(s) **where possible or it has been agreed with Chair of Planning Committee where it has not been possible to do this.**

**7. Local Members can request that planning applications/functions be determined by Planning Committee rather than the Officers (this being known as a 'referral' request) acting under delegated powers in the following circumstances:**

- ~~A) Local Members may request that a planning application in their ward be referred to committee rather than being determined by officers acting under delegated powers provided that:-~~
- ~~• A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.~~
  - ~~• The request sets out clear planning reasons behind the referral request.~~
  - ~~• The recommendation of officers is different to the opinion of the local member having regard to the interests of their ward area.~~
- ~~B) A Member in a ward immediately adjoining the ward in which the application is situated may request that an application be referred to committee rather than being determined by officers acting under delegated powers provided that:-~~
- ~~• A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.~~
  - ~~• The request sets out clear planning reasons behind the referral request.~~
  - ~~• The recommendation of officers is different to the opinion of the member having regard to the impact of the proposed development on their ward.~~
  - ~~• The relevant ward member(s) has/have been notified prior to the referral request being made.~~
- ~~C) A Member may request that any application be referred to committee rather than being determined by officers acting under delegated powers where, in their opinion, the application will have a material impact on the whole or part of their ward provided that:-~~
- ~~• A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.~~
  - ~~• The request sets out clear planning reasons behind the referral request including a requirement to demonstrate how it is likely to materially impact on the whole or part of the ward area of the member making the referral request.~~
  - ~~• The recommendation of officers is different to the opinion of the Member having regard to the impact of the proposed development on their ward and/or the District as a whole or part, having regard to the nature of the development or for the reason that the application will set a precedent for the whole or part of the District.~~
  - ~~• The relevant ward member(s) has/have been notified prior to the referral request.~~
  - ~~• The Group Leader of the relevant group of the Member making the referral request has agreed to the referral.~~

~~All requests for matters to be referred to committee as set out in A, B and C above shall be determined at the discretion of the Authorised Officer in consultation with the Business Manager Development Control and the Chairman and Vice-Chairman of the Planning Committee~~

- The Member discusses the application with the Authorised Officer (or case officer) and a written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers;
- The request sets out clear planning reasons behind the referral request and the Authorised Officer, Chair and Vice Chair agree that it raises material planning considerations that warrant debate by the Committee;
- The recommendation of officers is different to the opinion of the Member having made the referral request having regard to the interests of their ward which must be specified.

### Caveats

- A) Where a referral is made by a Member of an adjacent ward immediately adjoining the ward in which the application is situated, the relevant ward member(s) has/have been notified prior to the referral request being made.
- B) Where an application is referred by a Member who's ward is not either within or immediately adjacent to the application site, the referring Member must set out how:
  - A) in their opinion the application would have a material impact on the whole or part of their ward (or the district as a whole or part) having regard to the nature of the development, or
  - B) for the reason that the application will set a precedent for the whole or part of the District; and
  - C) the relevant ward member(s) has/have been notified prior to the referral request and the Group Leader of the relevant group of the Member making the referral request has agreed to the referral.

5.

The "Authorised Officer(s)" for the purposes of this part of the Constitution shall be the Chief Officer whose remit for the time being includes responsibility for planning, the relevant Business Manager with responsibility for the discharge of the development **management control** function or an Officer authorised in writing by them to act on their behalf.

### **Membership**

15 Members. (A link to the current membership of the committee can be found on the Constitution home page)."

### **RECOMMENDATION**

**That Planning Committee accepts the changes to the Scheme of Delegation as detailed above and that matter be referred to the Councillors Commission for further consideration.**

### Background Papers

See separate review report that accompanied this.

For further information please contact Clare Walker on Extension 5834 or [planning@nsdc.info](mailto:planning@nsdc.info)

**Matt Lamb**  
**Director of Growth and Regeneration**

**PLANNING COMMITTEE – 23 JULY 2019**

**UPDATE APPENDIX B: APPEALS DETERMINED (between 17 May 2019 and 17 June 2019)**

At the 2<sup>nd</sup> July 2019 Planning Committee Meeting, Members queried what ‘Not determined’ meant. Clarity is provided below:

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision date</b>
17/02326/FULM	Land At New Lane Blidworth NG21 0PH	99 New Dwellings With Associated Access, Earthworks and Other Ancillary and Enabling Works.	NOT DETERMINED  <b>UPDATE: This appeal was validated by the Planning Inspectorate (PINS) but it was pointed out to them by the Local Planning Authority that the appeal hadn’t been properly made in that it hadn’t been submitted by the applicant which is the required under the relevant planning Act.</b>  <b>The person(s) who lodged the appeal were unable to get agreement from the applicant to appeal and therefore PINS refused to entertain the appeal.</b>  <b>They are now out of time (6 months from date of decision) to appeal.</b>	29.05.2019

**RECOMMENDATION**

That the report be noted.

**BACKGROUND PAPERS**

Application case files.

For further information please contact our Technical Support Business Unit on 01636 650000 or email [planning@nsdc.info](mailto:planning@nsdc.info) quoting the relevant application number.

**Matt Lamb**  
**Director of Growth & Regeneration**