

Castle House Great North Road Newark NG24 1BY

Tel: 01636 650000

www.newark-sherwooddc.gov.uk

Monday, 31 August 2020

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, 8 September 2020 at 2.00 pm

VENUE: Broadcast from Castle House, Great North

Road, Newark, Notts, NG24 1BY

You are hereby requested to attend the above Meeting for the purpose of transacting the business on the Agenda as overleaf.

Attendance at this meeting and public access will be by remote means due to the Covid-19 Pandemic. Further details to enable remote access will be forwarded to all parties prior to commencement of the meeting.

If you have any queries please contact Catharine Saxton on catharine.saxton@newark-sherwooddc.gov.uk.

<u>AGENDA</u>

Page Nos.

207 - 209

1. Apologies for Absence

Remote Meeting Details

16.

This meeting will be held in a remote manner in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

The meeting will be live streamed on the Council's social media platforms to enable access for the Press and Public.

2.	Declarations of Interest by Members and Officers	
3.	Declaration of any Intentions to Record the Meeting	
4.	Minutes of the meeting held on 4 August 2020	5 - 17
Part 1 -	Items for Decision	
5.	P.A. Freight Services Ltd., International Logistics Centre, Park House, Farndon Road, Newark on Trent (11/01300/FULM)	18 - 40
6.	Chapel Farm, Newark Road, Wellow (20/00593/FUL)	41 - 62
7.	Brickfield Farm, Hockerton Road, Kirklington (20/01159/FULM)	63 - 78
8.	Land North of Esther Varney Place, Newark on Trent (19/02214/FULM)	79 - 100
9.	Garage Off Bull Yard, Southwell (20/00886/FUL)	101 - 113
10.	Land off North Gate, Newark on Trent (20/00711/S73M)	114 - 138
11.	5 Chaucer Road, Balderton (20/01312/FUL)	139 - 148
12.	Hendre Cottage, Main Street, Epperstone (20/00565/FUL)	149 - 160
Part 2 -	Items for Information	
13.	Adoption of Planning Enforcement Plan (PEP)	161 - 203
14.	Appeals Lodged	204 - 205
15.	Appeals Determined	206

Springfield Bungalow, Nottingham Road, Southwell - Appeal Costs

Part 3 - Statistical and Performance Review Items

17.	Q1 and Q2 Enforcement Activity Update Report	210 - 223
18.	Development Management Performance Report	224 - 231

Part 4 - Exempt and Confidential Items

19. Exclusion of the Press and Public

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

Agenda Item 4

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** broadcast from the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 4 August 2020 at 2.00 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 Mrs P Rainbow, Councillor M Skinner,

Councillor K Walker and Councillor Mrs Y Woodhead

APOLOGIES FOR

Councillor J Lee (Committee Member) and Councillor T Smith

ABSENCE:

(Committee Member)

218 <u>DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS</u>

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

Councillor Mrs M Dobson declared a personal interest in Agenda Item No. 8, Orchard Stables, Cottage Lane, Collingham (20/00550/FUL) as she knew the applicant.

Councillor M Skinner declared a personal interest in Agenda Item No. 12, Dukeries Leisure Centre, Dukeries Complex, Main Road, Boughton (20/01069/FUL) as he was a Director of Active4Today.

All Members of the Planning Committee declared personal interests in Agenda Item No. 12, Dukeries Leisure Centre, Dukeries Complex, Main Road, Boughton (20/01069/FUL) as they were Members of the Council.

219 DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting which was to be webcast.

220 MINUTES OF THE MEETING HELD ON 30 JUNE 2020

AGREED that the minutes of the meeting held on 30 June 2020 were approved as a correct record of the meeting, to be signed by the Chairman.

221 FLOWSERVE PUMP DIVISION, HAWTON LANE, BALDERTON 19/00854/OUTM (MAJOR)

The Committee considered the report of the Business Manager — Planning Development, which sought outline consent for a residential scheme of up to 322 dwellings with associated areas of public open space; green and drainage infrastructure. The proposal was for 100% market dwellings and the application has been submitted on the basis of all matters except access being reserved. Members considered the presentation from the Planning Officer, which included photographs and plans of the proposed development.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the following: the Agent; Sports England; the Applicant; Planning Case Officer; the adjacent land owner; and Nottinghamshire County Council Education.

Councillor Mrs L Hurst on behalf of Balderton Parish Council spoke in support on of the application on balance, in accordance with the views of Balderton Parish Council, as contained within the report.

Members considered the application and it was commented that brownfield sites were normally ideal sites for development, the primary concern regarding this site was the viability of the development and the lack of sufficient developer contributions as a result of the high abnormal costs associated with redeveloping this Brownfield site. Members noted that as a result of the applicant splitting the outline application from the Remediation consent that the benefits of the remediation/de-contamination of the site, flood alleviation works and ecological enhancement had already been secured. Members did not challenge the cost of the remediation works (or their inclusion within the viability assessment) but considered only some weight (rather than full weight) could be given to the benefits of the works secured through the remediation consent. The proposal was considered to represent unsustainable development contrary to the development plan by virtue of the inability to provide appropriate level of infrastructure/contributions in respect of affordable housing, community facilities, health, libraries, open space and transport. The proposal would also be contrary to the NPPF which requires a provision of 10% affordable housing. These compromises, and thus harm, were not considered to be outweighed by the benefit of regenerating brownfield land in this instance.

The provisions of the NPPF were fully considered by Members but the amount of weight being attached to redeveloping brownfield land, when not all community benefits are being provided alongside the remediation having been secured through a previous application, is limited and was thus not considered to overcome the harm identified.

(Councillor M. Brock was not present for the duration of the Officer presentation and took no part in the discussion or vote).

A vote was taken to approve planning permission and unanimously lost.

AGREED (unanimously) that contrary to Officer recommendation outline planning permission be refused on the grounds that the proposal would represent unsustainable development contrary to the development plan by virtue of the inability to provide appropriate level of infrastructure/contributions in libraries, open space and transport. The proposal would also be contrary

to the NPPF which requires a provision of 10% affordable housing.

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	Not present for the duration of the Officer presentation
M. Brown	For
L. Dales	For
M. Dobson	For
L. Goff	For
R. Holloway	For
J. Lee	Apologies for absence
P. Rainbow	For
M. Skinner	For
T. Smith	Apologies for absence
I.Walker	For
K. Walker	For
Y. Woodhead	For

222 GROVE BUNGALOW, BARNBY ROAD, NEWARK-ON-TRENT 19/02158/OUTM (MAJOR)

The Committee considered the report of the Business Manager – Planning Development, which sought outline planning permission with all matters reserved, except for the means of access, for residential development. The quantum of development was originally for up to 20 dwellings but during the application process had been reduced to a maximum of 19 dwellings. Members considered the presentation from the Senior Planning Officer, which included photographs and plans of the proposed development.

The Chairman requested that 'unless otherwise agreed with the Chair, Vice Chair and Business Manager for Planning Development' should be removed from part b) of the recommendation. Failure to secure a section 106 agreement within a four month period would result in a refusal on grounds that the scheme fails to secure an appropriate drainage scheme and developer contributions.

Members considered the application and it was commented that this would double the dwellings on Barnby Road and it had not been demonstrated that the maximum quantum of development proposed would be in keeping with the character or density of development in the surrounding area. Members felt the proposal was considered to represent over intensive development of the site and would lead to a cramped development compared with surrounding plot sizes with a consequential detrimental impact on the visual amenity of the area. Furthermore it was considered that the cramped nature of development did not minimise the loss of trees and hedgerows. The developer had also failed to secure an appropriate drainage solution and there was a lack of other contributions through the Section 106.

A vote was taken to approve planning permission and lost with 6 votes for and 7 votes against.

AGREED (with 7 votes For and 6 votes Against) that contrary to Officer recommendation planning permission be refused on the following grounds:

- (i) It has not been demonstrated that the maximum quantum of development proposed would be in keeping with the character or density of development in the surrounding area. As such, the proposal was considered to represent over intensive development of the site and would lead to a cramped development compared with surrounding plot sizes with a consequential detrimental impact on the visual amenity of the area. Furthermore it was considered that the cramped nature of development does not minimise the loss of trees/hedgerows; and
- (ii) Failure to secure an appropriate drainage solution and lack of other contributions through a \$106.

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	Against
L. Brazier	For
M. Brock	Against
M. Brown	For
L. Dales	For
M. Dobson	For
L. Goff	Against
R. Holloway	Against
J. Lee	Apology for absence
P. Rainbow	For
M. Skinner	For
T. Smith	Apology for absence
I.Walker	Against
K. Walker	Against
Y. Woodhead	For

223 LAND AT LATIMER WAY, OLLERTON 19/02279/OUTM

The Committee considered the report of the Business Manager — Planning Development, which sought outline planning permission for the change of use of the Prospect House building from office use (Class B1(a)) to 17 Apartments (Class C3) (Phase 1) and the erection of an apartment block for up to a maximum of 26 Apartments (Phase 2) (with all matters reserved). Members considered the presentation from the Planning Officer, which included photographs and plans of the proposed development.

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

The Planning Case Officer, following a review of the conditions recommended some minor amendments as contained in the schedule of communication, to conditions 3 and 4 as follows in addition to changing informative 3:

Conditions

3

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

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

4

The development hereby permitted authorises the conversion of Prospect House as identified on the Proposed Site Plan (19 / 2242 /(00)A/003 Rev. B) in Phase 1 to accommodate no more than 17 residential units and the erection of no more than 26 residential units within Phase 2 of the site as demarcated on the Amended Proposed Phasing Plan (19 / 2242 /(00)A/004 Rev. A). For the avoidance of doubt Phase 2 shall not commence until Phase 1 has been commenced.

Reason: To define the planning permission.

Informative

3

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 2015 (as amended).

Members considered the application and it was commented that Prospect House had been left vacant for one year but hadn't been put forward for further office use and should have been replaced with another business, as this was a good location for businesses. Parts of the adjacent energy village were currently residential with a lot of vacancies, 70% of the energy village was occupied and the rest was on the market. It was commented that this property would be facing onto an industrial site with no open green space. The site was considered over-intensification as half of the car park would be used to create the new unit, which Members considered was not required due to the current vacant properties. The road network around this site was already heavily congested and the change of use would take away jobs in the area, however Members noted the fall-back positon that Prospect House could change use to residential under permitted development and that consent had already been granted for this. There would be insufficient car parking given that there was only one parking place per unit but Members acknowledged this was a reserved matter. Other Members felt that given the current economic climate the country was facing due to

Covid-19, more businesses would be affected and similar schemes would be submitted. Members felt that it was a shame that this area of business regeneration was being changed.

AGREED (with 9 votes for and 4 votes against) that planning permission be approved, subject to the following:

- (i) conditions and reasons contained within the report, with the amendments to conditions 3 and 4 and the Informative 3 as contained in the schedule of communication and as detailed above; and
- (ii) the completion of a S106 Agreement also contained within the report.

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

224 ORCHARD STABLES, COTTAGE LANE, COLLINGHAM 20/00550/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the change of use of land to site up to six wigwam pods, one manager's office with storage, biodisc tank, landscape bund and associated infrastructure. Members considered the presentation from the Senior Planning Officer, which included photographs and plans of the proposed development.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Planning Case Officer, suggesting minor amendments to the following conditions:

Conditions

10 - Ecology

No building on site shall be first occupied until details including location of a hedgehog house and a bird nest boxes and any other ecological enhancement, have been

Agenda Page 10

submitted to and approved in writing by the local planning authority. The hedgehog houses/nest boxes and the approved ecological enhancement scheme shall then be installed prior to first use or in agreement with a timeframe to be arranged, 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.

14 – Further uses/PD

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 3 of the Order.

Reason: To ensure that the local planning authority retains control over future uses of the site normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any amending legislation).

Councillor M. Davies on behalf of Collingham Parish Council spoke in support of the application in accordance with the views of Collingham Parish Council, as contained within the report.

Members considered the application and it was commented that Cottage Lane was too narrow for the additional traffic this site would generate, given that people walk and cycle down Cottage Lane which had no pedestrian foot paths. The proposal would take the character away from Cottage Lane and the surrounding area. There was also no proven need for this business in this location. There was already three Bed and Breakfast businesses and a substantial caravan site in the village. The site would also generate noise of which the Environmental Health Officers had commented upon within the report and suggested noise monitoring. Other Members commented that the Parish Council was in support of the application. The existing business was in the open countryside and the applicant was trying to diversify. The vehicle movements would replace those of the previous business. This proposal may also support the local economy. It was also commented that a possible bike hire provision would be good and would support Sustrans. The Senior Planning Officer confirmed that permitted development rights could be removed and included in condition 14. A condition regarding the playing of music after 22:00 hours was not unreasonable and a 30mph restriction on Cottage Lane could be included as an informative.

A vote was taken to approve planning permission and lost with 3 votes for and 10 votes against.

AGREED (with 9 votes For 3 votes Against and 1 Abstention) that contrary to Officer recommendation planning permission be refused on the following grounds:

The proposal does not represent sustainable rural tourism in the open countryside with an identified need and is unacceptable in terms of its impacts on local infrastructure and amenity noting the narrow nature of Cottage Lane contrary to CP7 and DM8.

Agenda Page 11

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

In accordance with Rule No. 30.1, the Chairman indicated that the time limit of three hours had expired and a motion was proposed and seconded to continue the meeting.

AGREED (unanimously) that the meeting continue.

225 <u>FIELD REFERENCE 0683 OFF LOW STREET, COLLINGHAM 20/00556/FUL</u>

The Committee considered the report of the Business Manager — Planning Development, which sought planning permission for the erection of one greenhouse and one shed adjacent to the eastern boundary of the site. The sheds were intended to serve the agricultural use of the site as a market garden. Members considered the presentation from the Planning Officer, which included photographs and plans of the proposed development.

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

Members considered the application and it was commented that Collingham Parish Council had unanimously objected to this application due to the amount of vandalism which had taken place on this site. The burnt out caravan had been removed from the site. The applicant had reduced the size of the summer house which was now described as a greenhouse. The hedgerows were very overgrown around the side of the proposed site and needed to be maintained. Some Members raised concern that the views form the adjacent church would be affected should the proposed application be granted. The site flooded and markers displaying where flood waters had reached previously could be found on the church wall. The safety around flooding was raised and the risk of the sheds floating away. Other Members commented that this site had previously been a market garden and the applicant should be supported by bringing this site back into use, which would also bring business into Collingham. This was subject to the hedge being maintained to a face that the safety around flooding was raised and the reviously been a market garden and the applicant should be supported by bringing this site back into use, which would also bring business into Collingham. This was subject to the hedge being maintained to a face that the safety around the supported by bringing this site back into use, which would also bring business into Collingham.

reasonable height to screen the proposed buildings from outside of the site and the unkempt area being made clean and tidy. It was further commented that unkempt areas attract anti-social behaviour and the proposed business may resolve that problem.

(Councillor Mrs Y Woodhead left the meeting during the presentation and took no part in the vote).

AGREED (with 11 votes for and 1 abstention) that planning permission be approved, subject to an additional informative requesting the hedge be maintained at a reasonable height to screen the proposed buildings from outside of the site.

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

226 THE HOMESTEAD, MAIN STREET, EDINGLEY 20/00659/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of a single storey residential dwelling and associated works. Members considered the presentation from the Senior Planning Officer, which included photographs and plans of the proposed development.

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

Councillor D Poole on behalf of Edingley Parish Council spoke in support of the application in accordance with the views of Edingley Parish Council, as contained within the report.

Members considered the application and it was commented that an application had already been approved for a two bedroomed bungalow on this site. This application was requesting a three bedroomed bungalow, which would have the appearance of a barn. The bungalow would be occupied by a young family which would add to the local community. Concern was raised regarding the privacy of the adjacent neighbours, which would include three properties. The residents of Thorney House

Agenda Page 13

wanted to retain their conifers. It was therefore suggested that the velux window on the south-east elevation be obscure glazed and further details be added regarding the boundary treatment to satisfy the retention of the conifers.

(Councillor Mrs Y Woodhead was not present for the duration of the presentation and took no part in the vote).

AGREED (unanimously) that planning permission be approved, subject to the conditions and reasons contained within the report and the additional conditions as follows:

- (i) obscure glass to the south-east velux window;
- (ii) details of boundary treatments.

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	Apology for absence
P. Rainbow	For
M. Skinner	For
T. Smith	Apology for absence
I.Walker	For
K. Walker	For
Y. Woodhead	Was not present for duration of presentation.

227 LAND AT OLLERTON ROAD, EDWINSTOWE 20/00999/FUL

The Committee considered the report of the Business Manager — Planning Development, which sought planning permission for the resubmission for the development of one temporary construction access point. Members considered the presentation from the Senior Planning Officer, which included photographs and plans of the proposed development.

Members considered the application and it was commented that the application did not comply with Policy DM5 – Safe and inclusive access to development. The access was too close to the village of Edwinstowe and should not be allowed on the grounds of highway safety, as cars would be travelling at speed which may cause an accident should vehicles be entering/exiting the site using this proposed access. It was felt that the spine dual carriage way road should be used as a single point of access/egress. Having two entrances to the site would have security implications and would also create further work for the developer in terms of keeping the main road clean.

Other Members considered the Planning Case Officers comments that if the application was refused the scheme would be delayed which would impact on the improvements to the Ollerton roundabout. It was also noted that no ebjection had Agenda Page 14

been received to the application from the Local Highways Authority subject to conditions relating to an extension of the 30mph speed limited, measures to prevent deposit of debris on the adjacent highway and removal / reinstatement with a permanent pedestrian link within 5 years.

(Councillors L. Dales and P. Rainbow were not present for the duration of the presentation and took no part in the debate or vote).

AGREED (with 6 votes For and 5 votes Against) that planning permission be approved, subject to the conditions contained within the report.

Councillor	Vote
R. Blaney	For
L. Brazier	Against
M. Brock	For
M. Brown	Against
L. Dales	Was not present for duration of presentation
M. Dobson	Against
L. Goff	Against
R. Holloway	For
J. Lee	Apology for absence
P. Rainbow	Was not present for duration of presentation
M. Skinner	For
T. Smith	Apology for absence
I.Walker	For
K. Walker	For
Y. Woodhead	Against

228 <u>DUKERIES LEISURE CENTRE, DUKERIES COMPLEX, MAIN ROAD, BOUGHTON</u> 20/01069/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought full planning permission to extend the existing leisure centre through the erection of a swimming pool building and associated facilities including a unisex changing facility; plant room and an enhanced entrance and circulation area. The swimming pool itself would measure 20m x 10m and be positioned to the eastern elevation of the building within the existing car park. The total floor area would be approximately 685m^2 and would occupy the space taken by 42 of the existing car parking spaces. Members considered the presentation from the Senior Planning Officer, which included photographs and plans of the proposed development.

Members considered the application acceptable.

(Having declared a personal interest regarding this application, Councillor M Skinner did not take part in the discussion or vote).

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

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	Apology for absence
P. Rainbow	For
M. Skinner	Did not vote
T. Smith	Apology for absence
I.Walker	For
K. Walker	For
Y. Woodhead	For

229 APPEALS LODGED

AGREED that the report be noted.

230 APPEALS DETERMINED

AGREED that the report be noted.

231 AMENDMENTS TO THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015 AND TOWN AND COUNTRY PLANNING (USE CLASSES) ORDER 1987

The Committee considered the report of the Director of Growth & Regeneration which provided an update on the recently published Statutory Instruments (SI).

- SI 2020 No. 632 The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 which has extended and introduced new permitted development rights.
- SI 2020 No. 755 The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 also introducing new permitted development rights.
- SI 2020 No. 757 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 which has made a number of quite significant changes to the Use Class Order.
- SI 2020 No. 756 The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020 which has also introduced new permitted development rights.

Each of these new instruments had significant impacts in terms of planning, although like the majority of permitted development rights, there were a number of restrictions.

It was also reported that other statutory instruments relating to planning had been implemented following the Covid-19 outbreak, four of which were reported of particular interest, as follows:

- SI 2020 No. 505 The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020.
- SI 2020 No. 412 The Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020.
- SI 2020 No. 330 The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2020.
- SI 2020 No. 781 The Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020.

A Bill had also been progressing through Parliament – Business and Planning Bill which gained Royal Assent on 22 July. The Business and Planning Act introduced, inter alia, amendments in relation to construction working hours and extension of time periods for commencement of developments for certain planning permissions. Guidance had also been issued on 14 July aimed at supporting the cultural and tourism sector. In relation to caravan, campsite or holiday parks which were limited by planning conditions, the guidance encouraged the extension of the open season into the winter. It encouraged owners to speak to the planning authority prior to submitting an application.

Members suggested a meeting or training session take place at the end of August or early September 2020, to inform them of the changes to planning legislation.

AGREED (unanimously) that:

- (a) the report be noted;
- (b) further changes to legislation will be reported to a future meeting of the Planning Committee; and
- (c) a meeting or training session take place at the end of August or early September 2020, to inform Members of the Planning Committee of the changes to planning legislation.

Meeting closed at 6.21 pm.

Chairman

Agenda Item 5

PLANNING COMMITTEE – 8 SEPTEMBER 2020

Application No: 11/01300/FULM

Proposal: Re-configuration of access arrangements to existing freight yard and

provision of new parking and turning area for commercial vehicles.

Location: P A Freight Services Ltd International Logistics Centre, Park House, Farndon

Road, Newark On Trent NG24 4SP

Applicant: PA Freight - Mr Andrew Morris

Agent: Matthew Tucker - Legge Consulting

Registered: 30 September 2011 Target Date: 30 December 2011

Agreed ext. of time: 09 September 2020

Link to https://publicaccess.newark-sherwooddc.gov.uk/online-

Application

applications/applicationDetails.do?activeTab=documents&keyVal=LRTTSKLB68000

Document:

The Site

The application site relates to an existing logistics, warehousing and distribution centre, occupied by PA Freight, together with adjacent agricultural land to the south-west, equating to approximately 3 hectares of land. PA Freight are a specialist packing and freight company who organise the safe shipping and transport of abnormal loads across the world.

The north part of the application site is occupied by a diverse range of buildings, comprising warehousing, a Nissan hut, stores, workshops, portacabins and offices as well as a concrete surfaced handling yard for the freight. The buildings are all contained within a secured compound and generally well screened by mature conifer trees and fencing.

Access has been historically taken along an 80 metre private drive from Farndon Road, which is located immediately adjacent to a property known as 'Camahieu' (No 153). A lorry park area is currently located immediately to the south of this access drive. This drive also serves/served a residential dwelling located to the east of the site called Cranleigh Park, 153a Farndon Road which adjoins the open countryside.

The new Highways England infrastructure in connection with the dualling of the A46 trunk road is now in place and includes an upgraded roundabout to the south-west and a new access to serve PA Freight and third parties. More recently, the private drive off Farndon Road appears to have been temporarily blocked and access is now achieved via the eastern arm of the Farndon Roundabout. Part of the site has also recently been cleared of vegetation and a temporary surfacing has been put down albeit tufts of grass can be seen growing through it. The green fencing has also been continued around the site.



Photo taken 03.07.20

Immediately to the east of the dwellings on Farndon Road is a strip of land (which appears to be a yard used for HGV parking) which separates the PA Freight site from the rear gardens of residential development on Farndon Road.

Land to the south of the site is an agricultural field, which borders the River Devon to the east and Fosse Road to the west.

The buildings at PA Freight sit within Newark Urban Area, whilst the adjoining field including existing lorry park area and accesses are located within the open countryside and the Farndon Open Break.

The site lies within flood zone 2 and 3.

Relevant Planning History

20/00609/S73 Application to vary conditions 1 and 2 attached to planning permission 15/00292/FUL to allow the crane to be retained on site for a further three years and the exterior of the crane to be covered with a green metal façade – withdrawn 09.06.2020

15/00292/FUL Erection of a new gantry crane on an existing industrial site – permission 10.07.2015

07/00848/FUL Widening of existing road and provision of turning area and temporary parking area for commercial vehicles (retrospective) – permission 11.08.2007

05/02621/FUL Increase height of warehouse (retrospective) – permission 19.01.2006

03/02978/FULM Proposed new logistics training centre, warehousing and offices together with related car and lorry parks and landscaping – refused 11.08.2004

02/02656/OUT Proposed new offices and lecture theatre and new warehouse facilities – refused 06.02.2003

02/01147/FUL Proposed new access drive to serve adjacent private house – permission 16.09.2002

96/51057/FUL Erect storage shed – permission 24.02.1997

93/51036/FUL Change of use of former gardens to yard – permission 11.11.1993

01901427 Erect new storage shed, oil and general store – permission 12.02.1991

01851130 Replacement storage building – permission 27.01.1986

01881459 Refurbishment and extension to stores and staff facilities – permission 09.01.1989

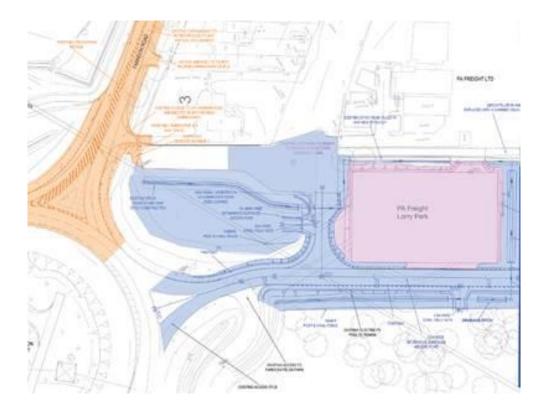
The Proposal

The application seeks full planning permission for the re-configuration of access arrangements to the existing freight yard and provision of new parking and turning area for commercial vehicles. The issue of a lorry park at this location has been a very long and complex issue, primarily as a result of the existing PA Freight access onto the B6166 being made unsafe by the construction of the new A46 Farndon Roundabout which has taken a number of years to resolve.

A report on this application (albeit prior to its conversion to a full planning application and the receipt of amended plans and an amended description of development) was previously considered at Planning Committee on 10 January 2012. The details of the proposed development have completely altered since this time and the proposal no longer includes the erection of commercial buildings. Planning Committee resolved to defer this decision in order to seek legal advice/ the outcome of a CPO Inquiry and to seek further clarity on proposed Highways Agency works particularly in relation to the potential that two separate lorry parks (as opposed to one) could be implemented if the application was to be approved. A further update report was considered by Planning Committee on 13 March 2012. TMembers resolved to approve the application however due to ongoing changes and legal issues associated with the development requiring resolution, this decision was never issued.

Whilst the submitted Planning Statement specifically makes no reference to any legal issues, it is understood that there is now an agreed approach between the Applicant and Highways England which has culminated in the submission of the latest set of revised plan/amended application. This report therefore focuses on the amended full application now proposed for determination with the updated documents submitted since May 2019.

The submitted Site Layout and Phasing Plan (extract copied below) provides a useful summary of the proposal as now proposed:



The blue area shows works that have been undertaken by Highways England to provide a new private means of access from the new A46 Farndon Roundabout to provide access for PA Freight, adjacent landowners and fields. The access directly onto the roundabout is now in use albeit I am aware of a temporary barricade is currently in situ towards the east of the access serving Cranleigh Park, 153A Farndon Road/and the proposed access to the new lorry park area.

The purple area is the works subject of the above planning application and relates primarily to the proposed new lorry park area (not yet constructed). I have been advised that the new area is required as the location of the access from the Farndon Roundabout means access to the existing lorry park area is not workable and such a new facility is being proposed to the south of the PA Freight site. The lorry park would be enclosed with a 2.1 metre high secure fence and gate to match the existing green fencing on the site. The Planning Statement confirms that a planting and landscaping scheme would be provided around the fence.

The orange area shows works proposed to be undertaken by Highways England using their Statutory Powers and would result in the closure of the existing unsafe PA Freight access onto the B6166 Farndon Road.

The final set of revised plans/documents (received since May 2019) include:

- Amended Application Form and Certificates (received 28.06.2019)
- General Layout and Phasing Plan A/PD0285/PAF/GD/500/021D (amended plan received 12.11.2019)
- Site Location Plan P19-LCL009-MT-DR-001 Version 2 (amended plan received 14.07.2020)
- Site Layout and Phasing Plan P19-LCL009-MT-DR 002
- Proposed Construction Details P19-LCL009-MT-DR-003 through to 007
- Proposed Lorry Park Longsection I-PD0285-PAF-SK-098
- Roundabout Comparisons P17-036-MT-T-XY-DR-G-09 REV P1
- Phase 1 Traffic Signs and Road Markings I PD0285 PAF P1 RM 500 001
 Agenda Page 21

- Phase 1 Pavement Works AB PD0285 PAF P1 PV 500 001 REV Rev B
- Phase 1 Kerbs, Footways and Paved Areas AB PD0285 PAF P1 PK 250 001 REV A
- Phase 1 Landscape Works AB PD0285 PAF P1 LD 500 001
- Phase 1 Contour Layout AB PD0285 PAF P1 GD 500 002
- Phase 1 General Arrangement AB PD0285 PAF P1 GD 500 001 REV A
- Phase 1 Fencing Works AB PD0285 PAF P1 FE 250 001 REV A
- Phase 1 Earthworks AB PD0285 PAF P1 EW 500 001 REV A
- Phase 1 Ducking and Services Layout AB PD0285 PAF P1 DU 250 001 REV B
- Phase 1 Drainage Works AB PD0285 PAF DR 500 001 REV B
- Prelimianery Road Safety Review (Nov 2016)
- Stage 3 Road Safety Audit (Feb 2019)
- Preliminary Ecological Assessment (Jan 2017)
- Preliminary Ecological Appraisal (Sept 2019)
- Reptile Survey Report (October 2019)
- Planning Statement (May 2019)
- Farndon Roundabout Amendments and PA Freight Flood Risk Assessment (Jan 2017)
- Drainage Design Strategy
- Screening Report (NB this application has been subject of a screening opinion under application ref: 19/SCR/00012 determined 01.07.2019 confirming that an EIA is not required).

<u>Departure/Public Advertisement Procedure</u>

This application has been publicised at numerous stages during the lifetime of the application. In relation to the most recent set of amended plans/document, occupiers of 26 properties have been individually notified by letter. A site notice in relation to the final revised scheme was posted 04.07.2019 and an advert was placed in the local press 04.07.2019.

<u>Planning Policy Framework</u>

The Development Plan

Newark and Sherwood Amended Core Strategy DPD (Adopted March 2019)

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 3 - Rural Areas

Spatial Policy 7 - Sustainable Transport

Core Policy 6 – Shaping our Employment Profile

Core Policy 9 - Sustainable Design

Core Policy 10 - Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 13 - Landscape Character

NAP1 - Newark Urban Area

Allocations and Development Management DPD (Adopted July 2013)

Policy NUA/OB/1 – Newark Urban Area – Open Breaks
Policy DM4 – Renewable and Low Carbon Energy Generation
Policy DM5 - Design

Policy DM7 - Biodiversity and Green Infrastructure

Policy DM8 – Development in the Open Countryside

Policy DM10 - Pollution and Hazardous Materials

Policy DM12 - Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG) Landscape Character Assessment SPD

Consultations

Newark Town Council:

Comments received 01.08.2019:

No objection.

Comments received 18.06.2019:

It was decided to submit a 'Holding Objection' to this application until:

- i) The outcome of the A46 dualling was known
- ii) The District Council has approved a position with regard to the provision of an 'Open Break' between Newark & Farndon.

Environment Agency:

Comments received 11.06.2020 (in reply to query by Officer in relation to required conditions):

It is difficult to condition anything off site. The mechanisms for offsetting the loss of floodplain is being dealt with by the wider A46 scheme and the site is linked to the compensation areas via a series of land drainage networks.

As such the flood risk officer has suggested that a condition worded along the lines of the below is included;

The development will be carried out in accordance with the approved FRA, letter from Highways England dated 20/05/2020 and email from Aecom dated 02/06/2020.

Comments received 10.06.2020:

We replied to a consultation request on the 5^{th} December 2019 with specific information requested regarding the amount of infill on site and the impact this could have on the wider floodplain.

Since this reply was sent to the LPA we have been in regular contact with the flood risk consultant (Aecom) and Highways England as we were still concerned that, while there was an agreement to allow the infill and raising of the site there had not been an agreement for the total loss of this area of floodplain or details submitted which detailed how this loss could be compensated across the wider A46 scheme or offsite.

We have recently received confirmation from Highways England, via a letter dated 20th May 2020 that the loss of floodplain storage at this location would be offset through the surplus storage created in the "Flood Storage Compensation Areas previously agreed with the EA and constructed as part of the A46 Newark to Widmerpool highways scheme".

While we recognised that these compensation areas contained the required storage capacity we did raise concerns that these new flood storage compensation areas were not located within the same flood cell. Aecom were able to provide further confirmation that, while these two areas (the proposal site and the compensation areas) are located in different flood cells "there is a network of ditches, pipes and flood culverts that provide linkage between these areas, and accordingly, flood routing across the flood plain would allow the flood storage compensation areas to compensate for the lost flood volume".

Having reviewed these details in conjunction with the previously submitted FRA we are satisfied that the potential impacts associated with the proposed changes on site can be adequately mitigated.

Comments received 27.04.2020:

In short, we had concerns with the FRA originally (2016/17). As we had concerns, Aecom took a staged approach (outlined in red in the email below), with the first phase resulting in minor losses, and with a reasonable argument that these had been compensated for by the wider A46 scheme. The second phase of works (raising the PA Freight site) still requires separate consideration:

Stage 2 – Construction of a new lorry park for PA Freight and the removal of the old lorry park area. It is intended that these works will be constructed by the landowner and will be subject to a separate planning consent. (Phase 4 as detailed on drg. no. D0285/PAF/GD/500/21)

Comments received 05.12.2019:

We understand that the application is for the Re-configuration of access arrangements to existing freight yard and provision of new parking and turning area for commercial vehicles, and no additional permanent buildings/structures.

The FRA states that the will be 265 m³ infill as a result of this development and that there is already sufficient storage in the wider compensation areas for this level of infill. We supported this position in 2017, and there were plans at the time to demonstrate the infill volumes. We have reviewed the plans online, but none of the plans appear to be able to confirm that this is still the case. If the LPA could obtain this confirmation (that the infill will not exceed 265m³) from the applicant in a form of a drawing/plan then the proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

Condition: The development shall be carried out in accordance with the submitted flood risk assessment (January 2017, ref. PD0285/5.4/073, Compiled by Aecom) and the following mitigation measures it details:

• Compensatory storage shall be in accordance with section 2.4.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason - To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

Highways England: Further to recent discussions regarding the PA Freight application, I have spoken to our Major Projects team who are responsible for the works being undertaken by Highways England. They have provided me with the following comments relating to the attached plan:

Orange area - Work in this area (i.e. realignment of Farndon Road) has not yet been completed by HE. This is because the supplementary side roads order (The A46 Trunk Road (Newark to Widmerpool Improvement and Slip Roads Supplementary (Side Roads) Order Number 2 2017) has yet to be confirmed by DfT who will not confirm until they have confirmation that the land owners are content with their new access arrangements. These access arrangements and associated agreements are being discussed by the affected landowners and will hopefully be concluded shortly. The order can then be confirmed and subject to not receiving any challenges, we can complete the work in the amber area.

The blue area is largely completed, just a couple of 'snagging issues' to sort out. The application relates to access and turning area/lorry park within the site. As Highways England are in the process of completing the access proposals (as above), the application as far as HE are concerned relates purely to the proposed lorry park, to which Highways England have no objections.

Historic England: The proposed development sits at or just off the apparent northern edge of the Farndon Fields Late Upper Palaeolithic site (an undesignated site of national archaeological importance). The Farndon Fields site was explored in work associated with the A46 project and subsequent investigations. The junction area was subject to archaeological field walking and follow-up trench investigations which suggested that the deposits associated with Late Upper Palaeolithic remains and the flint assembledges themselves extended just up to the south side of the junction.

The proposed haulage yard area lying south-east of the present junction may have been subject to some archaeological investigation at the time of the road scheme but the published A46 archaeological volume (A46 Nottinghamshire, Wessex Archaeology 2014) does not show trenches or fieldwalking results in this field (WA2014 figures 2.3 and 2.4 - was there additional work done either early in scheme development or subsequent to the main A46 scheme?), we note that the EIA scoping for the most recent junction re-adjustment by Highways England refers to the Farndon Late Upper Palaeolithic site but is not clear if this prompted any additional work on the present application area.

I therefore refer you to the expertise of your archaeological advisor and the records on the County Historic Environment Record as to whether sufficient work has been done to characterise the significance of remains in the application area such that risk to nationally important remains is well controlled and / or mitigatable through conditions to consent further to National Planning Policy Framework paragraphs 189, 190 and 199. The absence of flint in surface collection may reflect actual absence of activity or it may suggest remains are sufficiently well covered by later deposits that they are not coming up in the plough, hence an understanding of the soil sequence from borehole or test pit data may be necessary.

Historic England has concerns regarding the application on heritage grounds and refers you to expertise of your archaeological advisors in that regard.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 189, 190, 199 of the NPPF.

In determining this application you should bear in mind the statutory duty of section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Natural England: Natural England has no comments to make on this application.

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

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

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

We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice

Nottinghamshire Wildlife Trust:

Comments received 19.11.2019:

Thank you for sending over a copy of the Preliminary Ecological Appraisal (Deltasimons, September 2019) and Reptile Survey report (Deltasimons, October 2019). We have reviewed these reports and the updated plans available on the planning page in relation to the above application.

Overall we are happy with the survey effort undertaken this year for this site, although no specific water vole survey has been undertaken, as per our previous comments dated 2nd July 2019 we are satisfied the habitats on site are not suitable for this species, as the report states: *The drains at the Site do not offer suitable habitat for water vole* which is followed by further justification for the absence of this species.

We agree with the recommendations within both of the reports and strongly recommend the LPA secures these recommendations through suitability worded planning conditions including:

- A Construction Environmental Management Plan (CEMP) which should include a working methodology or Reasonable Avoidance Measures Statement (RAMS) for the species identified to be potentially present on site (reptiles, hedgehogs, badger, amphibians etc.) and include timings of works, hand searching etc., as well as measures to protect the River Devon LWS and Devon Grasslands LWS from any impacts during developmental activities.
- Invasive Species Management Plan to control the horsetail on site and stop it spreading further.
- Bat and other wildlife friendly lighting scheme this should include temporary lighting during development.
- Biodiversity enhancements and mitigation to include bat and bird boxes, refugia/hibernacula for reptiles/hedgehogs/amphibians, native species planting including wildflower areas where possible and native species hedgerow planting. These enhancements will help the site provide an overall net gain for biodiversity in line with the National Planning Policy Framework.

Comments received 02.07.2019:

Thanks for sending that over to us, after an initial review, this ecology report (AECOM, 2017) is also considered to be out of date as the report states surveys were undertaken at the site in 2016. The report also states:

The constraints outlined here will need to be reassessed if there is a significant change to the site boundary or the type or scale of development proposed, or if there are any significant changes in the use or management of the land that would affect the habitats and species. If a planning application is made two years or more after a PEA it is advisable to review and update the survey data.

We therefore would still expect that an update Preliminary Ecological Appraisal is undertaken, with an update desk study and we would also expect the recommendations within this report to focus on providing a net gain for biodiversity. These recommendations for mitigation and net gain should be specific to the site, as the 2017 AECOM report only provides general limited opportunities for ecological enhancement.

The report also states that two species are considered to be a constraint to the development; water vole and grass snake. We would strongly recommend an update water vole survey is undertaken along the ditch as this survey data is also now considered to be out of date and the application site has connectivity to the River Devon and wider area (potentially containing water vole). Grass snake are a UK BAP species and could be present on site as the report states: *The site has low potential for supporting grass snakes, with the rotting hay bales found in the grassland on the east of the site providing basking, breeding and possible hibernation habitat for the species.* The report only mentions the movement of hay barrels potentially impacting grass snakes, but we consider any vegetation removal to also have an impact on grass snakes. This is a major concern to us and we would therefore expect a Reasonable Avoidance Measures Statement for reptiles to be produced for the site in order to minimise the risk of harm or killing grass snake and other reptiles during the site clearance and development works.

We previously noted the application is also located less than 100m from the River Devon LWS and Devon Grasslands LWS. The AECOM (2017) report states: With the implementation of pollution prevention measures, the scale of the constraint to the development is assessed as Low. We are concerned there are no specific pollution control measures within the report and would expect more detailed measures to be put in place to prevent any adverse effects to the Local Wildlife Sites. We strongly recommend a Construction Management Plan is created for the development which details methodology of preventative measures and protection of the Local Wildlife Sites.

Comments received 01.07.2019:

We note there is no up to date ecology surveys for this application, with the last extended Phase 1 habitat survey undertaken in 2014 by Landscape Science Consultancy Ltd.

We would expect that an update Preliminary Ecological Appraisal is undertaken prior to the determination of any planning decision and any recommendations within the report should focus on providing a net gain for biodiversity, as stated within the latest revision of the NPPF (Feb, 2019).

The application is also located less than 100m from the River Devon LWS and Devon Grasslands LWS, the previous ecology report noted that there would be no impacts on the LWS. As the LWS sites are within 100m of the application we would strongly recommend the update report also provide precautionary measures to minimise the impact to the LWS's of the any development activities during the construction phase i.e. dust suppression.

NCC Highways:

Comments received 20.11.2019:

As discussed here is a condition suggestion:

No part of the development hereby permitted shall be brought into use until the existing site access off Farndon Road that has been made redundant as a consequence of this consent is permanently closed and the access crossing reinstated as verge/footway in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

Note to applicant:

The access reinstatement works on Farndon Road referred to in the conditions involve work on the highway and as such require the consent of the County Council. Please contact contact the County Council's Agent, Via East Midlands to arrange for these works to be carried out. Email: licences@viaem.co.uk Tel. 0300 500 8080 and further information at: https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities

Comments received 15.07.2019:

I refer to the latest submissions dated May 2019. Apart from ensuring the closure of the original PA Freight access off Farndon Road, this application has negligible impact on the public highway network that falls under the responsibility of this Authority. The access is taken from the A46 which is the responsibility of Highways England. Therefore, no objections are raised to this application.

NCC Lead Local Flood Authority: Having considered the scale of this application the LLFA believes it is not required to respond to this application, as such, we will not be making any bespoke comments.

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

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

NSDC Archaeology Advisor:

Comments received 09.08.2019:

I was aware that extra Palaeolithic investigations had taken place on this site and that the results showed that potential of the site was low but I had not seen the full report.

I had spoken to Historic England and although Tim was not aware of this extra work he was happy to take the lead from me on this particular site, which is why the response was worded as it was.

This application required no further archaeological input.

Comments received 10.07.2019:

This site was archaeologically investigated as part of the A46 scheme and was found to contain little archaeological potential. No archaeological input required.

NSDC Environment Health Officer: No objections.

Two letter of representation have been received from neighbouring properties. Main issues raised include:

- Works have commenced during lockdown;
- Impact of nonporous surface on flooding;
- The area on the plan includes parts of land that PA Freight do not own;
- Parking of vehicles causes issues in relation to overnight parking (rules not adhered to), exhaust emissions, rubbish, invasion of privacy, lights used in unsociable hours.
- Conditions should be attached requiring no overnight parking as per 07/00848/FUL and no outside storage.

Comments of the Business Manager

Principle of Development

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

Whilst the existing PA Freight buildings are located within Newark Urban Area, the development subject of this application (whilst serving these buildings) is located within the 'Open Break' allocation between Newark Urban Area and Farndon (as confirmed by the Newark South Proposals Map).

Policy NUA/OB/1 is clear that where land is allocated as an Open Break, 'planning permission will not normally be granted for built development'. The Open Break designations included within Policy NUA/OB/1 have contributed towards defining the structure and form of the Newark Urban Area, being formed by predominantly open land they separate different settlements and maintain distinctions between them. Consequently the designations help maintain the identity and distinctiveness of different areas, protecting the character of those smaller settlements in close proximity to the Newark Urban Area. The designations have been and remain integral to the promotion of a sustainable pattern of growth in the Newark Urban Area. The aim of the Open Break is not simply to sterilise large tracts of otherwise developable land. Rather it represents a key strategic policy intervention, which contributes towards the promotion of a sustainable pattern of development in and around the Newark Urban Area.

In this case, there is no built development in the form of buildings being proposed on the application site. The application site already contains additional road infrastructure provided by the Highways Agency under their statutory powers. The proposed replacement/additional lorry park area would be located between the newly created access road off the Farndon roundabout and the site itself. As such, the application site's appearance and an open and undeveloped parcel of land has already been interrupted. It is proposed that the existing lorry park/paved areas adjacent to the Farndon Road access be broken up and returned to field once works to block this access permanently have been completed which provides a degree of compensation for the additional land take now proposed. Whilst the proposed lorry park area is larger than the area it would replace, it is not considered that given its siting and transient nature of vehicle to be parked on this land that the proposal would reduce the separation and identities of the two settlements either side of the Open Break.

In addition, Policy DM8 is relevant to development on sites in the open countryside and strictly controls and limits it to certain types of development. One of these types of development relates to employment uses with the policy confirming that, the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment. The supporting text to this policy states that this policy is not intended to allow the unlimited expansion of existing businesses. Core Policy 6 states that development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact. The visual or operation impacts may at some point outweigh the benefits of the expansion.

This approach is supported in the NPPF which states that significant weight should be placed on the need to support economic growth through the planning system.

The Planning Statement states that the 'PA Freight business has been severely negatively impacted by the construction of the new A46 dual carriageway and Farndon Roundabout. The location of the newly constructed roundabout meant that large oversized HGV vehicles could not safely gain access into the site from the A46 and as such the business was not able to operate a lot of their lucrative 'oversized' logistics contracts'. The proposed lorry park area would enable the expansion of the business to allow such contracts to be accepted to the help sustain and secure the business/employment for the future.

Overall, I consider the proposal to represent the proportionate expansion of an existing business and represents the provision of sustainable employment in the open countryside whilst not conflicting with the aims of the open break designation in accordance with Policies NUA/OB/1 and DM8 of the DPD and Core Policy 6.

Impact on Visual Amenity

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

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

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

The site is identified within the Landscape Character Assessment as being within the Trent Washlands TW PZ 12 'Farndon Village Farmlands'. The landscape condition for this area is assessed as being poor due to detracting features including power lines, commercial buildings, busy roads and road junctions with limited tree cover.

As stated in relation to the open break issue addressed in the section above, the proposed lorry park (and associated infrastructure) would be situated between the existing commercial buildings and newly constructed access road which means that the landscape setting in the immediate vicinity has already been fragmented by the modern A46. Moreover, the use of hardstanding maintains the overall sense of spaciousness, ensuring that the neutral impact on the surrounding landscape. A landscaping scheme would be required by planning condition to ensure that the proposed lorry park is screened as much as possible. In addition, any permanent storage of raw materials, equipment, finished products or waste materials will be prevented by planning condition.

Overall, it is considered that the proposal would result in any adverse impact upon the character of the area in accordance with Core Policy 13, Policies NUA/OB/1 and DM5 of the DPD.

Impact on Highways

Policy DM5 seeks to ensure adequate access and parking is provided for development and SP7 relates to sustainable transport. The Highways Officer raises no objection to the proposal given interventions by Highways England which has resulted in the proposal now being considered. In addition, the aim of the proposal is to provide improved parking facilities associated with the PA Freight business. Overall, the proposed is considered to comply with the highways requirements of Policy DM5.

Impact on Neighbouring Amenity

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers. There are a number of nearby residential properties that could be affected by the proposed development. It is not considered that the proposed changes to the site layout would result in any material adverse increase in noise or disturbance for existing dwellings by virtue of the existing use of the wider site, proximity of the A46 and separation distances present. However, it is acknowledges that potential for noise disturbance may be greater at night. The previous application for the temporary parking area on site (as per application 07/00848/FUL) albeit relating to a smaller parking area closer to the north boundary of the site imposed a condition stating 'there shall be no parking of vehicles on the site between the hours of 1830 and 0800' in the interest of the amenity of nearby residents'.

A similar condition specifying 'There shall be no parking of vehicles in the 'replacement turning and parking area' between the hours of 1830 and 0800' was also previously recommended to Planning Committee when this application was previously considered by Members in March 2012 (prior to the amendment of the application).

However, the Agent has since advised that 'a condition to prevent the parking of lorries on a lorry park overnight is completely unreasonable and unsafe. The Traffic Commissioner strictly enforces the hours a lorry driver / business can operate vehicles on the public highway and they need to be off the public highway at night at their depot or another safe designated location - in accordance with their operator's licence'.

Parked lorries do not generate noise. However, comings and goings including door opening and closing plus engines revving do. As such, it is proposed to amend this condition so that certain activities are prohibited at night including vehicle engines or other mechanical equipment left running when vehicles are stationary, vehicle reversing, vehicle loading or unloading, overnight occupation of vehicles.

It is also considered that the final phase (orange) of the Highways England works would improve the current levels of amenity experienced by the dwellings fronting Farndon Road, as blocking up of this access would move the traffic which previously used this route further away from their boundaries.

Subject to these conditions and conditions relating to construction working hours and details of lighting, it is not considered that that an unacceptable impact on amenity would result in accordance with the aims of the NPPF and Policy DM5 if the DPD.

Impact on Ecology

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

The application is accompanied by an up to date Preliminary Ecology Appraisal. The surveys recommend a number of mitigation/enhancement measures relating to construction outside of bird breeding season, lighting, landscaping, pre-commencement checks for presence of species. It also recommends a more detailed Reptile Survey be undertaken which has been submitted separately and concludes that 'no reptiles were found during the seven survey visits conducted, such that it is considered likely that reptiles are absent from the Site'. A precautionary approach is however recommended during construction.

Nottinghamshire Wildife Trust raised no objection to the proposal subject to conditions requiring a Construction Environmental Management Plan (CEMP) which should include a working methodology or Reasonable Avoidance Measures Statement (RAMS) for the species identified to be potentially present on site (reptiles, hedgehogs, badger, amphibians etc.) and include timings of works, hand searching etc., as well as measures to protect the River Devon LWS and Devon Grasslands LWS from any impacts during developmental activities, an Invasive Species Management Plan, a Bat and other wildlife friendly lighting scheme and Biodiversity enhancements and mitigation to include bat and bird boxes, refugia/hibernacula for reptiles/hedgehogs/amphibians, native species planting including wildflower areas where possible and native species hedgerow planting.

Overall, it is considered unlikely that any adverse ecology impacts would result from the proposal in accordance with Core Policy 12 and Policies DM5 and DM7 of the DPD.

Impact on Contaminated Land

NPPF paragraph 121 states that planning decisions should ensure that the proposed site is suitable for its new use taking account of ground conditions, including pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation. Policy DM10 of the DPD also states that where a site is highly likely to have been contaminated by a previous use, investigation of this and proposals for any necessary mitigation should form part of the proposal for re-development. The Environmental Health Officer has confirmed that the proposal is very low risk given that it proposes new parking and turning areas which would break any human health contaminant pollutant linkages. The proposal would therefore comply with the aims of the NPPF and Policy DM10 of the DPD.

Impact on Flood Risk and Drainage

Core Policy 10 (which is in line with the NPPF) states that through its approach to development, the Local Development Framework will seek to, amongst other criteria; locate development in order to avoid both present and future flood risk. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

The site is located within Flood Zones 2 and 3 and is therefore a site at risk of flooding (medium - high probability). In flood vulnerability terms, I consider the proposal to fall into the 'less vulnerable' use category where development is appropriate in Zone 2 and 3.

The NPPF sets out policy on flood risk stating that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. It goes on to say that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. In applying the sequential test I consider that given the proposal is an extension of an existing facility/service it would not be practical or appropriate to site this anywhere else. I therefore consider that to site this elsewhere would be nonsensical and it would not in this instance be appropriate to site this in an area of lower risk of flooding.

It is also necessary to demonstrate that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. A Flood Risk Assessment has been submitted with the application and concludes that 'the levels of the proposed access and replacement lorry park have been raised to ensure they are above the 1:20 year flood level' in accordance with advice received from the Environment Agency.

The submitted documents also confirm that 'the replacement access Phase 1 works which have been constructed by Highways England are positively drained via combined kerb drainage units and linear drains. An attenuation ditch with downstream orifice plate control is provided to reduce discharge into the receiving watercourse to acceptable levels. The outfall from the proposed drainage system is into an existing ditch, which outfalls by means of a flap valve into the River Devon. No new outfall or alterations to the current provision into the River Devon are proposed. The drainage design has allowed for the contributing area from the anticipated replacement lorry park and allows a point for connection of its drainage. A Class 1 Bypass Separator is provided for the replacement lorry park, to capture any hydrocarbons deposited by the parked heavy goods vehicles'.

Extensive negotiations have taken place between the Environment Agency, Highways England and AECOM (the Applicants flood risk engineer) regarding the issue of flood compensation storage during the lifetime of the full application (summarised in the Consultations section above). The EA raise no objection to the application subject to implementation of the development in accordance with the FRA (which can be required by planning condition) and information received from Highways England.

Subject to conditions, the proposal is considered acceptable in accordance with the aims of Core Policy 9 and Core Policy 10 of the Core Strategy and Policy DM5 of the DPD.

Conclusion

The proposal relates to the expansion/recofiguration of an existing business within the Farndon Open Break due to the existing PA Freight access onto the B6166 being made unsafe by the construction of the new A46 Farndon Roundabout which has taken a number of years to resolve. The proposal represents the proportionate expansion of an existing business and provides sustainable employment in the open countryside whilst not conflicting with the aims of the open break designation.

The expansion would also support the local economy in a proportionate manner. Subject to conditions, the proposal would not result in any adverse impact upon visual amenity, flood risk, ecology, archaeology, residential amenity or highway safety. It is therefore recommended that the application is approved, subject to appropriate conditions.

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

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

- General Layout and Phasing Plan A/PD0285/PAF/GD/500/021D (amended plan received 12.11.2019)
- Site Location Plan P19-LCL009-MT-DR-001 Version 2 (amended plan received 14.07.2020)
- Proposed Construction Details P19-LCL009-MT-DR-003 through to 007
- Proposed Lorry Park Longsection I-PD0285-PAF-SK-098

Reason: So as to define this permission and for the avoidance of doubt following the submission of amended plans.

03

No part of the 'proposed new PA Freight Lorry Park' hereby permitted as shown on Drawing No A/PD0285/PAF/GD/500/021D shall be brought into use until the existing site access off Farndon Road that has been made redundant as a consequence of this permission is permanently closed and the access crossing reinstated as verge/footway in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

04

No new external lighting shall be erected on site as a result of the development hereby approved unless details of the lighting have first been submitted to and approved in writing by the Local Planning Authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution and hours of operation. The lighting shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development.

Reason: In the interests of visual and residential amenity.

05

No development shall be commenced in respect of the 'proposed new PA Freight Lorry Park' hereby permitted as shown on Drawing No A/PD0285/PAF/GD/500/021D until a Construction Environmental Management Plan (CEMP) and timetable has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- i. a working methodology or Reasonable Avoidance Measures Statement (RAMS) for the species identified to be potentially present on site (reptiles, hedgehogs, badger, amphibians etc.) and include timings of works, hand searching etc., as well as measures to protect the River Devon LWS and Devon Grasslands LWS from any impacts during developmental activities.
- ii. the parking of vehicles of site construction workers and visitors;
- iii. loading and unloading of plant and materials;
- iv. storage of plant and materials used in constructing the development specifically avoiding root protection areas of any retained trees;
- v. Bat and other wildlife friendly temporary lighting during construction.
- vi. measures to control the emission of dust and dirt during construction;

All works shall be carried out in accordance with the approved details and timetable.

Reason: In the interests of enhancing the biodiversity of the area in accordance with the aims of the NPPF, Core Policy 12 and Policies DM5 and DM7 of the DPD.

06

No development shall be commenced in respect of the 'proposed new PA Freight Lorry Park' hereby permitted as shown on Drawing No A/PD0285/PAF/GD/500/021D until an Invasive Species Management Plan to control the horsetail on site and stop it spreading further has been submitted to and approved in writing by the Local Planning Authority. The invasive species should then be removed from the site as detailed within the plan prior to first use of the lorry park hereby approved.

Reason: In the interests of enhancing biodiversity in line with the requirements of the Development Plan, the NPPF and in line with the recommendations of the Extended Phase 1 Habitat Survey dated April 2019 by Rachel Hacking Ecology.

07

No development shall be commenced in respect of the 'proposed new PA Freight Lorry Park' hereby permitted as shown on Drawing No A/PD0285/PAF/GD/500/021D until a detailed biodiversity mitigation and enhancement strategy which draws upon the recommendations set out in the submitted Preliminary Ecological Appraisal (Sept 2019) and Reptile Survey (Oct 2019) prepared by Deltasimons has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include full details of the quantum, siting design of proposed bat and bird boxes, refugia/hibernacula for reptiles/hedgehogs/amphibians and native species planting including wildflower areas where possible and native species hedgerow planting. The strategy shall be installed prior to first use of the lorry park hereby approved and thereafter maintained in accordance with the approved strategy.

Reason: In the interests of maintain and enhancing biodiversity in accordance with the aims of the NPPF, Core Policy 12 and Policy DM7 of the DPD.

08

No site clearance including any tree works or vegetation clearance shall take place during the bird nesting period (beginning of March to end of August inclusive).

Reason: To ensure that adequate provision is made for the protection of nesting birds on site in accordance with the aims of the NPPF, Core Policy 12 and Policy DM7 of the DPD.

09

No development shall be commenced in respect of the 'proposed new PA Freight Lorry Park' hereby permitted as shown on Drawing No A/PD0285/PAF/GD/500/021D shall be commenced until full details of both hard and soft landscape works including the 'existing paved area to be broken out and returned to a field' 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.
- means of enclosure;
- pedestrian access and circulation areas;
- hard surfacing materials.

Reason: In the interests of visual amenity and biodiversity in accordance with the aims of the NPPF and Core Policies 9 and 12 of the Core Strategy and Policy DM7 of the A&DMDPD.

10

The approved landscaping (required by the condition above) 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.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity in accordance with the aims of the NPPF and Core Policies 9 and 12 of the Core Strategy and Policy DM7 of the A&DMDPD.

11

Construction works and deliveries in association with the construction of the development shall not take place outside 07:30 hours to 18:00 hours Mondays to Fridays and 07:30 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank Holidays.

Reason: To protect the amenity of occupiers of nearby properties from noise and disturbance in accordance with the aims of the NPPF and Policy DM5 of the DPD.

12

The development shall be carried out in accordance with the submitted flood risk assessment (January 2017, ref. PD0285/5.4/073, Compiled by Aecom), the letter from Highways England (to David Wooley, EA) dated 20/05/2020 and email from Aecom dated 02/06/2020.

Reason: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

13

Within the 'proposed new PA Freight Lorry Park' hereby permitted as shown on Drawing No A/PD0285/PAF/GD/500/021D the following activities are prohibited between the hours of 18:30 and 07:00:

- 1. vehicle engines or other mechanical equipment left running when vehicles are stationary
- 2. vehicle reversing
- 3. vehicle loading or unloading
- 4. overnight occupation of vehicles
- 5. storage of raw materials, equipment, finished products or waste materials

Reason: In the interests of the amenity on neighbouring dwellings and to protect the open break.

Note to Applicant

01

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

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

02

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accord Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

03

The access reinstatement works on Farndon Road referred to in the conditions involve work on the highway and as such require the consent of the County Council. Please contact the County Council's Agent, Via East Midlands to arrange for these works to be carried out. Email: licences@viaem.co.uk Tel. 0300 500 8080 and further information at: https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities

BACKGROUND PAPERS

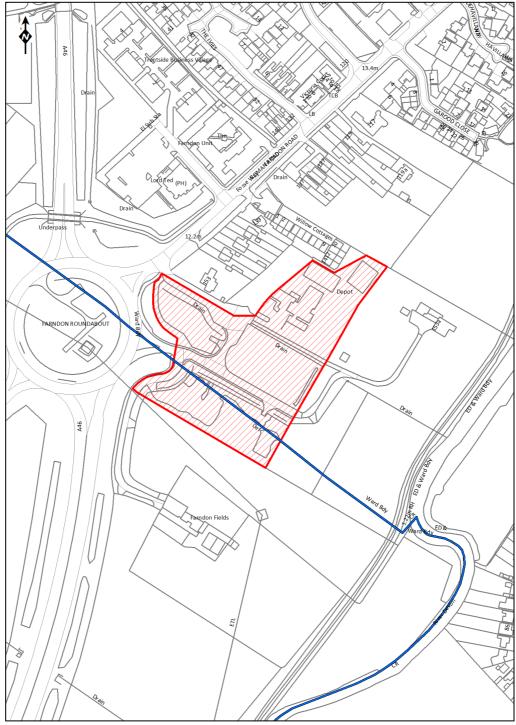
Application case file including: Committee Report January 2012 Committee Report March 2012 Committee Minutes March 2012

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.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 11/01300/FULM



© Crown Copyright and database right 2020 Ordnance Survey. Licence 100022288. Scale: Not to scale

Agenda Item 6

PLANNING COMMITTEE – 8 SEPTEMBER 2020

Application No: 20/00593/FUL

Proposal: Erection of 8 no holiday accommodation with swimming pool

Location: Chapel Farm, Newark Road, Wellow, NG22 0EJ

Applicant: Miss Gair Kettles

Agent: IBA Planning Ltd

Registered: 19.06.2020 Target Date: 14.08.2020

Extension of time agreed until 10 September 2020

Weblink https://publicaccess.newark-sherwooddc.gov.uk/online-

applications/simpleSearchResults.do?action=firstPage

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Wellow Parish Council has objected to the application which differs to the professional officer recommendation. Cllr Smith has referred the application to the committee panel who agree that the application should be decided at committee. The reasons for referral are detailed within the report.

The Site

The site relates to an area of land located to the north east of the settlement of Wellow on the edge of the Conservation Area and within a Mature Landscape Area on land which rises to the north east.

The nearest residential properties are a range of converted farm buildings to the east beyond which is a vacant residential property known as 'the Orchard' and further beyond there are a number of residential properties including the Old Smithy and Stag Cottage.

Part of the site includes a development of 13 holiday lets with communal kitchen and living areas, office and staff accommodation allowed on appeal June 2018 which is currently under construction.

Access to the site is from the A616 via two tracks leading to one track past Chapel Farm (previously known as Park Farm).

Relevant Planning History

The Wellow Farm complex as a whole has an extensive planning history. Of most relevance is:
16/01638/FULM — Erection of buildings and change of use of existing buildings to form holiday let accommodation

An appeal was lodged against a non determination of a proposal for erection of buildings and change of use of existing buildings to form holiday letting accommodation. During the appeal process the Council presented the application to Planning Committee in November 2017 in order to confirm the grounds on which to defend the appeal. Members were minded to refuse full

planning permission if they had been determining the application on the grounds that increased traffic generated by the proposal would result in an increase in danger to other users of the highway. The appeal was subsequently allowed in June 2018.

Please note that the appeal as described above is referred to throughout this report. The appeal reference is APP/B3030/W/17/3184203.

The Proposal

The application seeks permission for 8no. holiday lets and ancillary swimming pool to the north east of the 13no. holiday lets (currently under construction) allowed on appeal under application 16/01638/FULM. The proposed development would be an expansion of this development.

The minimum sized unit would be 24m² and the largest unit would be 44m². The units would be built into the existing grass bunds on site, with gabion walls and grass roofs. Rooms 1-4 would, in total, measure a width of 26.6m with a maximum depth of 8m and a height of approximately 3.45m. The further four rooms, changing room, plant room and swimming pool would form an L-shape. The swimming pool section would measure 23.1m in width, and 7.21m in depth, and rooms 5-8, the changing room, and plant room would measure 38m in with, a maximum of 9m in depth with a maximum height of 3.82m. Each entrance door would have full length windows either side. There would be a flat roof light to each unit, within the grass roof. There would be a shower room within each unit. There would be no building above the existing level of the bunds.

The site would be accessed from the two existing tracks off the A616 which then meet a single track alongside Chapel Farm up to the site. The proposed parking area is the same area which was approved in the appeal decision – an informal area to the north east part of the site approximately 0.25 acres in size, accessed via the same track.

Submitted Documents

1929 (P) 01 C Revised Site Location Plan

1929 (P) 02 B Existing Layout Plan

1929 (P) 03 B Proposed Layout Plan

1929 (P) 04 B Proposed Floorplan

1929 (P) 05 B Sectional Elevation

1929 (P) 06 B Sectional Elevation

1929 (P) 07 A Sectional Elevation

TCS IBA 154 1 Topographical Survey

Design and Access Statement received 14 April 2020

Heritage Impact Statement received 14 April 2020

TRANSPORT STATEMENT received 14 April 2020

<u>Departure/Public Advertisement Procedure</u>

Occupiers of 14 properties have been individually notified by letter. A site notice has also been displayed near to the site.

It is noted that there have been objections regarding how the application has been advertised. However, the Council has gone above the statutory requirement in this instance by notifying neighbouring properties via letter as well as placing a site notice near to the site. The statutory procedure has been carried out as well as complying with the Council's Statement of Community

Involvement.

Planning Policy Framework The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 3 – Rural Areas

Spatial Policy 7 - Sustainable Transport

Core Policy 6 – Shaping our Employment Profile

Core Policy 7 – Tourism Development

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

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM8 - Development in the Open Countryside

DM9 - Protecting and Enhancing the Historic Environment

DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2019 Planning Practice Guidance

<u>Consultations</u>

The Parish Council OBJECT to the proposal and commented:

Wellow Parish Council object to the proposed development on the following grounds:

1. The existing foul water / sewerage system is totally inadequate to cope with the demands of the proposed development.

The current sewerage system is a single leg steel pipe running east to west across the Common Land connecting to the main sewer system located on Newark Road. This sewerage system services all the houses located on the Bottom Green plus those located near to the Bottom Green, a total of approximately 20+ households. Over the recent past there have been very many occasions where, due to problems along its length, raw sewerage has been discharged directly onto the 'Common Land' track and the grassed areas in addition to private driveways. Seven Trent engineers were called out to all incidents to rectify the problem and clean up the affected areas. Due to the many occasions of reported incidents it is apparent that the existing sewerage system is at or near its maximum capacity to deal with the existing households waste. The proposed development would

therefore exacerbate this situation, presenting a serious health risk to the general public using the Common Land not to mention those living within the vicinity.

- 2. The proposed development is poor, sub-standard, and totally unsuitable in its design as holiday accommodation by virtue of:
 - a. Access to each of the holiday accommodation rooms is by a single doorway off the common shared passageway. The rooms are windowless and as such there is no second means of egress. Such a design is contrary to current Health and Safety and Fire Regulations. A 'worst case' scenario incident would result in any future occupier being trapped.
 - b. All rooms of the holiday accommodation are situated underground, akin to an underground bunker, with no windows. The holiday accommodation therefore results in a loss of amenity to future occupiers due to the absence of natural daylight and scenic views.
 - c. The holiday accommodation is of a high energy demand design, i.e. heating and lighting will be required for the underground rooms at all times. New holiday accommodation should be designed to have a carbon neutral footprint promoting and incorporating energy efficiency schemes throughout.
- 3. The proposed development does not have a legal right of access over the Common Land. The rights of easement over the Common Land is held and granted by the Lord of the Manor.
- 4. The proposed development application form states that the car parking arrangement is for 100 vehicles. In addition Section 5.40 the of the submitted Design and Access Statement states:
 - "...car parking for the accommodation will be within the already hard surfaced parking area associated with the adjoining facility..."
 - Given that the proposed parking arrangements is for such a large number of vehicles and given that it is only hard surfaced, i.e. earth and stone, a permeable surface, full mitigation measures should be provided to prevent and capture, in the event of an accidental or otherwise discharge, any liquid from those vehicles to fully prevent contamination of the underlying ground and ground water table. A non-permeable surface with a sufficient and suitable number of liquid receptors should be specified for the dedicated parking area.
- 5. Access to the proposed development is by a single shared track running adjacent to the existing residential dwellings, i.e. Park Farm Barns (4 off). The compounded impact of the activities of the proposed development and the previously permitted development would adversely affect the amenity of those existing residential dwellings by virtue of increased noise, disturbance and further loss of privacy.
- 6. With regard to the previous permitted development (16/01638/FUL), an email sent by Oliver Scott, N&SDC Conservation Officer to the case officer on 22 June 2017 states: "Further to our discussions on the hollow way, Mr Chapelhow has confirmed that no works or operations will be undertaken below ground on the area identified as the hollow way. This therefore offers mitigation and preservation in situ. It is important that the character of the hollow way is not further eroded."

The Hollow Way runs across the proposed development site. The subterranean design of the proposed holiday accommodation will result the Hollow Way ground being excavated to a substantial depth to accommodate the footings of the proposals. The character and possible archaeological remains / artefacts would therefore be lost forever. The proposed holiday accommodation will therefore cause harm to the surrounding designated / non-designated heritage assets and to the potential archaeological remains within the site and as such is in conflict with Core Policy 14 of the Core Strategy, Policy DM9 of the Allocations and Development Management DPD, and the aspirations of Section 16 of the NPPF.

- 7. When lack of visibility of a structure is submitted as a design strength to protect the heritage asset of a conservation area it is illogical and contradictory to conclude that the proposed development would make a positive contribution to the area.
- 8. The Applicant's Agent in his submitted 'Design and Access Statement' Report states that the application has been subject to a formal pre-application enquiry, i.e. August 2019 with Bev Pearson Ref: PREAPP/00169/19). Pre-application advice does not constitute a formal or guaranteed outcome in the determination of a planning application or other form of submission. Any views or opinions expressed are given in good faith, without prejudice to the formal consideration of any planning application, which will be subject to a period of public consultation and maybe decided at a Planning Committee. The Agents assertions that permission should be granted on the outcome of such a meeting is therefore completely illogical, false, and misleading.
- 9. The Agent in his submitted 'Design and Access Statement' Report states that "the applicant commissioned ADC Infrastructure Ltd to undertake a review of the proposed access and parking arrangements, the findings of which are set out in the **Transport Statement."** This document has not been posted on the planning portal website and as such are unable to make comment. Request that this serious error be corrected and that additional time for comments on the application be given so that the missing document can be read, understood, and if necessary rebutted.
- 10. The Agent in his submitted 'Design and Access Statement' Report states that "it is anticipated that the proposal will generate 6.no of (full/part time) jobs on top of the 8 equivalent full-time jobs already committed in connection with the consented overnight accommodation.". It is commercially very unlikely that any additional job will be created by the proposals. If the proposals were a standalone development then yes some jobs would be created, but this proposal is an addition to the consented accommodation. Any workers likely to be employed by the consented accommodation will service the proposals as well. The Agents assertion therefore that the proposal will generate jobs is totally false, inaccurate, and misleading.
- 11. It is highlighted that the application is a standalone proposal and so must be treated on its own merits and so all the normal consultees should be formally informed of the proposals and asked to give their comments. As detailed at Paragraph 8 above, a formal consideration of the planning application should and must be adhered to and possibly being decided by the Planning Committee.
- 12. Wellow Green is registered 'Common Land' in addition to being registered as a 'Main Open Area'. It is considered that the proposals would harm and erode the amenity value of this land by the increased number of vehicles likely to be generated, i.e. stated 100 vehicle parking on application site. The 'Common Land' is currently used and enjoyed daily by horse riders, ramblers, fishermen (dedicated car park), local residents, and visitors, all on foot (horseback).

Environmental Health commented:

I refer to the above application and have no comments to make.

NCC Highways Authority commented:

This proposal relates to the construction of additional overnight accommodation (8 units) and guest pool. The farm site has been the subject of an appeal for 13 holiday let units (planning app. 16/01638/FUL) which was subsequently approved in 2018.

The appeal comments are noted particularly with respect to the access and traffic generation. The conditions recommended improvements to the access opposite Rufford Road. It is considered that if this proposal were to be approved similar conditions should be applied (see below).

Whilst the comments from the Planning Inspector relating to the two access points are understood, it should be noted that continual small incremental additions to the approved use of the site would, at a later stage, have an impact on vehicular movements to/from the site which may generate a highway safety concern.

However, in view of the Appeal decision, it is not considered that traffic movements associated with this proposal would be significant in themselves to raise concern. Furthermore, there have been no additional injury accidents recorded at the junction of Newark Road/Rufford Road/Wellow Road over the last 2½ years, since the appeal, to add to those that caused concern at that time.

Whilst a Transport Statement mentioned in the Design and Access Statement does not appear to be available to view, I am confident that it will not offer information that raises a Highway Authority concern.

In conclusion, no objections are raised subject to the following conditions:

No development shall commence until a scheme and details of the improvements and/or widening of the existing dropped vehicular footway crossing opposite Rufford Road have been submitted to and approved by the local planning authority in writing. The agreed scheme shall be carried out before the development hereby permitted is brought into use.

Reason: To make access/egress more convenient and safer.

No part of the development shall be brought into use until the access to the site opposite Rufford Road has been surfaced in a bound material for a minimum distance of 5 metres behind the highway (footway) boundary.

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

Note to Applicant:

The development makes it necessary to improve 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 the County Council's Agent, Via East Midlands to arrange for these

works to be carried out. Email: licences@viaem.co.uk Tel. 0300 500 8080 and further information at:

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

The Conservation Officer commented:

The proposal site is located on higher ground above Wellow Conservation Area (CA).

Pre-application advice was sought on this proposal, and Conservation raised no objections to the subterranean, landscaped design approach (ref PREAPP/00169/19). We remain of the opinion that the proposals will cause no harm to the setting of Wellow CA or any other heritage assets.

In reaching this view, we have considered the Council's duty under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as heritage advice contained within the Council's LDF DPDs and section 16 of the NPPF.

Further details of facing materials, as well as the specification for the green roofs might be sought via appropriately worded conditions to ensure that the development takes the form envisaged by the LPA.

The Historic Environment Officer commented:

The site lies in an area of high archaeological potential. A hollow way of likely medieval date bounds the site to the north-west. Another track leading to the scheduled monument at Jordan's Castle is visible in earthworks to the south-east, the site lying in a narrow strip of land between the two.

Gorge Dyke is also a scheduled monument and lies just to the south of the proposed site. It identifies the surviving parts of a large medieval enclosure around the village of Wellow, comprising a deep ditch and banks.

To the north of the site, a triple ditch, boundary and trackway (all undated) are recorded as earthworks in woods at the top end of the site.

The application is accompanied by a heritage statement with a very short section on archaeology (section 2.4). This serves no other reason than to try and establish a position for there being no archaeological remains on the site and is sadly not fit for purpose.

The heritage statement identifies the siting of a pig unit which it states cuts into the site from aerial photographs dating to 1990 – 2004. However on reviewing the APs from 2000 and 2001, the proposed site actually lies to the north-east of this, on land that had not yet been disturbed. It would also appear from closer examination of the AP's that in 2001, there were surviving ridge and furrow earthworks (likely medieval in date) on the site, extending to the south-east towards and beyond the track identified above.

Later APs show the proposed site to have been fenced off along the line of the current redline boundary. Any surviving earthworks seem to have been removed and the hollow way track has unfortunately been significantly altered from 2001 and appears to have been filled in and metalled.

This is of major concern, although I accept it may not have been undertaken by the applicant for this or any earlier approved applications.

However, despite the recent damage to the site, it is still likely that any buried archaeological features on the site could have survived and they will certainly be impacted by the proposed development.

I note that for the application (16/01638/FUL, approved at appeal) for development adjacent to the current proposals, the conservation officer did raise concerns regarding archaeology, particularly the hollow way and it was agreed that no further works would be undertaken in the vicinity of it. I also note that the location (pig unit cutting) described in the heritage statement relates to this earlier application and does not seem relevant to the current one.

Recommendation:

Despite the recent disturbance, there is still a significant potential for archaeological remains to be present on the site.

If permission is granted I recommend there be an archaeological condition for a mitigation strategy to effectively deal with this site. In the first instance this will be for preservation in situ of the hollow way and any related features. Secondly, this will include, but may not be limited to, a trial trench evaluation of the site which should aim to determine the presence, absence, significance, depth and character of any archaeological remains which could be impacted by the proposed development as noted above. Further archaeological mitigation work may be required if archaeological remains are identified in the evaluation.

This should be secured by appropriate conditions to enable any remaining archaeology which currently survives on this site to be properly assessed and characterised and to allow for an informed archaeological mitigation strategy to be implemented.

The following condition wording is based on current guidance from the Association of Local Government Archaeological Officers and the Lincolnshire Handbook (2019):

Preservation In Situ

Prior to works hereby permitted commencing, the applicant will provide a formal undertaking to cease and avoid any further work within the area of the hollow way, to include a detailed design and method statement, which shall be submitted to and approved in writing by the Local Planning Authority; such details to show the preservation of surviving archaeological remains which are to remain in situ.

Archaeological Work

Part 1

No development shall take place until a written scheme of archaeological investigation has been submitted to and approved by the Local Planning Authority. This scheme should include the following:

1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).

- 2. A methodology and timetable of site investigation and recording
- 3. Provision for site analysis
- 4. Provision for publication and dissemination of analysis and records
- 5. Provision for archive deposition
- 6. Nomination of a competent person/organisation to undertake the work

The scheme of archaeological investigation must only be undertaken in accordance with the approved details.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with the National Planning Policy Framework.

Part 2

The archaeological site work must be undertaken only in full accordance with the approved written scheme referred to in the above Condition. The applicant will notify the Local Planning Authority of the intention to commence at least fourteen days before the start of archaeological work in order to facilitate adequate monitoring arrangements. No variation shall take place without prior consent of the Local Planning Authority.

Reason: To ensure satisfactory arrangements are made for the recording of possible archaeological remains in accordance with the National Planning Policy Framework.

Part 3

A report of the archaeologist's findings shall be submitted to the Local Planning Authority and the Historic Environment Record Officer at Nottinghamshire County Council within 3 months of the works hereby given consent being commenced unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that satisfactory arrangements are made for the investigation, retrieval and recording of any possible archaeological remains on the site. This Condition is imposed in accordance with the National Planning Policy Framework.

NPPF states that local planning authorities should 'require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible' (para 199).

And

'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.' (Para 197)

If planning permission is granted with an archaeological condition, please ask the developer to contact this office and we will prepare a brief for the works.

The resulting specifications should be approved by this department prior to commencement and we will require ten days' notice before commencement of any archaeological works.

Severn Trent Water were consulted. No comments have been received to date.

Representations have been received from 9 local residents/interested parties (8 objections, 1 in support) which can be summarised as follows:

- One comment in support of the application noting that there are a maximum of 3no. HGVs a
 day and this is not every day
- Poor access to 616 poor visibility, dangerous
- Access track not suitable for heavy load traffic or increased traffic flow, it is unadopted, unsurfaced, potholed and unlit
- Access track currently used by walkers, cyclists, farm machinery, horse rider increase in vehicles would cause danger to other users
- Common Land access runs through common land and is encroaching on common land grass due to increased use which would be exacerbated further
- Threat to Pig Farming business at Woodside Farm
- Objection to notification process carried out by the Council
- Comments requesting the application is decided at planning committee
- Noise pollution (already from stag/hen dos, live bands/DJs etc) will be exacerbated by 8no further bedrooms plus swimming pool
- Light pollution which could impact negatively on wildlife in the nearby Wellow Wood which is a SSSI
- Hollow Way, an significant archeological area could be disturbed by the proposal
- Over development of site, unsightly design and not in keeping with the Conservation Area
- Comments relating to the Transport Statement not being public on the website (this has since been rectified and is publicly available to view)
- No emergency access to the site
- An 'existing building' has been annotated on the plan which does not benefit from planning permission.

Reasons for Referral (Cllr Smith)

- Current access is completely unsuitable for the additional vehicles this development would invite
- This development would adversely affect the unique local character of the village
- This development would not fulfil any local need for the village
- Incorrect information from highways consultation the access track is part of Wellow Common and as such could not be altered to facilitate the highway requirements of the development
- Unresolved concerns over the adverse effect on the poor water system
- Concern over highways safety at the junction entrance to the track that leads to the development

The above issues are discussed in the next section of the report.

Comments of the Business Manager

Principle of Development

A recent appeal decision under application 16/01638/FULM has allowed the construction of 13 holiday let units on the site. This application has the same site outline as the appeal site and as such the inspector's decision is a material consideration for this application.

The site is located within the open countryside and as such the proposal falls to be assessed against Policy DM8 of the Allocation and Development Management DPD (adopted 2013), Open Countryside. Policy DM8 strictly controls development within the open countryside but allows for certain types of development, including tourist accommodation. Tourist accommodation will be supported where it is necessary to meet identified tourism needs, it constitutes appropriate rural diversification, including the conversion of existing buildings, and can support local employment, community services and infrastructure. Accommodation that is related and proportionate to existing tourist attractions will also be supported. All proposals will need to satisfy other relevant Development Management Policies, take account of any potential visual impact they create and in particular address the requirements of Landscape Character, in accordance with Core Policy 13.

Chapter 6 of the National Planning Policy Framework (NPPF) recognises the need to support economic growth in rural areas. The NPPF states that planning policies and decisions should enable 'sustainable rural tourism and leisure developments which respect the character of the countryside'. It further states that 'sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.

Core Policy 7 of the Amended Core Strategy (adopted 2019) states the District Council recognises the economic benefits of sustainable tourism and visitor based development (including tourist accommodation), and will view positively proposals which help to realise the tourism potential of the District, support the meeting of identified tourism needs, complement and enhance existing attractions or that address shortfalls in existing provision, subject to:

Within the open countryside a proposal represents sustainable rural tourism development if it meets one or more of the following:

- Forms part of a rural diversification scheme;
- Supports an existing countryside attraction;
- Has a functional need to be located in the countryside;
- Constitutes the appropriate expansion of an existing tourism or visitor facility;
- Supports local employment;
- Meets an identified need not provided for through existing facilities within the main built-up areas of 'settlements central to the delivery of the spatial strategy', or villages covered by Spatial Policy 3 'Rural Areas'; or that
- Supports rural regeneration through the appropriate re-use and conversion of existing buildings.

Such proposals will still however need to be acceptable in terms of their:

- Design and layout; and
- Individual and/or cumulative impact on local character (including the built and natural environments), heritage assets, biodiversity, amenity, transport infrastructure, community services and landscape character.

The proposal would expand an existing tourist accommodation facility which is one of the criteria listed. With the above in mind, the proposal is acceptable in principle (this is discussed further below) subject to a site specific assessment regarding impact.

<u>Sustainable Rural Tourism</u>

A recent appeal decision (APP/B3030/W/17/3184203) has allowed the construction of 13 holiday let units adjacent to the site of this proposal. This application is for a further 8 rooms, a swimming pool and changing rooms in association with the wider site, as an expansion of the existing tourist accommodation. The submitted Design and Access statement outlines the benefits of the proposal including:

- the proposal will increase spending in the area therefore support the local economy
- the proposal will generate 6.no of (full/part time) jobs on top of the 8 equivalent full-time jobs already committed in connection with the consented overnight accommodation
- proposed development will also provide employment opportunities to local tradesmen in the area during the period of construction

In relation to the criteria set out in Core Policy 7 the Design and Access Statement states:

'First, the proposal forms the appropriate expansion of an existing tourism or visitor facility and the further rural diversification of Chapel Farm. Both the holding of the events, festivals and weddings on the wider site and the provision of the approved holiday let accommodation comprise forms of rural diversification and the proposed additional overnight accommodation is simply a further evolution of the same. The 8 additional rooms plus ancillary swimming pool proposed is considered proportionate to the existing accommodation provided on the site and to the existing events operating within the applicant's wider landholding and will enhance the accommodation offer to visitors of the site.'

It should be noted that the events referred to in the Design and Access Statement do not form part of this application and the uses do not currently benefit from planning permission. This is a separate issue and should not affect the outcome of this application. It is understood that festivals and some events held at the wider site currently fall under permitted development under the provisions of the General Permitted Development Order (England) 2015 (as amended), however an increase in events held at the site may require a further planning application subject to details. This application is solely to assess the acceptability of the holiday units, swimming pool and changing facility as per the description of development.

The proposed development is directly adjacent to the 13 holiday let units currently under construction. Chapel Farm is used as tourism accommodation as existing. As such I feel it is clear that the proposal is an expansion of an existing tourism facility. I consider a further 8 units and a swimming to be appropriate in scale in terms of expansion. I therefore consider that the proposal complies with Core Policy 7 and represents a sustainable location for the development.

Impact on Visual Amenity, Character of the Area, and the Setting of the Conservation Area

Core Policy 14 of the Amended Core Strategy aims to secure the continued preservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment and the preservation of the special character of Conservation Areas – including such character identified in Conservation Area Character Appraisals. This is also reflected in Policy DM9.

Policy DM9 (Protecting and Enhancing the Historic Environment) states development proposals should take account of the distinctive character and setting of individual conservation areas including open spaces and natural features and reflect this in their layout, design, form, scale,

mass, use of materials and detailing. Impact on the character and appearance of Conservation Areas will require justification in accordance with the aims of Core Policy 14.

Part 16 of the NPPF seeks to conserve and enhance the historic environment. Paragraph 192 states that when determining applications local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. 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.

When assessing applications which impact Conservation Areas, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that 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.

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

The site is identified within the Landscape Character Assessment as falling within the South Nottinghamshire Farmlands character area, and character zone MN PZ 17, Wellow Park Village Farmlands with Ancient Woodland a landscape area considered as being of very good condition and low sensitivity with a landscape action to conserve.

Given the topography of the site and surrounding area and that the proposed development would be incorporated into existing ground levels it is considered that the development would be unlikely to have an adverse impact on the landscape character of the site and its wider setting which would be conserved in line with the aims of the Landscape Character Assessment.

All new floorspace would be below the existing ground levels therefore there would be very limited visual impact. I do not consider that the proposal would harm the character of the area. The Conservation Officer has raised no objection to the proposal in terms of impact on the character and appearance of the Conservation Area. I concur with the comments and subject to the proposal being constructed as per the plans, I do not consider it would have any negative impacts visually. The Conservation Officer has suggested a condition requiring further details of facing materials, as well as the specification for the green roofs. I consider this reasonable to ensure there is no visual harm.

Impact on Residential Amenity

Policy DM5 states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

Given the distances between the proposed site and the nearest neighbouring dwellings and that the development would be set within with the topography of the site, it is considered that the proposal would not result in any overlooking, overbearing or overshadowing impacts.

The application states within the Transport Statement that the proposal would likely result in a further 16 vehicular movements to and from the site each day. The appeal decision stated that the existing dwellings likely amount to 80 movements per day and that an increase of 26 as a result of the 13 holiday lets would be a 'moderate increase'. As such I consider that the estimated additional 16 vehicle movements (as explained within the submitted Transport Statement) as a result of the proposal would not cause an unacceptable impact on residential amenity for the occupiers of the dwellings which the access track passes in terms of noise levels, particularly given the condition of the track as vehicles would have to drive slowly.

The comments from the Parish state that there are no windows for the holiday units. The plans clearly show two windows either side of each entrance door and a rooflight above each shower room. I consider this reasonable for the size of the rooms and their proposed use as tourist accommodation and do not consider this to be unacceptable in terms of amenity for the occupants.

The occupants would have access to a shared kitchen facility within the tourist accommodation. I consider this to be reasonable for the type of tourist accommodation.

Impact on Highways Safety

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

The parking area would be to the north east part of the site on land which is currently used for parking when the festivals are held and is the parking area approved for the 13 holiday lets. It is accessed via the same track as the proposed development. There are no proposed changes to the parking area which is informal and could easily accommodate 21 vehicles safely (1no. space per holiday let including the 13 approved). The appeal decision included a condition that the area would be retained for parking purposes for the lifetime of the development. If approved, a similar condition is recommended is attached to this permission to ensure the holiday units have adequate associated parking.

Comments from the Parish raise concern regarding the parking area and possible contamination of the underlying ground and water table due to liquid discharge from the vehicles. The Parish have requested a non-permeable surface with a sufficient and suitable number of liquid receptors should be specified for the dedicated parking area. I do not consider a condition of this nature to meet the tests set out in the NPPF, as no requirement was conditioned for the same area within the appeal decision which has been approved for parking therefore it would be unreasonable.

The Inspector concluded that the moderate increase in vehicular movements, from 80 to 106 per day, as a result of the 13 holiday lets would not cause dangerous conditions. This does not automatically mean that any further in vehicular activity on the track would be acceptable. The proposal would result in an additional 16 vehicular movements per day as estimated in the Transport Statement. NCC Highways state in their comments, 'it should be noted that continual small incremental additions to the approved use of the site would, at a later stage, have an impact

on vehicular movements to/from the site which may generate a highway safety concern. However, in view of the Appeal decision, it is not considered that traffic movements associated with this proposal would be significant in themselves to raise concern.' I concur with the comments and consider that the increase from this proposal would not cumulatively amount to a dangerous increase in traffic using the tracks.

I have considered the comments made by the Parish and interested parties in regard to the use of the track and highway safety issues. The appeal decision allowing the 13 holiday let units (currently under construction) has established the principle of the access as acceptable subject to a condition to improve the first 5m from the public highway prior to occupation, which can also be attached to this permission. The Inspector found both accesses from the A616 to be acceptable. I have visited the site and note the track is not in great condition, there are pot holes and it is essentially a farm track. However, I do not feel this can be a reason to refuse the application given that the recent appeal was allowed utilizing the same access and track, and the increase in traffic would not amount to a significant increase (as discussed above), therefore the condition of the track in and of itself would not necessarily cause a danger to users. In addition,I am informed that it is the responsibility of all users who have right of access to maintain the track therefore it would be unreasonable to place the burden solely on the applicant.

NCC Highways have raised no objection to the proposal. As such I do not consider there to be a reason for refusal in relation to highway safety or the condition of the track. I consider the proposal to be acceptable and in accordance with Spatial Policy 7 and Policy DM5.

<u>Drainage</u>

There are comments suggesting that that the proposal would overload the existing foul water system. No comments have been received from Severn Trent Water to date. A condition requiring details of the drainage system prior to occupation was imposed on the appeal decision for the 13 holiday lets currently under construction. I consider it reasonable to attach the same condition to this planning permission to ensure that the proposal can sufficiently discharge foul and surface water. In any case the foul water system should comply with building regulations.

Impact on Ecology

Policy DM7 of the Allocations and Management DPD aims to protect, promote and enhance green infrastructure in line with Core Policy 12 of the Amended Core Strategy which seeks to conserve and enhance the biodiversity and geological diversity of the District.

There are no trees or hedgerow which would require removal for the proposal to take place. The proposed development would be built into the existing ground with a green roof. The site lies within a SSSI risk zone but not within the SSSI itself. Comments have raised concern regarding the wildlife in Wellow Park (the SSSI) due to light pollution for example. Wellow Park is approximately 70m from the location of the proposed development. Given the context of the site which lies between existing (and under construction) buildings to the south and the car parking area to the north, the underground position of the units with windows facing towards one another (aside from one roof light per unit), plus the separation distance to Wellow Park, I do not consider that the development would impact the SSSI or wildlife.

With the above in mind, I do not consider that the proposal would have a negative impact on ecology.

<u>Impact on Archaeology</u>

The Historic Environment Officer has identified the site area as an area of high archaeological potential and has raised concern relating to the limited information provided relating to the site's archeological significance. There is a significant potential for archaeological remains to be present on the site. The Historic Environment Officer has recommended conditions in order to mitigate any harm. I consider the condition with 3 parts to meet the tests set out in Paragraph 55 of the NPPF therefore it is suggested the condition is attached should the proposal be found to be acceptable in all other aspects. In relation to the Hollow Way, a condition was attached to the appeal decision restricting any work in this area which is also relevant to this application and should also be attached to the permission (if approved).

Other Matters

The Parish and local residents have raised concern that the track is part of common land. Common land is land owned by one or more persons, where other people known as 'commoners' are entitled to use the land or take resources from it. Works to common land are restricted by Section 38 of the Commons Act (England) 2006. Consent must be granted from the Planning Inspectorate to carry out certain works on Common Land including re-surfacing of tracks. The applicant is aware that an application is required for this consent and that any permission granted would not override this requirement or any ownership rights. In any case the ownership of land is not material to the decision making process.

One comment raised concern that the Pig Farm business at Woodside Farm (to the north east) would be at risk due to the proximity of the proposed development. The comment raises concern that the development would be within 400m of the pig unit. When on site there were no noticeable smells that were cause for concern (although I appreciate levels would differ at various times). Although under 400m, the farm is still a good distance away at approximately 240m from the development site. I consider it unlikely that the development would cause issues for Woodside Farm (such as smell/noise complaints) or for the occupants of the units who would likely only be there for a few days. Environmental Health has raised no concern with the development.

The Parish have raised concern that the proposal will not be carbon neutral. Although the Development Plan encourages developments which reduce CO_2 emissions or which use renewable energy, it is not a requirement. The development will benefit from the green roofs which will contribute to reducing the overall CO_2 emissions of the tourist accommodation development.

The Parish also question the statement regarding the number of jobs the proposal will create. The application indicates a further 6 jobs would be created as a result of this proposal (it is not specified how many of these would be part time or what the full time equivalent would be). It is not overly clear how a further eight rooms and a swimming pool would create these jobs. However given that the proposal is acceptable in principle, I do not consider it necessary to question this further. In any case, any jobs created as a result of the proposal would be beneficial in accordance with Core Policy 6 of the Amended Core Strategy.

In relation to the comments regarding the Transport Statement not being available online, this has been rectified and has been available for the public to view since 21.8.2020.

As the proposal is for tourism purposes and is acceptable in principle on this basis, it is necessary to restrict it to this use and for a register of occupants to be kept. This was also a condition on the appeal decision. I consider the condition to meet the tests set out in the NPPF.

Other comments have been submitted relating to a building being shown and annotated on the plans as a former agricultural building but that this is not accurate and the building does not benefit from planning permission. The building in question is on the plans but is not part of the proposal. It is therefore not material to the decision making process. As an aside, planning history does not appear to exist for the building although it is showing on aerial images from 2009. Under Section 171 of the Town and Country Planning Act 1990, time limits apply to operational development, i.e. buildings after which planning enforcement cannot be taken (with the exception of deliberate concealment) of 4 years after substantial completion. The building would therefore appear to be immune from enforcement action – if permission had been required for it.

In addition to the concerns stated in the 'Drainage' section of the report, comments have raised concern as to why Severn Trent Water (STW) neither commented on the previous application nor this application. The local planning authority is not able to detail why STW has not responded to this or previous applications on the site – this would be a question for STW. However, many consultees are directing their responses to proposals which will have impact upon their specialist area. It could be that STW are directing their resources in a similar manner.

Concerns have also been raised regarding the plans for the appeal site, and that it has not been constructed in accordance with the approved plans. This is being dealt with separately and investigated by Planning Enforcement and is not a matter for this application.

Planning Balance and Conclusion

The Chapel Farm/616 site as a whole is clearly contentious as can be seen from the numerous objections received.

Paragraph: 006 Reference ID: 21b-006-20190315 of the NPPG states:

'To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 – these provisions also apply to appeals).

The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 14 of the Framework. If decision takers choose not to follow the National Planning Policy Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.'

In my assessment of the proposal for 8 proposed holiday units, swimming pool and changing room, I have found there to be no material reasons that would justify the refusal of the application. There are no impacts of the proposal which would be considered unacceptable subject to conditions such as the improvement to the access. The cumulative impacts of this proposal, alongside the allowed appeal, have been considered and found to be acceptable.

The proposal is in accordance with the Council's Development Plan and the NPPF which is a material consideration. I therefore 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

1929 (P) 01 C Revised Site Location Plan

1929 (P) 03 B Proposed Layout Plan

1929 (P) 04 B Proposed Floorplan

1929 (P) 05 B Sectional Elevation

1929 (P) 06 B Sectional Elevation

1929 (P) 07 A Sectional Elevation

Reason: So as to define this permission.

3. Before any construction occurs above slab level, samples or detailed specifications of all external materials to be used on the development hereby permitted (including the green roofs) 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.

- 4. Prior to first occupation/use of the development hereby approved full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
 - full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
 - existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;
 - proposed finished ground levels or contours;
 - hard surfacing materials;
 - minor artefacts and structures for example, furniture, play equipment, refuse or other storage units, signs, lighting etc.
 - proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);

Reason: In the interests of visual amenity and biodiversity.

5. The parking area as shown on the proposed layout plan (drawing no. 1929 (P) 03 B) shall be retained as such for the lifetime of the development.

Reason: To ensure the development has adequate parking provision for the lifetime of the development.

6. No development shall commence until a scheme and details of the improvements and/or widening of the existing dropped vehicular footway crossing opposite Rufford Road have been submitted to and approved by the Local Planning Authority in writing. The agreed scheme shall be carried out before the development hereby permitted is brought into use.

Reason: To make access/egress more convenient and safer.

7. No part of the development shall be brought into use until the access to the site opposite Rufford Road has been surfaced in a bound material for a minimum distance of 5 metres behind the highway (footway) boundary.

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

8. No part of the development hereby permitted shall be occupied until works for the disposal of sewage and surface water have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

Reason: To ensure adequate drainage is installed for the development.

9. No works or operations shall be undertaken below ground in the area identified as the 'hollow way' (the access track) shown on drawing number 1929 (P) 01 C Revised Site Location Plan.

Reason: To ensure that any features of archaeological interest are protected.

10. Part 1

No development shall take place until a written scheme of archaeological investigation has been submitted to and approved by the Local Planning Authority. This scheme should include the following:

- 1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
- 2. A methodology and timetable of site investigation and recording
- 3. Provision for site analysis
- 4. Provision for publication and dissemination of analysis and records
- 5. Provision for archive deposition
- 6. Nomination of a competent person/organisation to undertake the work

The scheme of archaeological investigation must only be undertaken in accordance with the approved details.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with the National Planning Policy Framework.

Part 2

The archaeological site work must be undertaken only in full accordance with the approved written scheme referred to in the above Condition. The applicant shall notify the Local Planning Authority of the intention to commence at least fourteen days before the start of archaeological work in order to facilitate adequate monitoring arrangements. No variation shall take place without prior permission of the Local Planning Authority.

Reason: To ensure satisfactory arrangements are made for the recording of possible archaeological remains in accordance with the National Planning Policy Framework.

Part 3

A report of the archaeologist's findings shall be submitted to the Local Planning Authority and the Historic Environment Record Officer at Nottinghamshire County Council within 3 months of the works hereby given permission being commenced unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that satisfactory arrangements are made for the investigation, retrieval and recording of any possible archaeological remains on the site. This Condition is imposed in accordance with the National Planning Policy Framework.

11. The premises shall be used for holiday accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 2015 (as amended) or any permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015).

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any amending legislation or the Town and Country Planning (Use Classes) Order 2015 (as amended) or any amending legislation.

12. The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the Local Planning Authority at any time upon written request.

Reason: To enable the local planning authority to monitor or check the use of the building is in accordance with Condition 11.

Notes to Applicant

1. This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

- 2. 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.
- 3. The development makes it necessary to improve 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 the County Council's Agent, Via East Midlands to arrange for these works to be carried out. Email: licences@viaem.co.uk Tel. 0300 500 8080 and further information at:

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

- 4. Section 38 of the Commons Act (England) 2006 applies as part of the site is common land. Any works to the common may require consent and should be applied for to the Planning Inspectorate.
- 5. This permission relates solely to the proposal as described in the description of development and does not grant permission for any other activity on, or in relation to, the site such as events and festivals. This does not affect permitted development rights for temporary uses as defined in Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

BACKGROUND PAPERS

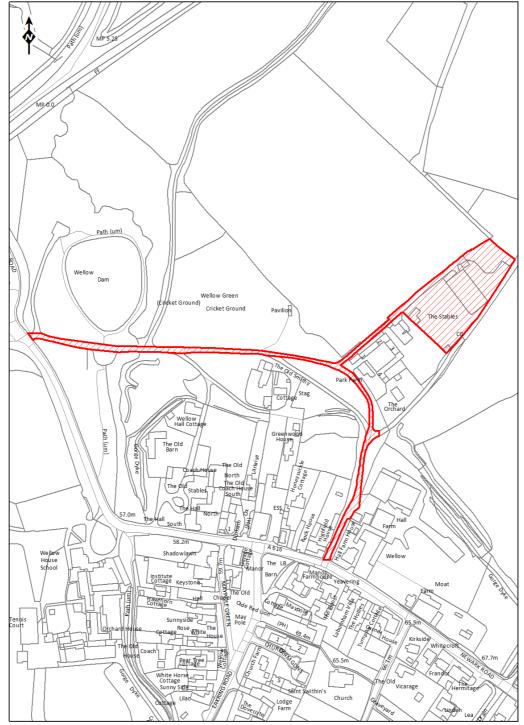
Application case file.

For further information, please contact Ellie Sillah on 01636 655770.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning & Regeneration

Committee Plan - 20/00593/FUL



© Crown Copyright and database right 2020 Ordnance Survey. Licence 100022288. Scale: Not to scale

Agenda Item 7

PLANNING COMMITTEE - 08 SEPTEMBER 2020

Application No: 20/01159/FULM

Proposal: Proposed New Farm Shop and Tearoom including ancillary

accommodation and additional car parking facility.

Location: Brickfield Farm, Hockerton Road, Kirklington NG22 8PB

Applicant Maxey's Farm Shop, Mr & Mrs Keith Maxey

Agent Venture Architectural – Mr Richard Smallwood

Registered: 02.07.2020 Target Date: 30.09.2020

Weblink: https://publicaccess.newark-sherwooddc.gov.uk/online-

applications/simpleSearchResults.do?action=firstPage

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as this application constitutes a major development (given the site area) and Kirklington Parish Council (host parish) raise no objections which differs from the professional officer recommendation of refusal.

The Site

The application site is situated within the open countryside, located on the south side of the A617, between the settlements of Hockerton and Kirklington.

The site comprises an existing farm shop (Maxey's Farm shop) and its access, its associated parking area and part of the agricultural field to the south totalling c1.27ha in area.

The existing farm shop is a timber clad building with a clay pantile roof, set back into the site with its car parking set out to its frontage. The site is slightly lower than the adjacent classified road (Hockerton Road, the A617) from where vehicular access is taken. This access serves both the farm shop and the residential dwelling beyond, which is within the control of the applicants, known as Brickfield Farm. A separate 'in' and 'out' access and egress arrangement operates into the farm shop element of the site.

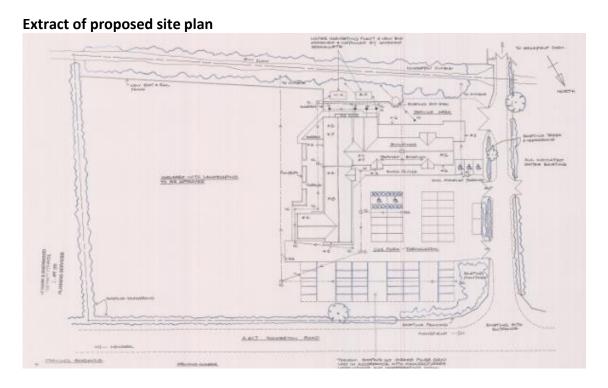
The car parking area comprises a mixture of bound hard surfacing laid out in formal spaces (c20 spaces) plus what appears to be an overspill car parking area closer to the road which is formed of loose chippings.

Access into the adjacent field to the south (which is in agricultural use) is via an existing timber pedestrian footbridge which crosses the Dumble (a watercourse which runs on an east-west alignment). There is a line of mature trees and vegetation alongside the Dumble and footbridge. The land in this area is gently undulating and slopes up to the south.

The site is surrounded by open countryside. A public right of way (Kirklington FP6) lies to the west of the site frontage and crosses the field to the south.

Relevant Planning History

15/00745/FUL – An extension to the farm shop and a new tea room at the existing Maxey's Farm shop was sought to be erected in oak cladding, straw bales, lime render walls with pantiles and shingle to the roof. The proposed extension to the shop comprised of an additional 358m₂ in floor space and the new tea room comprises 265m₂ in addition to the existing 198m₂ floor space with 30 additional car parking spaces proposed to the north east of the existing car park. Whilst officers recommended refusal (due to concerns of unsustainability, that it wouldn't complement and was significantly disproportionate to the existing business, plus a harmful impact on the visual amenity and landscape character of the open countryside setting) the Planning Committee resolved to approved this, which was issued on 19th September 2015. The permission expired without having been implemented.



12/00563/FUL – Butchery preparation room, storage room, changing facilities, office – Approved and implemented.

08/01982/FUL – Erection of a farm shop and associated parking. The application was refused by planning committee on the 10th December 2008 for the following reason:- "The proposal conflicts with Policies 1/1, 2/10 and 7/3 of the Nottinghamshire and Nottingham Joint Structure Plan and Policies FS1, NE6 and S14 of the Newark and Sherwood Local Plan and therefore would constitute an unsustainable form of development and an unwarranted visual intrusion within the countryside." However the application was allowed on appeal (APP/B3030/A/09/2097450) in June 2009. There were no restrictions imposed limiting either the scope of its use (it thus has an open A1 retail use) or hours of opening.

The Proposal

Full planning permission is sought for a new purpose built farm shop with restaurant/tea room and function room to the south of the existing farm shop which is proposed to be retained 'as ancillary to the new building'.

The new building would measure 40m x 17m giving a footprint of 680m². It would have a shallow pitch roof that would measure 3.5m to eaves and 5.85m to ridge. This building would be constructed of traditional red brick facing brickwork with vertical clad timber with the roof covering comprising composite profiled metal sheeting in a colour to be agreed.

Internally there would be kitchen, store and preparation areas, toilet facilities a deli and butchery counter plus a shop area of c253m² in floor space. A tea room/restaurant of c140m² in floor space is proposed along with a function room of 80m². Glazed openings on the western side elevation would open onto a patio/children's play area according to the plans. The remaining area of land would then become impractical to be properly managed by modern farm machinery would become a wildlife meadow with the potential for beehives to be sited away from the public.

Access to the newly constructed building would be via the existing pedestrian footbridge over the Dumble. An additional 34 car parking spaces would be provided in the field at the frontage adjacent to the existing car park.

The number of employees this proposal would create is said to be 10 full time and 8 part time jobs; 15 full time equivalent (FTE) in additional to those already employed in connection with the existing business.

The Submission

Drawing number 715 02A - Plans and Elevations
Drawing number 715 03 Rev B - Site Location Plan and Layout
Design and Access Statement
Various email from agent in response to requests for further information
Letter from agent, 18.08.2020 (rebuttal in response to proposed recommendation)

Departure/Public Advertisement Procedure

Occupiers of six properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press which expire on 6th August 2020. The application has been advertised as a departure from the Development Plan.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2019)

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 3 – Rural Areas

Spatial Policy 7 - Sustainable Transport

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 6 – Shaping our Employment Profile

Core Policy 8 - Retail & Town Centres

Core Policy 9 -Sustainable Design

Core Policy 11 – Rural Accessibility

Core Policy 12 - Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

Allocations & Development Management DPD

DM5 – Design

DM7 - Biodiversity and Green Infrastructure

DM8 – Development in the Open Countryside

DM11 - Retail and Town Centre Uses

DM12 – Presumption in Favour of Sustainable Development

Other Material Considerations

National Planning Policy Framework National Planning Policy Guidance

Consultations

Kiklington Parish Council – (30.07.20) No objection - they have clarified that updated consultations have been reviewed.

Hockerton Parish Meeting – No response received

NCC Highways Authority -

(21.07.2020) 'On the basis of the revised plans submitted, the Highway Authority offer no objections to the proposal subject to a condition requiring the implementation of the revised parking prior to first occupation of the farm shop and tearoom.

Condition: -

1) No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with the approved plan, Venture Architectural drawing number 715-03 revision B dated 16.07.20. The parking areas shall not be used for any purpose other than parking of vehicles.

Reason - 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 and enable vehicles to enter and leave the site in a forward direction, all in the interests of Highway safety.'

(09.07.2020) 'The Highway Authority understand that this is a full planning application for a new farm shop and tearoom including ancillary accommodation and additional car parking at Maxeys Farm Shop at Brickfield Farm on Hockerton Road in Kirklington. No amendments are proposed to the existing access arrangements from the A617 Hockerton Road.

By way of background in September 2015, an extension to the existing farm shop was approved subject to conditions¹. This included a tearoom and additional car parking. This permission now expired was never implemented. The Highway Authority offered no objections subject to conditions relating to car parking.

¹ 15/00745/FUL | Extension to existing farm shop and a tearoom | Maxeys Farm Shop Hockerton Road Kirklington Nottinghamshire NG22 8PB Agenda Page 66

Whilst the previous permission was a single storey extension to the existing farm shop building, the new proposal is for a separate building located much further into the site beyond the watercourse. In terms of the overall GFA being applied, there is an increase of $22m^2$ on what was previously given permission, albeit the previous application broke the floor areas down by land uses whereas the current application form has the entire GFA listed as A1 retail which will not be the case in practice as the tea room would fall under the A3 Cafes/Restaurants land use category. On that basis, there are no objections from the Highway Authority.

As for the proposed car parking, given that the new proposal is for an increased GFA, when compared to previous permission less car parking is proposed which seems odd. Unfortunately, there does not appear to have been an existing site layout plan submitted which may shed light on the current provision, however how many car parking spaces are there at present? This should be broken down into the different types e.g. car, disabled etc. The application form suggests there are 20 car and 1 disabled spaces. However, the application form on the previous permission had 14 car and 3 disabled spaces and yet the previous permission was not implemented.

Similarly, with regards to future provision, the previous permission permitted 52 car and 5 disabled spaces. The current application only has 48 car and 2 disabled spaces. Yet the number of employees currently employed according to the new application, and the proposed number of additional employees is significantly higher than the previous application as well as a small increase in GFA. The supporting statement recognises that this site will really only be accessible by private car given its rural location, and therefore it is imperative that there is sufficient on-site car parking for all future employees and customers, as it will not be possible to displace onto the public highway for example.

Therefore, it would appear the most sensible way forward would be to pro rata the approved car parking provision to reflect the increased GFA. This results in a need for 54 standard car parking spaces along with 5 disabled spaces which should be located as close to the new building as possible. Cycle parking would also be advisable. This should be situated in a prominent location to benefit from natural surveillance plus sheltered and secure by design. Further guidance on the design of car, disabled and cycle parking can be found in Part 3 of the Nottinghamshire Highway Design Guide².

2 https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide'

NCC Rights of Way - (24.07.2020)

_

'I have checked the Definitive Map of recorded Public Rights of Way and can confirm that Kirklington Public Footpath No.6 is within the area marked in red on the site layout and location plan (DWG No. 715-03) and will be affected by the proposal. I have attached an extract of the working copy of the Definitive Map for your records and would request that you make the applicant aware of the **legal line** of the route which **may be affected by the proposed building**. The Rights of Way Team do not object to the proposal however we would request that the applicant acknowledge the Public Rights of Way and demonstrate how they will be protecting the legal line of the route and safeguarding path users both during construction and afterwards. If the legal line is affected by the proposal (the location of the building may clip the line of the Right of Way) the applicant may need to apply to the LPA for a diversion under the Town and Country Planning Act 1990. This may be an opportunity to sort out the alignment issues of this particular route.

https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide Agenda Page 67

We would request that you advise the applicant of the following:

- The footpath should remain open, unobstructed and be kept on its legal alignment at all times. Vehicles should not be parked on the Public Footpath or materials unloaded or stored on the Public Footpath so as to obstruct the path.
- There should be no disturbance to the surface of the footpath without prior authorisation the Rights of Way team.
- The safety of the public using the path should be observed at all times. A Temporary Closure of the Footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting the Rights of Way section. The applicant should be made aware that at least 5 weeks notice is required to process the closure and an alternative route on should be provided if possible.
- If a structure is to be built adjacent to the public footpath, the width of the right of way is not to be encroached upon.
- Structures cannot be constructed on the line of the right of way without the prior authorisation of the Rights of way team. It should be noted that structures can only be authorised under certain criteria and such permission is not guaranteed
- If the design of any proposed development requires the legally recorded route of the Public Footpath to be diverted because it cannot be accommodated on the legal line within the scheme, then this should be addressed under the relevant provisions within the Town and Country Planning Act 1990 for the diverting/stopping up of public rights of way affected by development. An application under this act should be made to the Planning authority and is a separate application to the planning permission
- Should scaffold be required on or over the P then the applicant should apply for a license
 and ensure that the scaffold is constructed so as to allow the public use without
 interruption.
 - http://www.nottinghamshire.gov.uk/transport/licences-and-permits/scaffolding-hoardingand-advertising-boards
 - If this is not possible then an application to temporarily close the path for the duration should also be applied for (6 weeks notice is required), email countryside.access@nottscc.gov.uk
- If a skip is required and is sited on a highway, which includes a Public Right of Way then the company supplying the skip must apply for a permit.
 http://www.nottinghamshire.gov.uk/transport/licences-and-permits/skip-permit
 and also ensure that the Public Right of Way can still be accessed appropriately by the users permitted by its status i.e. equestrians if a on bridleway, motorised vehicles if on a byway open to all traffic.'

Ramblers – (21.07.2020) 'Access to Brickfield Farm from the A617 is provided by a track which also doubles as Hockerton Footpath 3.

We have no objection to this development as long as this public right of way remains safe and unobstructed during and after the construction work.

We would also like clear waymarking signage to stop pedestrians wandering around the site looking for the footpath.

The development seems to be a useful addition to tourist facilities in the area and could prove to be an attraction for walkers. As a way of increasing footfall the developer might like to consider putting in a footpath running parallel to the A617 and linking with the bridleway heading SW from Hockerton Moor Wood. We would be very happy to discuss this further.'

No representations have been received from either nearby residents nor interested parties.

Comments of the Business Manager

Principle

Development in the open countryside in strictly controlled to in order to protect it from inappropriate and unsustainable development. Spatial Policy 3 states that the district council will support and promote local services and facilities in the rural communities of the district and states that the rural economy will be supported by rural diversification and by supporting appropriate agricultural and forestry development. It goes on to say that the countryside will be protected and that beyond principle village's development will be considered against 5 criteria; location, scale, need, impact and character. It states that 'Development in the open countryside will be strictly controlled and restricted to uses that require a rural setting' and directs the reader to policies within the Allocations and Development Management DPD.

Policy DM8 (Development in the Open Countryside) strictly controls development in the open countryside limiting it to certain exceptions of which there are 12. Rural diversification (no. 6) and employment use (no. 8) are exceptions considered applicable to this proposal. I therefore assess the scheme against both in turn as well as a sequential approach to site selection.

Rural Diversification

Under 'Rural diversification' DM8 states that 'Proposals to diversify the economic activity of rural businesses will be supported where it can be shown that they contribute to the local economy. Proposals should be complimentary and proportionate to the existing business in their nature and scale and be accommodated in existing buildings wherever possible.'

The application is presented as an expansion of an existing business. To be clear, the proposed new building would be located in the rear field behind mature vegetation whilst the existing building which the applicant seeks to retain would, according to the application, be ancillary. Clarification on what is meant by this has been sought and the agent has stated that the applicants 'will likely be using the space for sale of other farm shop goods and locally made products such as craft items and gifts as well as retaining some space for a small office for administration of the farm shop business. It also enables the presence of the applicants to be on hand in an area which is at the start of the site so as to be able to monitor comings and goings during the course of the working day.'

Whilst this may be the applicant's intension, it should be noted that there were no restrictions imposed when the existing shop was allowed at appeal to prevent it from being utilized independently by a third party for retail (or a use allowed through a permitted change) with no restrictions in place to control the type of goods for sale.

Notwithstanding this, I am satisfied that the proposal could represent a diversification that provides a valuable contribution to the local economy as required by exception no. 6. I also consider that the proposal as advanced would be complementary to the rural business that exists. However the key issue is whether the proposal is proportionate to the existing business in its nature and scale, why a brand new building is now proposed and whether the proposed location is acceptable. These issues are now explored further.

With this in mind it is important to consider the existing floor space of the original farm shop, its subsequent extension approved under 12/00563/FUL and implemented, the lapsed permission approved by a previous committee and the proposed new floor space that would be created by this scheme.

	Floor Space	% increase over original
Original Farm Shop	108m²* (96m² shop floor, 12m² other)	N/A
Farm Shop as currently exists	198m² (122m² shop floor, 76m² other)	83.3%
(including 2012 extension)		
Lapsed permission for	198m²+623m² = 821m²	660%
extension	(comprising existing floorspace plus	
	358m² retail extension and 265m² tea	
	shop)	
This Proposal	198m² + 646m² = 844m²	681%
	(comprising existing retained	
	floorspace plus 253m ² additional	
	retail, 140m² café and 80m₂ function	
	room)	

^{*}measurement taken from planning application form

The table above demonstrates that the proposed development would massively increase the floor space of the already extended built form. I do not consider that such a significant increase (which is even larger than the scheme that the planning committee approved contrary to officer advice in 2015) can be considered as a proportionate expansion. This is contrary to Policy DM8 in relation to rural diversification with regard to scale.

No specific information has been provided in respect of suppliers on this application. I note that on the approved application the Information submitted by the applicant stated that approx. 100 separate suppliers provided goods for the farm shop and the proposed extension was to facilitate further off site suppliers in providing goods. Officers at that time considered that the nature of the business was therefore likely to be disproportionately expanded beyond the originally approved farm shop due to an increase in retail floorspace which would result in the farm shop being more than double its current size. The proposed tea room (which includes a meeting room for public meetings or private hire), was previously and would remain an additional use on site. The supporting documentation states that produce from the farm shop will be used to produce items for sale in the tea room. Officers previously considered this to be a rather tenuous link between the two uses which I agree with.

For retail development in rural areas, Policy DM11 seeks to support retail development of a scale proportionate to its location that increases rural sustainability, supports local agriculture or farm diversification in accordance with the aims of Core Policy 11. Again I refer to the above paragraphs where it is considered that this proposal is not proportionate to its location and thus the proposal is contrary to DM11 also.

Employment

Exception no. 8 (Employment Uses) states that 'Small scale employment development will only be supported where it can be demonstrated that the need for a particular rural location and a contribution to providing or sustaining rural employment to meet local needs in accordance with the aims of Core Policy 6. Proposals for the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment. Such proposals will not require justification through a sequential test.'

Clarification has been sought from the agent regarding the precise nature of the business as the supporting statements mention two businesses operating at the site. It has been clarified that the applicants, who have a lifelong association with farming, operate a growing wholesale business of 50 acres (supplying restaurants, caterers, schools and hotels) and a retail business.

Existing employees at the farm shop are said to be 22 full time and 7 part time - 29 staff but 25 full time equivalent (FTE) with 15 servicing the shop and the other 14 the wholesale business. The applicant has indicated this proposal would create an additional 10 FT and 8 PT jobs thus overall the business would employ 32 FT and 15 PT employees; 47 in total but equaling 40 FTE. The creation of 18 jobs (15 FTE) is significant for a rural economy and one that is welcomed, particularly at a time when unemployment is expected to rise due to the Covid-19 epidemic. However the proposal cannot be considered as proportionate to the existing business in accordance with exception 8 of Policy DM8.

According to the applicant the roles that would be undertaken for the existing businesses and its expansion are as follows:

ROLE	EXISTING STAFF	EXPANSION STAFF	TOTAL STAFF
Kitchen	4	5 (3 FT, 2 PT)	9
butchery	3	1	4
Shop	4	4 (2FT, 2PT)	8
Deli	3	N/A	3
Office	4	N/A	4
General	6	N/A	6
Drivers	4	N/A	4
Stock control	1	N/A	1
Tea Room	N/A	8 (4FT, 4PT)	8
Total	29	18	47 (40 FTE)

The applicant has clarified that the existing building would likely be used as space for sale of other farm shop goods and locally made products such as craft items and gifts as well as retaining some space for a small office for administration of the farm shop business. It is unclear whether two buildings in such close proximity could support two farm shops selling farm goods, including 2 kitchens and 2 butcheries, particularly as the retail and wholesale businesses would not be physically split in terms of the resulting two buildings and I have concerns that the staffing figures may be unrealistically high moving forward as the two buildings operate side by side.

It should be noted that no retail impact assessment is required for this scheme as the proposed floor space for retail falls below the locally set threshold contained within Core Policy 8.

The reason as to why a new building is proposed to be sited in the field to the south as opposed to extending the existing building where it would attract more passing trade has been clarified by the agent. It has been stated that the applicants are responding to suggestions (it isn't clear by whom) that the building ought to be sited behind the Dumble so it was less intrusive. They further state:

The applicants did indicate at that time [previous application] that the building needed to be seen to be successful. However, during the years since, the Farm shop has built up a good reputation and is readily known to so many customers and so it's [sic] position in front of the hedge is not so important to this point of view. Also to retain the existing building will be beneficial for customer sighting. It is also considered that the position of the new building would be a far more pleasant location for customers to sit out or look at from inside. There would be less road noise and it would be a more rural setting which would also be much safer for children as the site will be totally enclosed away from the car park and passing road traffic.

Whilst the rationale for the re-siting of the expanded business is noted, I am not convinced that this is sufficient to warrant further encroachment into the countryside where it is previously undeveloped. The applicant is clear that an alternative frontage expansion 'simply cannot happen' and have attempted to stress the importance of the pumpkin field as the backbone of their business stating that it has to stay in its current position as expansion onto this would reduce circulation and overflow parking. They say hundreds of customers from across the region attend the pumpkin festival and if the building was located to the front field they wouldn't be able to hold the festival, wouldn't need to increase their trade and therefore the building wouldn't be needed which would stunt growth. However the site frontage is in my view just as capable of providing an attractive environment for users to enjoy and I am not convinced that the apparent loss of part of the pumpkin field used for a festival once a year should dictate the siting of a permanent building. It appears to me that pumpkins could be grown in the field at the rear (the site of the proposal) and there would still be a frontage presence of pumpkins on part of the field to draw in customers to the site.

Whilst the proposal is contrary to policy in that this cannot be seen as a proportionate expansion of the existing business, there is officer recognition that a similar sized scheme was approved by the planning committee in 2015 albeit this was a true, physical extension to the existing building. This proposal has lapsed without having been implemented. My understanding is that the CIL charge was an obstacle to development albeit the agent indicates that the reason it didn't progress is because the extension would have taken up too much of the pumpkin field adjacent which is a key part of the businesses success. In my view this 2015 scheme carries very little weight given it wasn't implemented but Members could decide to attach more weight to this if they wish.

As the proposal is for a brand new building in the field beyond the existing business, it represents an expansion of the curtilage of the business into the open countryside. This is encroachment into good quality agricultural land. This is of relevance in that the final paragraph of Policy DM8 requires that where the loss of the most versatile areas of agricultural land is proposed, that a sequential approach to site selection is taken and implies that environmental or community benefits must outweigh this harm. The NPPF sets out at paragraph 170 that planning decisions should contribute to the natural and local environment by ' (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and (b) recognising the

intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – *including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland..'* emphasis added.

Clearly agricultural land is an important natural resource and how it is used is vital to sustainable development. The Agricultural Land Classification system classifies land into 5 grades, with Grade 3 subdivided into sub-grades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a (as defined by the NPPF) and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non-food crops for future generations. This is a method of assessing the quality of farmland to assist decision makers.

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

The applicant has been invited to undertake analysis of the soil such that the results on its versatility could be considered in the planning balance. No soil analysis has been undertaken. The agent has instead provided anecdotal commentary indicating that careful consideration has been given to the positioning of the building and that it is fair to medium quality with an underlying red clay subsoil base. The applicant suggests that 'both areas have very similar subsoil qualities and the advantages of retaining the existing pumpkin field in its present position, far outweighs any potential loss of the agricultural area for the new building.'

Without the soil analysis to confirm either way, I have taken a precautionary approach and assumed the field in which the new building is proposed should be considered as 3a quality land. The existing site comprises an area of c0.48ha which the 2015 extension sought to broadly retain. This scheme would however comprise an additional 0.72ha of land, representing an increase in site area of 164.5% increase in curtilage. The loss of an additional 0.72ha of Grade 3a agricultural land is a negative factor in the overall planning balance. However without knowing what proportion of other land within the district is 3a and 3b it is difficult to quantify its true impact.

Summary

To summarise the 'in principle' section of this report, whilst the benefits of additional employment are noted I have concluded that the expansion of the business in proposing a 681% increase in floorspace over the original building and a 164.5% increase in curtilage size does not represent a proportionate scale increase for the business contrary to DM8. Furthermore I am not convinced that the encroachment into the countryside, occupying what appears to be good quality agricultural land, has been demonstrated as necessary nor would it safeguard the best and most versatile land as required by policy.

Visual Impacts

A Landscape Character Appraisal (LCA) has been prepared to inform the policy approach identified within Core Policy 13 of the Core Strategy. The LCA has recognised a series of Policy Zones across the five Landscape Character types represented across the District. The site falls within Policy Zone MN PZ 34 (Hockerton Village Farmlands) which defines the landscape condition as being good and landscape sensitivity as moderate. The landscape is characterised by a gently very undulating rounded topography with medium distance views to frequently wooded skylines, although often

Agenda Page 73

enclosed by vegetation and some low intensity farming with permanent improved pasture and riparian vegetation following the lines of streams and drains. The policy action for this area is 'Conserve and Reinforce' with specific actions in terms of built features being focused on conserving the rural character of the landscape by limiting any new development around the settlements of Edingley, Kirklington, Hockerton and Normanton, maintaining the use of vernacular materials, style and scale and promoting measures for conserving and reinforcing the traditional character of existing farm buildings.

Core Policy 9 of the N&SDC Core Strategy requires that all new development should achieve a high level of sustainable design and layout which is accessible to all and which is of an appropriate form and scale to its context complimenting the existing building and landscape environments. Criterion 4 of Policy DM5 of the Development Management and Allocations DPD considers local distinctiveness and character and requires that in line with Core Policy 13 of the Core Strategy, all development proposals should be considered against the assessments contained within the LCA.

The surrounding area has a very open character with the isolated pockets of development that do occur in the form of farm buildings which are set back some distance from the road. The current farm shop is set back some 50m from the highway and is clearly visible. The proposed new building would be set behind mature vegetation and the Dumble such that this would not be visible from the road. The field where it would be sited is reasonably well enclosed to the east and west sides albeit it is open to the south as the land rises and views from the public right of way would be possible at close range as the footpath is very close (and in part conflicts) with the building.

The building design itself is somewhat industrial in scale and form with its slack pitched roof albeit the material pallet proposed reflects local vernacular. I appreciate that this reflects many modern agricultural farm buildings in terms of its scale, design and form. However the proposal goes against the landscape actions and objectives (conserve and reinforce) set out in CP13 in that it does not limit development to around the settlements but I do acknowledge that the siting is relatively discrete such that its impact on its surroundings visually would be low for many receptors albeit for users of the footpath this impact would have a greater negative affect.

Transport, Parking and Public Right of Way

Together Spatial Policy 7 and Policy DM5 seek to ensure that new development minimises the need for travel, provide safe and convenient accesses for all, provide links to the existing network of footways and bridleways, be appropriate for the network in terms of volume and nature of traffic generated, ensure the safety of highway users, provide appropriate and effective parking and service provision and ensure schemes do not create or exacerbate existing problems. SP7 also seeks to encourage and support proposals with an emphasis on non-car modes of transport as a means of accessing services and facilities.

The proposal would utilise the existing access arrangements on site which is deemed acceptable. Servicing would take place via a newly created rear access point into the field via Brickfield Farm.

During the course of this application, the parking proposals have been amended to address the concerns raised by NCC highways authority. Parking would be provided to the site frontage alongside the existing provision. The scheme now provides for 20 existing spaces which appear reconfigured to what physically exist on site along with 39 new parking spaces to the east (broadly on the site of the former approved extension) including 5 spaces for the less mobile which are

Agenda Page 74

located near to the pedestrian bridge. Cycle parking is also proposed in an attempt to make the site attractive to more sustainable modes of transport. The quantum of parking is considered acceptable and in line with the advice provided by NCC highways authority.

Whilst there are no highway safety concerns, it remains that this scheme would attract visitors mainly by private car and given its countryside location is relatively unsustainable in this regard.

According to the definitive rights of way maps, it appears that the building would conflict and obstruct the route necessitating in a separate application to divert the public right of way. This need not be fatal to the planning application albeit there is a separate legal process to follow and the outcome is not guaranteed. If consent were to be granted due process would need to be followed and the applicant could be advised of this via an informative attached to the decision notice.

Other Matters

Ecology

The site is in active farming use for the growing of crops and therefore the site itself would not have ecological interest warranting the need for an ecological appraisal. There is potential for the surrounding vegetation to provide habitat for wildlife but this remains unaltered such that I am satisfied no mitigation is required. The proposal accords with CP12 and DM7 in this regard.

Residential Amenity

Given the sites isolated position, I do not consider there would be any adverse impacts on the living conditions of existing residents and the proposal accords with CP9 and DM5 in this regard.

Planning Balance and Conclusion

Taking all of the above into account, I conclude that the scheme would result in a disproportionate expansion of an existing business in floorspace terms (681%) as well as encroachment into the open countryside by increasing the curtilage of the farm shop by 164.5% where this is not been demonstrated as necessary. Taking a precautionary approach and in the absence of soil quality analysis this would result in the loss of good quality agricultural land which is a negative factor which also weighs against the scheme. The countryside location of the site would likely encourage trips to the countryside by car and thus is unsustainable in this regard. The building design itself is somewhat industrial in scale and form with its slack pitched roof albeit the material pallet proposed reflects local vernacular. The proposal goes against the landscape actions and objectives (conserve and reinforce) set out in CP13 in that it does not limit development to around the settlements but I do acknowledge that the siting is relatively discrete such that its impact on its surroundings visually would be low for many receptors albeit for users of the footpath this impact would experience a greater negative affect.

On the other hand I also acknowledge there are positives to the scheme in that there would be jobs created by the development, which are not insignificant for a rural ecomony, if the applicants' figures are to be relied upon. It would also support the rural diversification of an existing local farming business and improve the facilities on offer to residents and visitors. No adverse impacts have been identified in respect of highway safety, ecology nor residential amenity. The need to divert the PROW is also neutral in my view as this can be dealt with via a separate process.

However notwithstanding the neutral and positive impacts, I have concluded that the proposal is contrary to the Development Plan and when balancing the impacts and considering other material considerations I find that the harm outweighs the benefits and therefore I must recommend refusal.

RECOMMENDATION

That planning permission is refused for the following reasons

Reason for Refusal

01

In the opinion of the Local Planning Authority the proposal to erect a new building in a field to the rear (south) of an existing farm shop does not represent a proportionate expansion in terms of scale and nature given the increase in both floor space and curtilage that is proposed. The proposal represents an unjustified encroachment into the open countryside and it has not been demonstrated that this would not sacrifice the *best and most versatile agricultural land in the district*. Furthermore the development by virtue of its industrial scale and form with its slack pitched roof would have a negative impact on the visual appearance of the area failing to conserve and reinforce the policy actions for the landscape character area which is contrary to Core Policy 13. Overall the proposal represents an unsustainable form of development which is contrary to Spatial Policy 3 (Rural Areas) and Core Policy 13 (Landscape Character) of the adopted Amended Core Strategy (adopted March 2019) and Policies DM5 (Design), DM8 (Development in the Open Countryside) and DM11 (Retail and Town Centre Uses) of the adopted Allocations and Development Management DPD, which together form the up to date Development Plan for the district alongside the NPPF a material planning consideration.

02

The application has been made on the basis of the following:

Drawing number 715 02A - Plans and Elevations

Drawing number 715 03 Rev B - Site Location Plan and Layout

Design and Access Statement plus additional information ascertained from the agent via email during the course of the application.

Notes to Applicant

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

02

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

BACKGROUND PAPERS

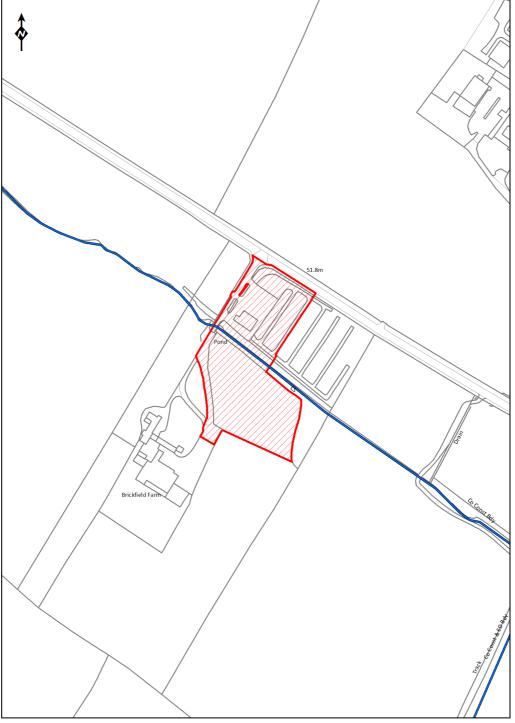
Application case file.

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

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes Business Manager – Planning Development

Committee Plan - 20/01159/FULM



© Crown Copyright and database right 2020 Ordnance Survey. Licence 100022288. Scale: Not to scale

Agenda Item 8

PLANNING COMMITTEE – 8 SEPTEMBER 2020

Application No: 19/02214/FULM

Proposal: Erection of 10 dwellings

Location: Land North of Esther Varney Place, Newark on Trent

Applicant: Mrs Judith Wise, Waterloo Housing Group

Agent: Mr Jason Edwards, Corporate Architecture Ltd.

Registered: 27 January 2020 Target Date: 27 April 2020

Extension of time agreed until 10 September 2020

Weblink: https://publicaccess.newark-sherwooddc.gov.uk/online-

applications/simpleSearchResults.do?action=firstPage

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as this application constitutes a major development (given the site area) and Newark Town Council (host parish) raise no objections which differs from the professional officer recommendation of refusal.

The Site

Within the Newark Urban Area, this roughly rectangular shaped application site comprises approximately 0.28 hectares of vacant flat land that is overgrown with vegetation. The site includes an existing public footpath/cycle path that runs along the eastern side of the site, adjacent to the main eastern railway line which links North Gate Train Station to residential areas of the town further to the south. North Gate Train Station is Grade II listed and lies approx. 220m to the north, beyond which further to the north is the boundary of Newark Conservation Area. The site measures approx 19m at its narrowest point (excluding the footpath). A constraints plan submitted shows that there are a number of underground electricity cables that cross the site at its southern end and almost half-way along its length that lead from the nearby electricity substation.

Immediately to the south of the site is relatively new residential development of 71 dwellings that is accessed from Sleaford Road. To the west of the site, beyond the 2-3m high chain link fence, is an large electricity sub-station that is not enclosed (approx. 22m from the western boundary of the site) and a large corrugated steel shed-type building (approx. 3m from the western boundary of the site) in use for storage of tyres associated with Tanvic (tyre and vehicle service company – whose main service building is situated further north with access off Appleton Gate), beyond which is residential development. This building is accessible 24 hours a day in order for breakdown vehicles to collect new tyres from it in order to assist lorries that require road side assistance day or night. To the north is a single storey brick building which may be related to the running of the electricity sub-station or railway operations, it is unclear. Beyond the railway line to the east is the Northern Road Industrial Estate.

The site is located within Flood Zone 1 of the Environment Agency Flood Maps, which means it is at low risk of fluvial flooding, although it is prone to surface water flooding. It is currently enclosed by a 1.8m high close boarded timber fence to the south, a 2m and 3m high chain link fence to the west, a 2m high metal palisade fence to the north and 2m high steel post and wire security fence adjacent to the railway line.

Relevant Planning History

None, although on the adjacent site to the south, the recent residential development on Esther Varney Place was approved under reference 14/01950/FULM for the erection of 51 houses and 20 flats affordable units, developed by the same applicants, Waterloo Housing Group.

The Proposal

Full planning permission is sought for the erection of 10 two storey dwellings (4 no. 3 bed and 6 no. 2 bed) arranged in semi-detached pairs around the site served by an access road that runs along the western boundary, the northern half of which would form a private, unadopted road and serve 6 of the proposed dwellings. Two pairs of 3-bed dwellings sit along the northern boundary facing into the site, a pair of 2-bed dwellings front to the west, directly facing onto the adjacent existing commercial building, two pairs of 2-bed dwellings face each other to the north and south either side of a turning head in the road.

The 2-bed pair measure 9m deep by 9.3m wide, 4.8m to eaves and 7.8m to ridge; The 3 bed pair measure 9.4m deep by 10.9m wide, 4.9m to eaves and 7.9m to ridge.

The site is to be accessed by extending the road that currently serves the housing development to the south. All the dwellings are served by two parking spaces and 7 of the 10 dwellings have spaces that sit immediately in front of the properties. The houses are standard in form and design. An acoustic fence is proposed to be erected between the houses and the footpath/cycle way, to provide a buffer to the railway line, although further no details of this treatment have been provided.

Following concerns raised by the case officer, an amended plan has been submitted showing an acoustic fence running along the western boundary, supplemented by some additional hedgerow planting and amendments to Plot 6 to move the main windows from the front (west) elevation to the side (north) elevation.

The applicant is a Registered Provider of affordable housing and all 10 proposed dwellings would be for social rent.

Documents submitted:

Site Location Plan (Drawing No: 4803.WHG.19.001 Rev P1) Proposed Site Plan (Drawing No: 4803/WH/19/004 Rev P3)

House Type 1 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/010 Rev P1) House Type 2 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/011 Rev P1) House Type 3 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/012 Rev P2)

Existing Site Plan – Topographical Survey (Drawing No: 4803/WH/19/002 Rev P1)

Site Constraints Plan (Drawing No: 4803/WH/19/003 Rev P1)
Underground Detection Survey (Drawing No: 25366_06_200_01)
Drainage Strategy Sheet 1 of 2 (Drawing No: FW1916-D-400 Rev A1)
Drainage Strategy Sheet 2 of 2 (Drawing No: FW19196-D-401 Rev A1)

The following documents have been deposited in support of this application:-

- Design and Access/Planning Statement by Landmark Planning dated September 2019;
- Low Impact Ecological Impact Assessment dated October 2019;
- Flood Risk Assessment by Farrow Walsh Consulting dated July 2020;
- Noise Assessment by Acute Acoustics Ltd dated 23 October 2019;
- Transport Statement by Banners Gate dated 9 September 2019; and
- Tree Survey by RJ Tree Services Ltd dated January 2020.

<u>Departure/Public Advertisement Procedure</u>

Occupiers of 106 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Planning Policy Framework

The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 – Spatial Distribution of Growth

Spatial Policy 6 – Infrastructure for Growth

Spatial Policy 7 - Sustainable Transport

Core Policy 3 – Housing Mix, Type and Density

Core Policy 9 - Sustainable Design

Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

NAP1 - Newark Urban Area

Allocations & Development Management DPD (adopted July 2013)

Policy NUA/Tr/1 – Northgate Station Policy Area

"The District Council will work with Network Rail, the Train Operating Companies, Nottinghamshire County Council and the various landowners, transport and amenity stakeholders to prepare a comprehensive regeneration scheme for the area on the Policies Map defined as the Northgate Station Policy Area. Any scheme will contain the following element:

- Proposals to improve the physical environment of the Policy Area to recognise its important gateway role;
- Proposals to preserve and enhance heritage assets, including the Grade II listed station and the adjoining conservation area;
- Proposals to improve the linkages between the site and Newark Industrial Estate, NUA/MU/3, the wider Bridge Ward and the Town Centre; and
- Proposals to improve transport and car parking provision in the area, and further encourage walking and cycling to the station."

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

Policy DM3 – Developer Contributions and Planning Obligations

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Agenda Page 81

Policy DM10 – Pollution and Hazardous Materials
Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2019

Planning Practice Guidance

Developer Contributions and Planning Obligations SPD 2013 and up-dated Indexation Calculations 2016

National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019

Consultations

Newark Town Council – "No objection was raised to this application."

NCC Highways Authority – Comments received 23.06.2020 – "The Highway Authority initially responded to this application back in February 2020, asking for some minor amendments which have been duly undertaken, and therefore there are no highways objections to this proposal subject to the following conditions and informative: -

Conditions: -

1) No dwelling forming part of the development hereby permitted shall be occupied until its associated access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

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

2) The access shall be constructed and surfaced in a bound material in accordance with the Proposed Site Plan on drawing number 4803/WH/19/004 revision P3 and no other part of the development shall be commenced until the access has been completed in accordance with those plans.

Reason: - To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general Highway safety.

- 3) No part of the development hereby permitted shall be brought into use until: -
 - the visibility splays shown on drawing no. 4803/WH/19/004 revision P3 are provided. The
 area within the visibility splays referred to in this condition shall thereafter be kept free of
 all obstructions, structures or erections exceeding 0.6 metres in height; and,
 - b) the parking and turning areas are provided in accordance with the approved plan 4803/WH/19/004 revision P3. The parking and turning areas shall not be used for any purpose other than parking, turning of vehicles.

Reason:- 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, to enable vehicles to enter and leave the site in a forward direction and to maintain the visibility splays throughout the life of the development all in the interests of Highway safety.

Informative: -

- The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.
 - a) The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible. 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.

Correspondence with the Highway Authority should be addressed to: - (insert as appropriate).

Highways Development Control Section Highways North Nottinghamshire County Council Welbeck House, Fountain Court Darwin Drive Sherwood Energy Village New Ollerton Nottinghamshire, NG22 9GS

hdc.north@nottscc.gov.uk;

Comments received 11.02.2020 - "The Highway Authority understand that this is an application to erect 10 new dwellings on land north of Esther Varney Place in Newark. It is proposed that the site will be accessed from Esther Varney Place, by extending the existing adopted highway into the site. The new road has been designed with a 5-5.5m wide carriageway plus a 2m footway on the eastern side. Assuming that the western site boundary is made up of fencing, the Highway Authority would need a minimum of 0.5m service strip between the extant fence line, and new carriageway.

Whilst swept path analysis has been provided within the Banners Gate Transport Note, this will need to be revisited given the above request and account for the wagon utilised by Newark and Sherwood District Council waste services (total length for refuse freighter – 10.85 metres; total length of wheelbase (front to rear most axle) – 5.31 metres).

Four of the properties are proposed to be accessed off the new length of prospectively adoptable highway whilst the remaining six are off a private drive to the rear. It is usual for private drives to serve five dwellings or less. Each property has been provided within 2 parking spaces, which given the number of bedrooms proposed is acceptable. It is noted that the depths available for parking in front of Plots 3 and 4 for example is tight; it is usual to provide 5.5m length to ensure vehicles are not overhanging the footway.

No boundary information is shown; boundary treatments affect vehicular and pedestrian visibility. Please update the site plan showing the proposed types of boundary treatment e.g. fences, hedges and mark on clear pedestrian and vehicular visibility splays. Nothing higher than 0.6m is permitted within splays, and the splay must be within the control of the applicant (plot) and or prospectively adoptable highway. Please refer to Part 3 of the Nottinghamshire Highway Design Guide for further guidance."

NCC, Lead Local Flood Authority - Comments received 20.08.2020 — "Nottinghamshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the application which was received on the 20 Jul 2020. Based on the submitted information we have no objection in principle to the proposals and can recommend approval of planning subject to the following conditions;

Condition

No part of the development hereby approved shall commence until a detailed surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753.
- Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm 5 l/s rates for the developable area.
- Provision of surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA
- Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- For all exceedance to be contained within the site boundary without flooding new properties in a 100year+40% storm.
- Details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
- Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term

Reason

A detailed surface water management plan is required to ensure that the development is in accordance with NPPF and local planning policies. It should be ensured that all major developments have sufficient surface water management, are not at increased risk of flooding and do not increase flood risk off-site.

Informative

Please note the information submitted to date in the Flood Risk Assessment and Drainage Strategy does not show complete compliance with the required Conditions referred to above and the applicant must ensure these are complied with at DISCON stage.

Comments received 19.02.2020 - "In the absence of any surface water drainage information, we object to this application and recommend refusal of planning permission until a satisfactory surface water management plan has been submitted and approved.

Reason

Given the proposed scale of the development to satisfy the National Planning Policy Framework (NPPF) details should be provided to assess the application in accordance with the NPPF. Paragraph 165 of the NPPF states that all major applications should incorporate sustainable drainage systems which have appropriate operational standards; maintenance arrangements in place to ensure operation for the lifetime of the development and where possible, provide multifunctional benefits.

A detailed surface water management plan is required if the local planning authority is to make an informed planning decision. The absence of any drainage details is therefore sufficient reason for the refusal of planning permission.

Overcoming our objection

You can overcome our objection by submitting the information outlined below which demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved, we will consider whether there is a need to maintain our objection to the application.

Any proposed drainage strategy should be in accordance with CIRIA C753 and current best practice guidance. Any drainage strategy should include following information:

- Assessment of the nature of SUDS proposed to be used.
- Details of a proven outfall from site in accordance with the drainage hierarchy the follows options should be considered, in order of preference; infiltration, discharge to watercourse, discharge to surface water sewer or discharge to combined sewer.
- Justification for the use or not of infiltration, including the results of soakaway testing, in accordance with BRE 365.
- Evidence the maximum discharge is set to the QBar Greenfield run-off rate for the positively drained area of development.
- Demonstrate the site drainage system should cater for all rainfall events up to and including the 1 in 100-year event including a 40% allowance for climate change.
- Provide details for exceedance flows; surface water should be contained within the site boundary without flooding any properties in a 1 in 100year+CC storm.
- Details of approval from any water authority that may be required to accept surface water discharge.
- Show that SuDS systems will be incorporated into the surface water management scheme for the site, preference should be given to above ground SuDS which provide multi-functional benefits.
- Details of who will manage and maintain all drainage features for the lifetime of the development will be required prior to construction.

We ask to be re-consulted with the results of any FRA or Drainage Strategy. We will provide you with bespoke comments within 21 days of receiving formal re-consultation. Our objection will be maintained until adequate details has been submitted.

Informative

- SuDS involve a range of techniques and SuDS methods can be implements on all sites. SuDS
 are a requirement for all major development as set out within paragraph 165 and 163 of the
 NPPF.
- The LLFA does not consider oversized pipes or box culverts as sustainable drainage. Should
 infiltration not be feasible at the site, alternative sustainable drainage should be used, with a
 preference for above ground solutions.
- 3. Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management. Sustainable Drainage Systems (SuDS) are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on-site as opposed to traditional drainage approaches which involve piping water off-site as quickly as possible."

NCC, Policy – "In terms of the County Council's responsibilities there are number of elements of national planning policy and guidance are of particular relevance in the assessment of planning applications, these include Minerals and Waste, Education, Transport and Public Health.

County Planning Context

Transport and Flood Risk Management

The County Council as Highway Authority and Local Lead Flood Authority is a statutory consultee to Local Planning Authorities and therefore makes separate responses on the relevant highway and flood risk technical aspects for planning applications.

Should further information on the highway and flood risk elements be required contact should be made directly with the Highway Development Control Team and the Flood Risk Management Team to discuss this matter further with the relevant officers dealing with the application.

Minerals and Waste

The adopted Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy (adopted 10 December 2013) and the saved, non-replaced policies of the Waste Local Plan (adopted 2002), along with the saved policies of the Nottinghamshire Minerals Local Plan (adopted 2005), form part of the development plan for the area. As such, relevant policies in these plans need to be considered. In addition, Minerals Safeguarding and Consultation Areas (MSA/MCA) have been identified in Nottinghamshire and in accordance with Policy SP7 of the emerging Publication Version of the Minerals Local Plan (July 2019). These should be taken into account where proposals for non-minerals development fall within them.

Minerals

In relation to the Minerals Local Plan, there are no Minerals Safeguarding and Consultation Areas covering or in close proximity to the site. There are no current or permitted minerals sites close to the application site. Therefore, the County Council does not wish to raise any objections to the proposal from a mineral's perspective.

Waste

In terms of the Waste Core Strategy, there are no existing waste sites within the vicinity of the site whereby the proposed development could cause an issue in terms of safeguarding existing waste management facilities (as per Policy WCS10).

As set out in Policy WCS2 'Waste awareness, prevention and re-use' of the Waste Core Strategy, the development should be 'designed, constructed and implemented to minimise the creation of waste, maximise the use of recycled materials and assist the collection, separation, sorting, recycling and recovery of waste arising from the development.' In accordance with this, as the proposal is likely to generate significant volumes of waste through the development or operational phases, it would be useful for the application to be supported by a waste audit. Specific guidance on what should be covered within a waste audit is provided within paragraph 049 of the Planning Practice Guidance.

Strategic Highways

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

Rights of Way

The Definitive Map of Public Rights of Way has been checked and the County Council can confirm that there are no recorded Public Rights of Way that cross the land edged in red on the location plan. This does not preclude unrecorded public rights being proven to exist at a later date. The rights of way team have no objection to the proposal.

Planning Obligations

Transport and Travel Services

The County Council will not be requesting any Planning Obligations/ Planning Conditions in respect of this application.

Education

Based on the proposed development of 10 dwellings on the above site, this would yield an additional 2 primary and 2 secondary aged pupils. There is currently projected to be sufficient capacity in both the primary and secondary planning area this development falls within to accommodate the additional pupils expected to arise from this proposed development. Therefore, at this time the County Council will not be seeking any contributions.

Conclusion

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

Network Rail – "With reference to the protection of the railway, Network Rail has no objection in principle to the development, but below are some requirements which must be met, especially with the close proximity to the development of an electrified railway.

Drainage

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. All soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

- 1. There should be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts.
- 2. All surface water run off and sewage effluent should be handled in accordance with Local Council and Water Company regulations.

It is expected that the preparation and implementation of a surface water drainage strategy addressing the above points will be conditioned as part of any approval.

Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a fail safe manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a fail-safe manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. possession which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

Please note we will be unable to agree to discharge of a method statement condition without direct discussion and agreement with our Asset Protection Team and the developer entering into a Basic Asset Protection Agreement (where appropriate). We would advise that the developer discuss the proposals with Asset Protection prior to applying for the discharge of condition. Contact details for Asset Protection are below.

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

ENCROACHMENT

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorized access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Noise/Soundproofing

The Developer should be aware that any development for residential use adjacent to an operational railway may result in neighbour issues arising. Consequently every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. Please note that in a worst case scenario there could be trains running 24 hours a day and the soundproofing should take this into account. We note that the proposals include acoustic fencing on the boundary facing the railway which should help mitigate this issue. However, the developer should also be aware that the site is in close proximity to Newark North Gate station and the adjacent car park which also also

Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

Network Rail is required to recover all reasonable costs associated with facilitating these works.

I would advise that in particular the drainage, method statements, soundproofing and lighting should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters we would be pleased if an informative could be attached to the decision notice."

NSDC, Environmental Health – Comments received 23.06.2020 – "From the additional information provided by the applicant I am satisfied that the additional acoustic fence should mitigate noise from business premises operating from Welbeck House, which is a 24 hour operation.

If it can be conditioned that the applicant maintains all the fencing it would be appreciated."

Comments received 27.02.2020 - "I refer to the above application and have read the submitted noise report and design and access statement.

In summary it indicated that the site does suffer from higher noise levels so remedial measures will need to be implemented.

Can I ask that the measures required in section 8 Conclusions of the noise report are made as condition on any approval given (namely installation of upgraded glazing, acoustic ventilation).

Also that a close boarded 1.8m high timber fence be installed along the boundary with the railway.

In addition would it possible to condition that the applicant maintain in a good condition the close boarded fence?"

NSDC, Contaminated Land – "Historic mapping has identified the presence of historic railway sidings at the application site and there is the potential that contamination may be present form this former use.

The DEFRA industry guide identifies numerous potential contaminants form previous railway use including organics (PAH, TPH, PCB's pesticides etc.), metals and asbestos to name a few.

As it appears that no desktop study/preliminary risk assessment has been submitted prior to, or with the planning application, then I would request that our standard phased contamination conditions are attached to the planning consent."

No representations have been received from local residents/interested parties.

Comments of the Business Manager

Principle of Development

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises that it is the duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the development plan they will be approved without delay unless material considerations indicate otherwise. One of the core principles of the NPPF is to support and deliver economic growth to ensure that the housing, business and other development needs of an area are met. The NPPF looks to boost significantly the supply of housing.

Policy DM12 of the Allocations and Development Management DPD sets out a positive approach to considering development proposals. Where appropriate this will involve the District Council working alongside applicants to seek solutions which mean that proposals can be approved where possible and to secure development which improves economic, social and environmental conditions.

The application site is within Newark Urban Area, as defined under Spatial Policy 1 of the Amended Core Strategy as the Sub Regional Centre. Spatial Policy 2 states that 60% of overall housing growth should be located within Newark as the Sub-Regional Centre. Policy DM1 of the Allocations and Development Management DPD refers to proposals being supported for housing within the Sub Regional Centre provided it is appropriate to the size and location of the settlement hierarchy and in accordance with the Core Strategy and other relevant Development Plan Documents.

The Council can demonstrate a 5 year housing land supply in accordance with the NPPF.

There is a specific Allocations policy that relates to this site (Policy NUA/TR/1) which is set out in the Policy Framework section above, and aims to provide regeneration to this particular gateway area of the town. The proposed development accords with the general aims of this policy in that it would improve the physical environment of the area by redevelopment of a vacant overgrown site. The grade II listed train station is approx. 220m north of the application site with Newark Conservation Area boundary beyond that and this distance means that the proposed development would not be harmful to these heritage assets. The proposal would have easy access to the existing footpath/cycleway to provide good linkages to the train station and the rest of the town to the south on foot and by bicycle.

The site is a vacant, over-grown and neglected site that currently detracts from the amenity of the area and makes no positive contribution to it, and is located within a mixed use area between residential and commercial uses. However, it is clear from the re-development of a former commercial site to the south to residential use, and the difficulties of access and physical isolation from the industrial estate on the other side of the railway line, that the site is unlikely to prove attractive for any commercial re-development as new employment uses are more likely to locate onto the ample greenfield sites near good transport links towards the edge of the town to the east. However, the site is not entirely ideal for new housing development either, given its surrounding context close to a large electricity sub-station, existing commercial development and a busy railway line, which is discussed further below.

To conclude, the principle of this development is considered acceptable in this location and the redevelopment of this vacant neglected site would be a benefit to the appearance of the area, however, the other site specific factors need to be properly considered and these are set out below.

Housing Affordability, Mix, Type and Density

The scheme represents 100% affordable housing provision which exceeds the policy requirement set out in Core Policy 1 by 70% and all will be for social rent. Whilst this does not reflect the precise tenure split set out within Core Policy 1 of 60% for social rent and 40% for shared ownership, I do not consider this to be fatal to the overall scheme. Evidence from the 2014 Housing Market and Needs Assessment identifies the affordable housing need for Newark as follows:

Property Size	Affordable Need (in Nos)
1 bed	234
2 bed	458
3 bed	150
4 bed	0
Total	842

This scheme, in providing 6 no. two bed dwellings and 4 no. three bed dwellings provides for the local need identified although it is acknowledged that there is a greater need for 1 bed than 3 bed units. It is therefore considered to be largely appropriate in addressing the affordable housing need identified in Newark.

The density on the site equates to approx 33 dwellings per hectare which accords with the requirements of Core Policy 3 which provides that densities should be 30 dwellings per hectare or more. It is acknowledged that this is relatively high, however, this need not be fatal in itself, subject to other considerations. The site is within an urban setting and close to the town centre where high density development would not be out of context.

Given the very high levels of affordable housing need in Newark, it is considered that the provision of 100% affordable housing would be of considerable benefit in meeting this need. It is also acknowledged that the policy requirement of 30% affordable provision on market housing sites across the District in the last 5 years or so has not been achieved (often on viability grounds) which has led to a shortfall in affordable housing deliverability. It is also acknowledged, however, that a 100% affordable development could be seen as an undesirable, over-concentration, resulting in an exclusive, homogenous tenure community, rather than a more appropriate mix of market and affordable units. However, in the overall balance, it is considered that the provision of the much needed affordable housing weighs in favour of the development in this case and is in line with Core Policies 1 and 3, the Housing Needs Survey and the NPPF.

Impact on the Character of the Area

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. The National Design Guide states that well designed places have individual characteristics which work together to create its physical character, including its context, identity, movement, built form and good quality internal and external environments for their users promoting health and well-being. Paragraph 42 of the Guide states "Well-designed new development is integrated into its wider surroundings, physically, socially and visually." Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

The existing residential development to the south and beyond the commercial uses to the west are characterised by predominantly two storey dwellings, set out in clear linear patterns and grids at high densities. It is considered that whilst the proposed two-storey semi-detached properties reflect this in terms of their built form, however the proposed layout is poor with Plots 5 and 6 on an east-west orientation in contrast to the remaining properties which are all north-south oriented and which has also resulted in their side gables facing the front and rear elevations of other units resulting in a poor relationships, haphazard layout and no creation of any sense of place. Amenity green space to provide a soft landscaped setting is limited to a slither adjacent to the side elevations of Plots 1 and 4 with new trees squeezed between parking spaces on front forecourts.

Agenda Page 92

In addition the proposal creates a very inward looking and isolated development. Given the very challenging environmental context of the site (surrounded on three sides by undesirable neighbours — electricity sub-station, large 24-hour commercial building and smaller one to the north and the main east-line railway to the east together with their security fencing), the applicant has sought to mitigate any potential harm to both the visual amenity and the protection from noise and disturbance of future occupiers by enclosing the site by acoustic fencing along both the length of the east and west boundaries of the site. In addition, the development is a cul-de-sac development which provides no through route or permeability through the site, the link to the footpath/cycleway located to the south of the site.

Although officers attempted to negotiate to seek to make improvements to the scheme, in response the agent stated that due to the underlying ground electricity cable restraints the layout could not be altered and in addition the scheme would not represent a viable option for the applicant if the quantum of units were reduced (although this has not been demonstrated by the submission of any viability evidence). The agent did, however, submit an amended plan showing the additional acoustic fence at 1.8m high along the western boundary which is shown to be softened with additional new hedgerow planting along its length within the site.

The tree survey submitted with the application reveals that all the trees on the site are either C2 (of low quality and value with mainly collective landscape qualities) or U categories and it recommends that all trees are removed from the site. It is likely that the trees on the site have been self-set and it is not considered that their loss would be detrimental to the character of the area and the scheme would allow for new structured planting (albeit very limited) on green amenity areas adjacent Plots 1 and 4, new tree planting within forecourt parking areas at the front of the houses and the new hedgerow along the western boundary.

Communal landscaping outside residential curtilages where planting would require maintenance moving forward in perpetuity and this would be provided by the Registered Provider and secured through a S106 Agreement.

Whilst the site is not highly prominent, being tucked away to the rear of the existing development on Esther Varney Place, it would be visible from the public footpath/cycleway as well as from the main railway line link to the eastern side of the country and London. The enclosure of the existing footpath/cycleway with extended lengths of close boarded timber fencing does not create an attractive environment in which to journey, as demonstrated by the development to the south, however, it is likely to prove difficult to resist this proposal on that basis. The overall design and layout of development on the site is poor and it is disappointing that negotiations have proved fruitless in terms of improving the scheme. As decision makers, weight must be given to the proposed redevelopment of a vacant piece of land whose unkempt appearance currently detracts from the visual amenities of the area. However it must also be considered whether it is appropriate to replace this with a poor, inward looking, fully enclosed (with close boarded timber fencing) and isolated layout with no permeability and consider whether this form of development provides sufficient quality of built environment both from inside and outside the site, in the context of the beautiful, enduring and successful places advocated with the National Design Guide released last year by central Government. The proposal is also considered to fail to comply with site specific policy NUA/Tr/1 which states that proposals should improve the physical environment of the Policy Area to recognize its important gateway role. This is weighed in the planning balance set out in the conclusion below.

Impact on Residential Amenity

The NPPF seeks to secure high quality design and a high standard of amenity for all existing and future occupants of land and buildings. Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy or light/overshadowing.

In relation to issues of noise for future occupiers of the proposed dwellings, being situated adjacent to the main railway line, the District Council's Environmental Health Service is satisfied that the recommendations set out in the submitted Noise Report would adequately protect the amenities of future occupiers from noise from the railway line. These measures include firstly walls to be constructed of solid brickwork, brick/block cavity or brick clad timber frame; secondly roofs to be tiled/slated with 20kg/m^2 plasterboard ceiling and 100mm sound absorbing layer above the ceiling (e.g. mineral wool loft insulation) or roof type of equivalent performance; and thirdly for windows facing the railway line up-graded double glazing specification, and acoustic ventilation to trickle vents and all other windows specific thermal double glazed units. It is therefore considered necessary to condition that the recommendations set out in the noise report would be fully implemented as part of the scheme. The Environmental Health officer has also advised that following the insertion of acoustic fencing along both the eastern and western boundaries of the site that this would overcome any concerns in relation to potential noise and disturbance from both the railway line and the commercial building to the west of the site, provided it was conditioned to be retained for the lifetime of the development.

Whilst these comments are noted, I remain concerned that whilst the acoustic fencing may provide some level of protection for ground floor accommodation, it would offer none at all for first floor bedrooms when residents would be expecting quiet through-out the night. Whilst is it acknowledged that first floor accommodation have already been accepted on the site to the south with a similar relationship with the railway line, the addition of the potential noise and disturbance at any time during the night from the large commercial building approx. 11m away would be detrimental to night time amenities.

The nearest residential existing property to the proposed development is located immediately to the south of the application site. Its side gable would be approx. 20m from the proposed rear elevation of Plot 1, which is considered to be an acceptable relationship. The side gable of Plot 5 is approx. 9m from the rear elevation of Plot 4, which is considered to be tight, however the rear elevations of Plots 3 and 4 are set at a slight angle and away which helps to mitigate the direct overbearing impact to some degree. There is a first floor window in the side elevation of Plot 5 serving an en-suite which could be conditioned to prevent overlooking.

In order to improve the outlook of Plot 6, which originally looked directly out onto the large commercial building to the west approx 11m away and to improve the relationship of Plot 6 with the dwellings to the north, the main openings have been moved to the north elevation, with a front to front distance of approx. 14m, which again is not ideal but considered to be on the margins of acceptability in regard to the amenities of future occupiers.

Whilst the amenities of existing neighbours are considered to be acceptable and the relationship between the proposed dwellings themselves are adequate, there remains concern as to whether this is an appropriate location for new housing development in principle given that the only way to protect the amenities of future occupiers to an acceptable degree is to almost enclose such a small site completely with acoustic fencing, given its existing context. This is discussed further in the conclusion below.

Impact on Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 and DM7of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The submitted Low Impact Ecological Impact Assessment identified unlikely impacts on newts and that no further surveys were required to be undertaken. It concluded that precautionary approaches to site clearance and during the construction of the development in relation to reptiles, badgers, hedgehogs and birds should be conditioned. It advised the importance regarding lighting on bats and net biodiversity gains by providing hedgehog, insect and bat boxes and the use of native planting. Each of these issues can be controlled through condition and as such it is considered that the proposal would accord with Core Policy 12, Policy DM5 and DM7 of the Allocations and Development Management DPD and the NPPF.

Impact on Highway Safety

Paragraph 109 of the "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

A Transport Statement has been submitted in support of the application. Following amendments to the parking, visibility splays, service strips etc. within the development, the Highway Authority is now satisfied that subject to appropriate conditions, the proposed development would not result in any highway safety concerns and as such is considered to accord with Spatial Policy 7 and Policy DM5 as well as the NPPF.

Impact on Flood Risk and Drainage

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. Core Policy 9 requires new development proposals to pro-actively manage surface water.

Given that the development forms a major application, one of the validation requirements was for the submission of a Flood Risk Assessment (FRA) and Drainage Strategy. The report states that there is a slight slope in ground levels form north to south, that there is low probability of fluvial flooding given that the site is within Flood Zone 1, a very low chance of flooding from surface water but there is a high quantifiable risk from ground water sources. Despite the site's susceptibility to high ground water levels, the report states that the Environment Agency has no records of any incidents of ground water flooding.

Ground investigations have not yet been undertaken. Surface water drainage strategy currently consists of:-

- Surface water runoff from the site will be conveyed by pipes, stored within cellular storage, then discharged into an S104 network at a controlled rate
- Use of cellular attenuation to store runoff volumes in extreme storm events up to the 1 in 100 year +40% climate change storm event.

Foul drainage will be conveyed from the properties by below ground private gravity drains prior to connection into the existing Severn Trent Water sewers within Ester Varney Place (Subject to Section 104 / 106 Approval).

The FRA states the proposed residential units would be above the modelled flood level of the local watercourses and that due to the site constraints, the most feasible method for providing SuDS (Sustainable Urban Drainage Systems) is to utilise a modular system, permeable parking for the private parking spaces and water butts to all properties.

Being located within Flood Zone 1, the site is considered to pass the Sequential Test as set out in national and local planning guidelines and policies for 'more vulnerable' new housing development. The Lead Local Flood Authority initially confirmed that the first FRA submitted was inadequate and additional information was required. A further FRA was submitted in July 2020 and in response the LLFA has stated that notwithstanding the fact that the drainage strategy submitted does not show complete compliance with their requirements, they would be satisfied with a condition to be imposed requiring further revised information to be submitted and agreed via a condition. As such the proposal is considered to be compliant with Core Policy 9 and 10 as well as Policy DM5 of the Development Plan.

Other matters

As the site is adjacent to the main Newark to London railway, Network Rail has been an important consultee and their comments can be incorporated into conditions and notes to applicant as appropriate.

Given the site's past use as part of the former railway sidings, the Council's Environmental Health Service has recommended a land contamination condition be imposed so that any contamination that may be found on the site is dealt with appropriately and that the land can be made safe for its new residential occupiers.

Developer Contributions

Spatial Policy 6 'Infrastructure for Growth' and Policy DM3 'Developer Contributions and Planning Obligations' set out the approach for delivering the infrastructure necessary to support growth.

The Developer Contributions and Planning Obligations Supplementary Planning Document provides additional detail on the Council's policy for securing planning obligations from new developments and how this operates alongside the Community Infrastructure Levy (CIL). The SPD is a useful starting point for the applicant in setting out the approach to resolving negotiable elements not dealt with by the CIL and of the site specific impacts to make a future development proposal acceptable in planning terms.

In this case, it is likely that as a scheme of 100% affordable housing provision that the development would be exempt from paying CIL on the basis of the social housing exemption provisions. The scheme over-provides for much needed affordable housing at 100% as opposed to the policy requirement of 30%.

The Developer Contributions and Planning Obligations SPD (as updated by the Indexation Calculations 2016) advises that on the proposed development of this size, the following S106 contributions would be required:

Community Facilities – £13, 840.70

Open Space

Children and young people £9,272.60

Total £23,113.30

The SPD also states that an Education Contribution would normally be required, however, the Education Authority have advised that the 2 primary and 2 secondary school places that this development would require can currently be accommodated within the existing schools in the area and therefore there is no justification to insist on any education contribution at this time.

The applicant has confirmed their acceptance to fund the contributions set out above which can be secured through a S106 legal agreement, as well as the future maintenance of the landscaping in perpetuity by the Registered Provider.

Conclusion and Planning Balance

In terms of the wider area, the site specific policy NUA/Tr/1 seeks to improve the quality of development in this area particularly. The site is cut off from the main part of Brunel Road Industrial Estate by the railway line and although historically the immediate area has been more commercial in nature it is apparent from the approval of the residential development to the south that long term, this whole area may move more towards a residential character as new businesses seek more convenient out of town locations. This area therefore appears to be in a time of transition and more residential development is likely to be supported in principle, however, this should be achieved in a larger holistic way rather than through very small piecemeal sites. These matters have been discussed with the applicant.

The delivery of housing in a highly sustainable location in the form of 100% affordable housing (for which there is identifiable need) weighs heavily in favour of the proposed scheme, as does the accompanying social and economic benefits, even if the latter is just during the construction period alone. It is also noted that the Town Council raise no objection.

The application is not considered to result in any adverse impacts in relation to highway safety, ecology, heritage assets or drainage, subject to conditions and S106 contributions could be secured through a S106 legal agreement.

There are however a number of issues which are considered to be more finely balanced, such as whether the proposal creates an acceptable living environment for future occupiers of the site and the quality in the layout of the proposed scheme. Some Members may consider that the removal of an unkempt green strip of vacant land and replacement with new development would be sufficient to support this scheme however, that must be balanced against the quality with which it is being replaced. The form of development proposed would result in a poor standard of environment both from inside and outside the site, with 10 dwellings being surrounded with timber boarded fencing on all sides, with no creation of a sense of place, in relative isolation with little sense of feeling part of an attractive, wider community. The poor environment created for future residents is largely as a result of the poor layout/design of the development which has been further exacerbated by measures that seek to address the protection of the amenities of those residents within the extremely challenging surrounding context. The surrounding noisy and undesirable neighbours have been found to harm living accommodation adequately at first floor level and therefore the scheme is considered to fall below acceptable standards on environmental grounds.

Proper consideration has been given to all material planning considerations and the appropriate weight afforded to each matter. Whilst acknowledging the finely balanced nature of this recommendation, officers are not convinced in this case that all the benefits of the scheme can be outweighed by the environmental harm identified.

RECOMMENDATION

That full planning permission is refused for the following reason

01

The proposed development would, by reason of its layout and boundary treatments and context, result in an enclosed, isolated and impermeable form of development that would create a poor standard of environment, both for future occupiers of the site as well as its appearance and form from the public realm. Furthermore, future occupiers are likely to be disturbed by noise and disturbance through the night from the adjacent commercial building to the west, which cannot be acceptably mitigated.

In the opinion of the Local Planning Authority, the proposal is thereby contrary to Core Policy 9 (Sustainable Design) of the Newark and Sherwood Amended Core Policy (2019), Policy NUA/Tr/1 (Northgate Station Policy Area) and Policy DM5 (Design) of the Allocations and Development Management DPD (2013), the National Planning Policy Framework (2019) and the National Design Guide (2019) which are material planning considerations.

Refused Drawing Numbers:

Site Location Plan (Drawing No: 4803.WHG.19.001 Rev P1) Proposed Site Plan (Drawing No: 4803/WH/19/004 Rev P3)

House Type 1 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/010 Rev P1) House Type 2 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/011 Rev P1) House Type 3 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/012 Rev P2)

Notes to Applicant

01

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

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

BACKGROUND PAPERS

Application case file.

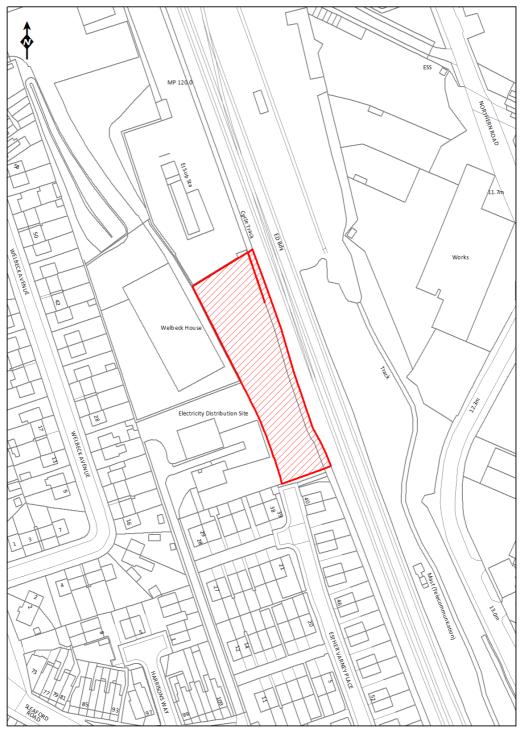
For further information, please contact Julia Lockwood on ext 5902.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes

Business Manager – Planning Development

Committee Plan - 19/02214/FULM



© Crown Copyright and database right 2020 Ordnance Survey. Licence 100022288. Scale: Not to scale

Agenda Item 9

PLANNING COMMITTEE - 08.09.2020

Application No: 20/00886/FUL

Proposal: Replace existing garage with a self-contained unit to provide additional

guest accommodation

Location: Garage Off Bull Yard, Southwell, Nottinghamshire

Applicant: Mr and Mrs Leach

Agent: Joseph Kemish Architects Ltd

Registered: 16.06.2020 Target Date: 11.08.2020

Extension of Time Agreed Until 10 September 2020

Weblink: https://publicaccess.newark-sherwooddc.gov.uk/online-

applications/simpleSearchResults.do?action=firstPage

The application has been referred to the Committee by Cllr Brock due to concerns relating to parking and highways safety and it has been decided that the application should be decided by the Planning Committee.

The Site

The site is within the centre of the market town of Southwell and is accessed off Queen Street. The Bull Yard has a pedestrianised area with a variety of shops and a walkway through to King Street. The proposal relates to an existing single storey garage associated with The Stables, to the south of the site. The Stables is currently used as holiday accommodation.

Relevant Planning History

PREAPP/00241/19 — Pre-appliaction advice was sought to 'Replace existing garage with a self-contained unit to provide additional guest accommodation'. Advice was given in November 2019 which suggested reducing the number of parking spaces from 2 to 1 in order to address a design concern which was considered to be harmful to the conservation area.

The Proposal

The proposal is to demolish the existing garage and construct a replacement building to comprise a small holiday let with one parking space. The building would measure a maximum of 5.23m in depth, 5.84m in width with a gable to the front elevation, 3.62m to the eaves, and 6.57m to the ridge-line. The proposed materials are red brick and slate roof tiles. The design includes details such as brick corbelling, brick arches and timber windows and doors. There would be an area of paving to the front of the building which provide 1 parking space. The access door would be to the side elevation.

Submitted Documents

1950 P 00 Site Location Plan 1950 P 01 Ground and First Existing 1950 P 02 Elevations Existing 1950 P 03 Site Plan Proposed 1950 P 04 Proposed Plans 1950 P 05 Elevations Proposed

6 A Visual

Design and Access Statement received 1 June 2020 Supporting Statement Rev C received 21 August 2020 Heritage Statement received 1 June 2020 Amended Supporting Statement received 15 June 2020

Departure/Public Advertisement Procedure

Occupiers of 13 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 11 October 2016)

Policy SD1: Delivering Sustainable Development

Policy DH1: Sense of Place

Policy DH3: Historic Environment

Policy CF4 - Tourism

Policy TA4 - Parking Standards

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 7 – Tourism Development

Core Policy 9 -Sustainable Design

Core Policy 14 – Historic Environment

Policy SoAP1 - Role and Setting of Southwell

Allocations & Development Management DPD

DM5 - Design

DM9 – Protecting and Enhancing the Historic Environment

Other Material Planning Considerations

National Planning Policy Framework 2019

Planning Practice Guidance

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Consultations

Southwell Town Council Object to the application and commented:

Southwell Town Council considered application 20/00886/FUL Garage off Bull Yard and agreed by majority to object to this application for the following reasons:

-the disruption that will be caused in the area during construction

NSDC Conservation:

The Site:

The site is within the centre of the market town of Southwell with a vehicular access off Queen Street leading to a pedestrianised area with a number of small retail units and a walkway through to King Street. The site is currently occupied by a modern single-storey brick-built garage with slate roof. A site visit was made on 29.06.2020.

The Proposal:

The proposal is to demolish the existing modern garage and construct a replacement building to comprise a small holiday let with 1no. parking space and an area of resin bound paving to the front. The footprint of the building would be irregular in shape with the north gable sitting at an angle.

Heritage Assets Affected:

The proposal site lies:

- within Southwell Conservation Area (Appraisal date, 2005).
- adjacent to Grade II listed '4 Shepherd's Row' originally a row of three late 18th Century cottages, now one dwelling (see below)
- in close proximity to several non-designated buildings of local interest including the rear elevations of those fronting onto Queen Street.

Setting of listed building 4 Shepherd's Row:



The proposed development is to the rear of grade II listed building '4 Shepherd's Row' which is set to the front of its plot. A brick boundary wall divides the proposed development site from the garden of the listed building.

4 Shepherd's Row, Southwell. (Photo by Notts County Council)

Assessment of the Proposal:

The issues regarding the design of the proposed structure raised in pre-application advice (Ref: PREAPP/00241/19) have been addressed. The main elevation is now in keeping with the appearance of an ancillary building which helps retains the character of this part of the conservation area and the former history of the site. Conservation welcomes the historic detailing of the proposed scheme, with its brick corbelling and true brick arched lintels, reflecting the detailing of the rear elevations of the historic buildings opposite that front onto Queen Street.

This one and a half-storey building will be of a height consistent with the double garage to the west of the proposed development site. It will be subservient to the listed building to the east, the buildings of local interest backing onto Bull Yard as well as the W.I. Hall to the north-west. Although taller than the existing garage the proposed building is confined to the rear of the development site and will not be overly dominate within the context of Bull Yard or in relation to 4 Shepherd's Row.

While the proposed scheme has hard-standing to the front of the site, this is consistent with the character and appearance of this part of the Conservation Area.

While it is noted that Conservation raised concerns at pre-application stage these have broadly been addressed.

Recommendations/Summary of Opinion:

On the basis of the above, it is considered that the proposal would help to preserve the setting of the adjacent listed building and will preserved the character and appearance of this part of Southwell Conservation Area.

Therefore, Conservation has no concerns, subject to the following conditions:

- 1. Brick samples to be submitted to and approved by LPA.
- 2. Details of the brick bond to be submitted to and approved by LPA.
- 3. Roof material to be natural slate only.

Notes:

- A heritage brick type should be sought to compliment the surrounding historic buildings.
- Flemish stretcher bond is the predominant bond seen on Bull Yard.

In reaching the above views, Conservation has had regard to:

- Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990;
- Core Policy 14 of Newark and Sherwood Amended Core Strategy DPD (adopted March 2019).
- Policy DM9 of Allocations and Development Management DPD.
- Paragraphs 184, 188, 189, 190, 192, 193, 194, 197 and 200 of the NPPF;
- Guidance contained in the Southwell Conservation Area Appraisal & Management Plan (2015).

(27.07.20) Additional conditions for 20-00886-FUL Garage off Bull Yard Southwell

- Condition 4: Joinery for windows and doors to be submitted to and approved by LPA.
- Condition 5: Before they are installed, full details of the siting, appearance and materials to be
 used in the construction of all extractor vents, heater flues, meter boxes, airbricks, soil and vent
 pipes, rainwater goods or any other external accretion shall be submitted to and agreed by the
 LPA.

Reason for conditions: Inadequate details of these matters have been submitted with the application and in order to ensure that the development preserves the character and appearance of the Conservation Area and the setting of nearby Listed Buildings.

NCC Highways Authority commented:

This proposal is for the replacement of the existing garage with a self-contained unit which provides additional guest accommodation. Two parking spaces are proposed for this facility.

Bull Yard is a private drive and a Public Right of Way (Bridleway), therefore, consultation should be carried out with the Rights of Way Officer for advice/approval.

This proposal is not expected to have a significant impact on the public highway, therefore, the Highway Authority would not wish to raise objection.

NCC Rights of Way commented:

Thank you for consulting with the Rights of Way Team. I have checked the Definitive Map of recorded Public Rights of Way and can confirm that the route of **Southwell Public Bridleway No. 48** (also known as Bull Plain) is along the private access to the proposal site. I attach an extract of the working copy of the Definitive Map showing Public Right of Way in the vicinity. This is a well walked path used by pedestrians as a useful link both to the Bramley Centre Car Park along Southwell Public Footpath No. 49 and to King Street from Queen Street. The applicant has made no comment with regard to the Public Right of Way or mentioned whether there will be vehicular access to the accommodation and this is a concern.

Although we have no objection to the development in principle we are concerned that this proposal should not impact on this short section of very well used path in the centre of Southwell. The proposal should not result in increased vehicular traffic or cars parking on the Right of Way and we would request that this is make a condition of the planning permission.

Please make the applicant aware of the following:

- The footpath should remain open, unobstructed and be kept on its legal alignment at all times.
 Vehicles should not be parked on the Public Right of Way or materials unloaded or stored on the Public Bridleway so as to obstruct the path.
- There should be no disturbance to the surface of the path without prior authorisation the Rights of Way team.
- The safety of the public using the path should be observed at all times. A Temporary Closure of the Public Right of Way may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting the Rights of Way section. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route on should be provided if possible.
- Should scaffold be required on or over the Public Right of Way then the applicant should apply for a license and ensure that the scaffold is constructed so as to allow the public use without interruption.

http://www.nottinghamshire.gov.uk/transport/licences-and-permits/scaffolding-hoardingand-advertising-boards

If this is not possible then an application to temporarily close the path for the duration should also be applied for (6 weeks' notice is required), email countryside.access@nottscc.gov.uk

• If a skip is required and is sited on a highway, which includes a Public Right of Way then the company supplying the skip must apply for a permit.

http://www.nottinghamshire.gov.uk/transport/licences-and-permits/skip-permit

and also ensure that the Public Right of Way can still be accessed appropriately by the users permitted by its status i.e. equestrians if on bridleway.

These comments have been provided by Via East Midlands Limited on behalf of Nottinghamshire County Council, in its capacity as Highway Authority, through Via's continuing role of providing operational services on behalf of the County Council'

Southwell Civic Society commented:

We object to this application. We consider this as an overdevelopment of a very small site. The proposal will result in the removal of a garage and the addition of an extra vehicle in an overcrowded parking area.

Representations have been received from 5 local residents/interested parties objecting to the application which can be summarised as follows:

- The Bull Yard is used for deliveries for a number of businesses and access is crucial;
- The construction of the proposal will cause excess traffic within the Bull Yard and Queen Street which is narrow and has limited parking;
- The proposal will be detrimental to the surrounding businesses;
- An increase in traffic will be a danger to users of both the Bull Yard and the nearby footpath including the elderly;
- Not appropriate within the Conservation Area building in a tight space near to a listed building;
- There is no room to dismantle, build, and connect to sewers/facilities and would cause chaos;
- Proposed development will solely benefit the applicants;
- Clients of The Stables have caused disruption and obstruction previously;
- Comments from one neighbour refer to a parking easement they have on part of the site. The
 comments also say that if planning is approved they would have to fence off their part of the
 forecourt currently used for turning to protect their own parking space which would further
 limit available space.

Comments of the Business Manager

Principle of Development

Spatial Policies 1 and 2 of the Amended Core Strategy define Southwell as a 'service centre'. Features of a service centre include a range of facilities and their function is to act as a focus for service provision for a large local population and a rural hinterland.

One of the aims of Policy SoAP1 (Role and Setting of Southwell) of the Amended Core Strategy, is to promote the town as a destination for tourism and leisure activities. Policy CF4 of the Southwell Neighbourhood Plan encourages applications for tourism and related uses (including overnight accommodation) subject to compliance with other Neighbourhood Plan policies. Core Policy 7 of the Amended Core Strategy also encourages appropriate tourism development. Wherever possible, significant tourism and tourist related development within Southwell should be accessible by sustainable modes of transport and/or be located within walking distance from the centre of the town or adjacent to an existing asset.

With the above in mind, a new holiday let in the proposed location is acceptable in principle subject to a site specific assessment.

Impact on Visual Amenity, Character of the Area and the Conservation Area

As the site lies within Southwell Conservation Area, the impacts on heritage require careful assessment.

Paragraph 2.11 of the Southwell Neighbourhood Plan states that Southwell has received formal recognition as being one of four towns in Nottinghamshire which has an 'outstanding historic quality'. The Design Guide criteria in the Southwell Neighbourhood Plan states that 'all new development should respond to the unique characteristics of the site and its context'. Policy DH3 states development proposals within the Historic Town Centre must not negatively impact on the spaces, links or relationships between listed buildings, particularly those associated with the Minster where the aim is to maintain a sense of place within and around its precinct.

Core Policy 14 of the Amended Core Strategy states that the Council will aim to secure the continued preservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment and the preservation of the special character of Conservation Areas — including such character identified in Conservation Area Character Appraisals. This is also reflected in Policy DM9.

Policy DM5 of the DPD refers to local distinctiveness and character and states that where local distinctiveness derives from the presence of heritage assets, proposals will also need to satisfy Policy DM9.

Policy DM9 (Protecting and Enhancing the Historic Environment) states development proposals should take account of the distinctive character and setting of individual conservation areas including open spaces and natural features and reflect this in their layout, design, form, scale, mass, use of materials and detailing. Impact on the character and appearance of Conservation Areas will require justification in accordance with the aims of Core Policy 14.

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.

Part 16 of the NPPF seeks to conserve and enhance the historic environment. Paragraph 192 states that when determining applications local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. Part 12 of the NPPF (Achieving Well Designed Spaces) paragraph 127 states interalia 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 existing garage is modern and makes a neutral contribution to the character of the Conservation Area. I therefore have no concern regarding its demolition in terms of impact on the character of the area. I concur with the comments from the Conservation Officer and consider that the design and siting of the proposed building would not cause harm to the character and appearance of the Conservation Area, nor the setting of the adjacent listed building, in line with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I consider the proposal to accord with all the above policies.

Impact on Residential Amenity

Policy DM5 states that 'the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.'

The proposed building would replace an existing single storey garage. The new building would be one and a half storeys in height. The closest dwelling to the site is 4 Sheppards Row, a Grade II listed building, approximately 5.5m from the existing garage, separated by a brick boundary wall. There only first floor window would front and look onto the Bull Yard and there is a rooflight to the west elevation. The site lies to the south west of the dwelling. Given the position of the proposed building, the separation distance and intervening boundary treatment, I do not consider that it would impact negatively on the residential amenity of 4 Sheppards Row in terms of having an overbearing impact, loss of privacy, or loss of light, nor for any other nearby dwellings.

Impact on Highways, Parking and Rights of Way

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

Policy TA4 of the Southwell Neighbourhood Plan states that non-residential development must take into consideration the following criteria in determining the acceptability of proposed parking:

- Accessibility
- Type of development
- Availability of public transport
- Number of visitors and employees at peak times

The site is accessed via the existing vehicular access to the Bull Yard from Queen Street. The proposed development is for tourist accommodation. There is access to Southwell via public transport, however it is considered acceptable for overnight accommodation to include parking facilities. The scale of the development would include one parking space in place of an existing space within the garage (to be demolished). Given the town centre location it is unlikely the user would require use of the vehicle during their stay, limiting the number of journeys in and out of the site.

NCC Rights of Way have commented that 'the proposal should not result in increased vehicular traffic or cars parking on the Right of Way' and 'request that this is make a condition of the planning permission'. They stop short of raising objection and have not explained what they mean or suggested wording of a suitable condition. There would be no increased parking on the right of way and I do not consider the proposal would unacceptably increase the amount of traffic using the Right of Way given the modest proposal. It is not possible to impose conditions on these matters other than to ensure that the off-street parking is provided prior to first occupation to discourage inappropriate parking. Furthermore, the access from Queen Street has a sharp turn in order to enter which could not be done at a high speed and would therefore force drivers to slow down upon entering the Bull Yard. I therefore do not consider that the use of the access for the proposal would cause a danger to pedestrians or other road users, or alter the existing situation.

NCC Highways have been consulted on the application and have raised no objections to the proposal on highway safety grounds nor on the levels of parking. The comments are detailed within the Consultation section of this report. It should be noted that NCC Highways Authority reference the provision of two spaces within their comments. I would make clear that this proposal only makes provision for one space within the application site. There would be another parking space (outside of the application site boundary, adjacent to the proposed and also fronting the proposed building) but this would serve the existing accommodation at The Stables. It is these two spaces that NCC Highways reference in their comments.

All of the objections received from neighbours/interested parties raise concern regarding highways safety. It is acknowledged that the Bull Yard is not ideal for vehicles in terms of parking arrangements and maneuverability due to its use by many of the surrounding business premises for deliveries/parking. The proposed building would have a lesser depth than the existing garage which would create sufficient space for 2no. vehicles to park in front of the building (one existing for the Stables and one proposed for the proposed accommodation) without causing obstruction within the Bull Yard. As such I do not consider that the proposed parking arrangements would have a detrimental impact on the surrounding area. One comment mentions that clients of The Stables have caused issues through parking before. I consider that the new parking arrangements would be clearer for users than the existing arrangement therefore the proposal could improve this situation.

Many of the comments relate to the construction phase of the proposal saying it would cause obstruction and highway safety issues. The construction phase of an application of this scale is not considered to be a planning matter and as such cannot be considered as a reason for refusal of the application. Notwithstanding this, the agent has submitted the following in relation to the construction phase:

Whilst the building is being constructed it is envisaged that the site area will be heras fenced to define the boundaries and provide public safety. The chosen contractor will be required to prepare a method statement for the construction phase of work which will include items such as: scheduling of deliveries, storage of materials etc. Offsite construction of certain elements could be a possible method to reduce the construction period. We believe this modest building can be constructed with the minimum disruption to all parties. (Supporting Statement received 21.8.2020)

With all of the above in mind, I consider the proposal to comply with Spatial Policy 7 of the Amended Core Strategy and DM5 of the Allocations and Development Management DPD, and Policy TA4 of the Southwell Neighbourhood Plan.

Other Matters

One of the comments refers to a parking easement on part of the site. Easements such as this are not considered to be a planning matter and do not carry weight within the decision making process. The comments also state that if planning were to go ahead, a fence would be erected around part of the forecourt (not within the application site) further limiting space for vehicles to turn. Planning applications should be considered on their own merits. With the existing situation in mind, there are no grounds to refuse the proposal and I do not consider a possible future scenario to be material. It should be noted that further to the objections being received I have spoken with the NCC Highways Officer who commented on the application. They had no further concerns regarding the development and continue to raise no objections to the proposal.

Planning Balance and Conclusion

The principle of development is considered acceptable when assessed against the relevant policies of the Development Plan and furthermore, tourism development is encouraged by Policies SoAP1 and Core Policy 7 of the Amended Core Strategy as well as Policy CF4 of the adopted Neighbourhood Plan. The proposal was subject to pre-application advice and this submission has addressed previous concerns raised regarding the impact on the Conservation Area. NCC Highways have not objected to the proposal at any stage. I do not consider that the proposal would cause a danger to pedestrians or other users of the Right of Way. Further to a site specific assessment and taking all the comments into consideration, the proposal is considered acceptable. I therefore recommend that planning permission is granted.

Agenda Page 109

RECOMMENDATION

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

01

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

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

02

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

1950 P 00 Site Location Plan 1950 P 03 Site Plan Proposed 1950 P 04 Proposed Plans 1950 P 05 Elevations Proposed

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 damp proof course (DPC), a brick sample panel, showing brick, bond, and mortar and pointing technique, shall be provided on site for inspection and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed sample panel details.

Reason: To ensure the development preserves the character and appearance of the Conservation Area.

04

Before any construction occurs above damp proof course (DPC) level, samples or detailed specifications of all external materials to be used on the development hereby permitted (including roof tiles, brick, and timber cladding) 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: To ensure the development preserves the character and appearance of the Conservation Area.

05

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

- 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
- Extractor vents
- Flues
- Meter boxes
- Airbricks
- Soil and vent pipes

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

06

Prior to the development hereby approved being first brought into use, the parking space as shown on the approved plan shall be provided and shall thereafter be made available for parking for the lifetime of the development.

Reason: To ensure adequate off-street parking provision is made available in the interests of highway safety.

07

No development shall be commenced, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period unless otherwise agreed in writing by the local planning authority. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- delivery times and storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- details of what, if any off-site construction can be undertaken,
- hours of construction;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of residential amenity and to safeguard the sensitive area, including the public right of way from unnecessary disruption during the construction period.

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/

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

02

This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

03

As per the comments from NCC Rights of Way:

- The footpath should remain open, unobstructed and be kept on its legal alignment at all times.
 Vehicles should not be parked on the Public Right of Way or materials unloaded or stored on the Public Bridleway so as to obstruct the path.
- There should be no disturbance to the surface of the path without prior authorisation the Rights of Way team.
- The safety of the public using the path should be observed at all times. A Temporary Closure of
 the Public Right of Way may be granted to facilitate public safety during the construction phase
 subject to certain conditions. Further information and costs may be obtained by contacting the
 Rights of Way section. The applicant should be made aware that at least 5 weeks' notice is
 required to process the closure and an alternative route on should be provided if possible.

BACKGROUND PAPERS

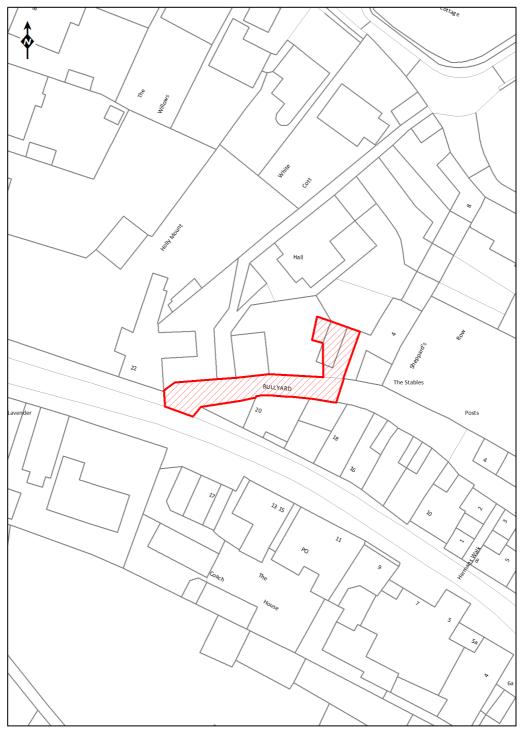
Application case file.

For further information, please contact Ellie Sillah on 01636 655770.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 20/00886/FUL



© Crown Copyright and database right 2020 Ordnance Survey. Licence 100022288. Scale: Not to scale

Agenda Item 10

COMMITTEE REPORT – 8 SEPTEMBER 2020

Application No: 20/00711/S73M

Proposal: Vary Condition 19 (to allow unrestricted servicing/delivery times to Retail Units A,

B and C) imposed on planning permission 19/01352/S73M

Location: Land Off North Gate, Newark On Trent

Applicant: Mr Phil Rowe, Merchant City Ltd

Agent: Mr Ross Bowen, WYG Planning and Environment

Registered: 5 May 2020 Target Date: 4 August 2020

Extension of Time agreed until 9 September 2020

Website Link: https://publicaccess.newark-sherwooddc.gov.uk/online-

applications/applicationDetails.do?activeTab=documents&keyVal=Q9TB9ELBH5100

This application is being considered by the Planning Committee as it represents a Major Section 73 application that raises new material planning impacts arising from the condition variation in accordance with the Scheme of Delegation.

The Site

The site, within the Newark Urban Area, constitutes an area of vacant land approximately 1.65 hectares in extent accessed via North Gate which runs along its eastern boundary. The site abuts the edge of the River Trent to the west and forms part of the wider North Gate development site which, as discussed below, has been subject to an extensive planning history.

Situated within Newark Conservation Area, it is adjacent to the former malting of Northgate Brewery (which is Grade II listed) and the substantial former offices and brew house which fronts North Gate (also Grade II listed) to the north. The proposal site was formerly part of the Wellington Foundry, being part of an extensive industrial landscape along the river. The Millennium Bridge is located to the south-west of the site and Kings Marina is located to the north-west on the opposite side of the riverbank. To the south are offices and car parking belonging to No. 67 North Gate, together with a BP petrol filling station to the south-east which fronts North Gate. There is also a row of Almshouses adjacent to the north-east of the site that also front North Gate, which are not listed but they contribute positively to the character and appearance of the Conservation Area.

The surrounding area has a mixed commercial and residential character, comprising modern, edge of centre retail stores on the existing North Gate Retail Park, the former maltings building, adjacent to Unit C that has extant planning permission for a bar/café/restaurant use but is currently vacant, a 24 hour petrol-filling station, office development, vehicle repair garage with Edwardian and Victorian terraced dwellings opposite the site as well as the residential Almshouses and flat units within the upper floors of the converted former office brewery building.

The majority of the site is within Flood Zone 2 and a small proportion immediately adjacent to the River Trent is within Flood Zone 3 according to the Environment Agency maps.

The site, including the Warwick and Richardson's Brewery site is identified in the Allocations and Development Management DPD Map 1 - Newark North Proposals map as R/Ho PP which stands for 'retail/housing site with planning permission.'

Relevant Site History

The site has been subject to an extensive planning history which has been detailed below.

- 19/01352/S73M Variation of condition 2 and 23 attached to planning permission 18/01137/OUTM to vary the phasing of the development and the disposition of the type of goods which can be sold around the site. Approved 13.03.2020. This permission is extant and must begin no later than 29 March 2021.
- 18/01137/OUTM Variation of condition 25 attached to planning permission 13/00997/OUTM for Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Proposal submitted to allow the use of Unit B as A1 (non-food). Approved 6 June 2019. This permission is extant and must begin no later than 29 March 2021.
- 16/01958/RMAM Reserved Matters Application for the erection of retail development Bulky Goods/Open A1/Open A1 Convenience uses and provision of associated parking pursuant to outline permission 13/00997/OUTM. Approved 29 March 2019.
- 15/01858/OUTM Application to vary condition 25 of planning permission 13/00997/OUTM for Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Proposal submitted to allow the use of Unit B as A1 (non-food). Approved 9 September 2016 on appeal but the time period for applying for reserved matters approval pursuant to this outline planning permission has now expired, and this outline permission has therefore now lapsed.
- 13/00997/OUTM Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Application approved by Committee in December 2013 (sought to amend the retail layout on the site of 11/01067/OUTM).

11/01067/OUTM

(Appeal Reference APP/B3030/A/12/2174284) — Proposed erection of retail development comprising bulky good/open A1/open A1 convenience uses and provision of car parking to serve same. Appeal allowed 8 February 2013.

The Proposal

Full planning permission is sought to vary condition 19 attached to the existing outline planning permission under reference 19/01352/S73M. The existing condition 19 states:-

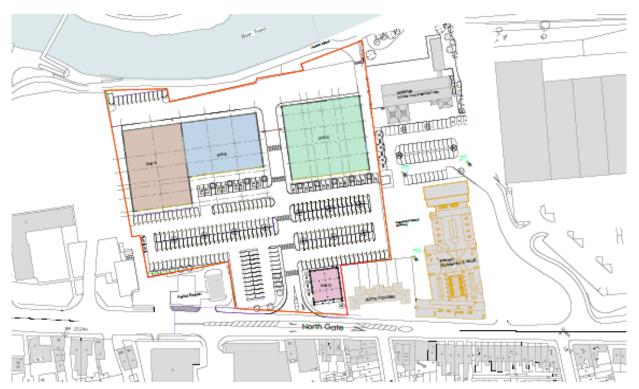
"Servicing of Units A to D of the development hereby approved shall not take place outside the following times: 9.00 am - 10.30 am and 19.00 pm- 21.00 pm.

Reason: In order to reduce conflict between customers/pedestrians and service vehicles."

This application seeks to vary the wording of the condition to the following:-

"Servicing of Unit D of the development hereby approved shall not take place outside the following times: 9.00am - 10.30 am and 19.00 pm - 21.00pm."

Such a revision will effectively result in no restriction times for servicing/deliveries for Units A (brown), B (blue) and C (green), as identified on the approved site layout shown below.





The supporting information initially submitted with the application states that the site has secured support from an anchor retailer in the form of Marks and Spencer, who are committed to occupying Unit C. Marks and Spencer will be unable to trade from the site within the restrictions of the delivery hours currently set out within Condition 19. The information states that the retailer is bound by operational requirements to ensure fresh food is delivered, unloaded and stock displayed prior to the store opening in the morning. Early morning deliveries are therefore required to enable Marks and Spencer to offer a fully stocked store with fresh produce prior to opening.

The statement goes on:- "At present, deliveries into the site would not be permitted until 9.00am at the earliest (with the Marks and Spencer store opening from 8.00am) – thereby preventing the necessary day to day operation of the store from taking place. The current delivery hours are highly restrictive (i.e. just 1.5 hours in the morning and 2 hours in the evening) – if a delivery driver just misses these very narrow permitted delivery slots, there would be significant implications for the produce and the store. Essentially the commitment of Marks and Spencer to the occupation of Unit C is dependent upon the removal restricted delivery hours."

Additional information was requested by the Council's Environmental Health officer during the course of the application, which has confirmed the following:-

"At present there is only one retailer committed to the scheme (Marks and Spencer) and therefore it is not possible to provide details with any certainty as to the arrangements required by Units A and B. So purely in the interests of assisting the Council, the agent has confirmed that the current expectation for Unit C is as follows:

Deliveries

- Two artic vehicles (early AM and PM) would be required each day to deliver chilled and ambient stock, this would increase at Peak trading times;
- Frozen vehicles three instances a week (artic, usually late morning or afternoon);
- Shop your way (online order) usually transit van/rigid, usually after 7am and usually one per day.
- 1 or 2 early morning newspaper deliveries by van/rigid vehicle.

Waste

A network of contractors collect the waste and typically waste collections are as follows, but do vary from store to store: -

- Food Waste (stored in wheelie bins) twice per week
- Dry Waste (stored in cages) three to four times per week
- Glass once per week
- Ceramics (stored in drums) 6 months"

It would stand to reason that Units A-B would be expected to have lower delivery requirements based on the product types that would be sold (Bulky Goods at Unit A and Comparison Goods at Unit B).

A Delivery Service Management Plan which provides details relating to the arrangements and management of deliveries has also been submitted which has been attached as Appendix A to the end of this report.

The agent has also confirmed that there are no plans for the installation of speed humps at the site.

The application was originally submitted to remove Condition 19 completely from the whole development, however, during the course of the consideration of the application, this has been amended to vary Condition 19, so that the existing restrictions would still apply to Unit D, but would be removed from Units A, B and C.

Submission Documents

- Site Location Plan (Drawing No: SW146-100)
- Covering Letter from Agent dated 30 April 2020
- E-mail from Agent sent 30 July 2020
- Delivery Service Management Plan received 30 July 2020

<u>Departure/Public Advertisement Procedure</u>

Occupiers of 83 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Planning Policy Framework

The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 6 - Infrastructure for Growth

Spatial Policy 7 - Sustainable Transport

Core Policy 6 - Shaping our Employment Profile

Core Policy 8 - Retail & Town Centres

Core Policy 9 - Sustainable Design

Core Policy 10 - Climate Change

Core Policy 14 - Historic Environment

NAP1 - Newark Urban Area

Allocations & Development Management DPD

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

Policy DM3 – Developer Contributions and Planning Obligations

Policy DM5 - Design

Policy DM9 - Protecting and Enhancing the Historic Environment

Policy DM10 – Pollution and Hazardous Materials

Policy DM11 – Retail and Town Centre Uses

Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Considerations

National Planning Policy Framework 2019
Planning Practice Guidance, on-line resource
Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Consultations

Newark Town Council – "The Town Council has considered this planning application and objects as follows: The removal of this Condition restricting delivery times will have an adverse impact on residents of nearby flats in the former brewery building. The noise arising from deliveries will

Agenda Page 118

disturb the residents it is important that these are neither too late not too early and should not be during the hours most people will be resting and sleeping."

NCC Highways Authority – "The Highway Authority has only concerns about the servicing of Unit D which has no specific service area. Therefore, servicing for this unit will take place from the access road or from the customer car park. So, we wish to see servicing for Unit D restricted to avoid busy customer periods, but can see no reason to restrict servicing to other units."

NSDC, Environmental Health – Following receipt of additional information and Delivery Service Management Plan received 30 July 2020, comments received 10.08.2020 – "It seems okay with me."

Comments received 03.06.2020 – "Has the applicant provided any further information? I would have reservations about no delivery times, especially throughout the night time due to the risk of noise and disturbance to residents in the area.

I would prefer some degree of restrictions during the night in the absence of further details as below:

1. No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site (whether laden or unladen), before the hours of 06:00 nor after 22:00 Monday to Sunday.

Reason: To protect the amenities of nearby residents."

Three letters of representation have been received from two local addresses that can be summarised as follows:-

- Welcomes the development of the waste ground that backs onto his property;
- Raise objection to extension of deliveries times due to how loud the reversing beacons are on articulated trailers and other heavy vehicles, noise of trolleys being rolled on and off the vehicle or lowered on a tail lift;
- This noise would resonate around surrounding area, especially during the night time;
- Accepting deliveries after 22.00 hours and before 06.00 is totally unacceptable;
- Unrestrained traffic would create noise nuisance for neighbouring residents and if permitted, this application could be used as a precedent.

Comments of the Business Manager

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

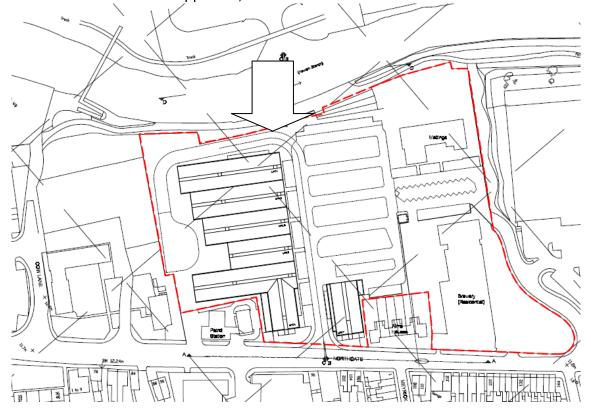
- (a) if the authority decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the authority shall grant planning permission accordingly, and
- (b) if the authority decides that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, the authority shall refuse the application.

Whilst the application has defined the conditions that are sought to be varied, the local planning authority has the power to vary, remove and add other conditions if minded to grant a new planning consent.

Application 19/01352/S73M was granted outline planning permission for 4 retail units on the site on 13 March 2020 subject to 36 conditions, including Condition 19 that restricted the delivery times of every retail unit to 9.00am to 10:30am and 19.00pm to 21.00pm only. It is of interest to note the reason why the condition is imposed, which is "In order to reduce conflict between customers/pedestrians and service vehicles." It is important to fully understand the reason for the condition being imposed from previous applications.

The original planning application for the retail development was granted on appeal under reference 11/01067/OUTM. The Inspector granted permission subject to restricting the servicing of the main 5 retail units (positioned at 90 degrees to the road along the south-western half of the site – see layout plan below) to between 9.00 to 10.30 and 19.00 to 21.00 only and the reason for this condition was, "To reduce conflicts between customers and deliveries/servicing of the units and safeguard the living conditions occupiers of nearby dwellings." The delivery times imposed are very restrictive and the timings appear to be somewhat unusual and it is not clear from the appeal file why the Inspector considered these timings were necessary, other than the fact that the then layout of this scheme showed the delivery access road to the rear of the units that would be used by delivery lorries crossed the pedestrian link between the site and the Riverside Walk (identified by large arrow on layout plan).

In relation to the small stand-alone unit between the proposed access point and the Almshouses, a condition was imposed to require a Service Management Plan in relation to the servicing of this unit to be submitted and approved, for the same reason as that set out for the main units.



Application 13/00997/OUTM then approved permission for a retail scheme consolidated down to 4 units; Units A-C re-positioned along the rear (north-western side) of the site and Unit D positioned adjacent to the access point and Almshouses. Although the committee report for this application stated:- "The main servicing yard would lie behind the proposed units and, subject to the same limitations to servicing hours imposed by the Inspector previously I consider that there would be no loss of residential amenities for occupiers in the Almshouses or Brewery or the properties opposite the site through noise and general disturbance from comings and goings at unsocial hours from heavy goods vehicles." The same two conditions were indeed imposed, however, the reasons stated for the conditions were:- "In order to reduce conflict between customers/pedestrians and service vehicles" and "In the interests of safety and convenience of the public using the adjacent parking area."

The amenity reasons for imposing the conditions were inadvertently removed in error by the officer dealing with the application at the time and as a result, these reasons have been repeated on the two S73 applications that have been approved since this 2013 consent.

In any event, it is clear that the main planning considerations that need to be assessed as part of this application would relate firstly to the potential issues of conflict between all users of the site and secondly the impact on the residential amenities of nearby occupiers.

User Conflicts

Spatial Policy 7 of the Core Strategy states development proposals should provide safe, convenient and attractive accesses for all.

The proposed layout of the extant development on the site separates the pedestrian link between the site and the Riverside Walk from the access road that would be used by delivery vehicles. As such, the potential conflict between pedestrian customers and delivery vehicles would be reduced by the latest approved layout of the development.

It is also considered that restricting the delivery of goods to between 9.00am to 10.30am and 19.00pm and 21.00pm only, is likely to serve to increase conflict between service vehicles and customers/pedestrians, rather than reduce it. Condition 18 sets out the opening hours of the retail units (8.00am to 20.00pm). On this basis, customers will be accessing the site during the specified delivery hours (other than for an hour beyond 20.00pm) when the retail units would be closed to customers – thereby resulting in a one hour slot in which delivery vehicles could gain access to the site without any conflict with customers/pedestrians. The agent therefore presents the case that by removing the servicing/delivery restrictions, delivery vehicles would be able to access the site outside the core times in which members of the public visit the site.

The Highway Authority has confirmed that they would raise no objection to the removal of the delivery restrictions for Units A, B and C and therefore the proposal is not considered to result in any highway safety harm.

The agent states that the proposal would also reduce traffic/highway congestion as well as pollution/air quality aspects and that his client would be willing to require any permission to be subject to compliance with the Delivery Service Management Plan attached to the end of this report, which seeks to manage and monitor the service/deliveries at the site.

It is therefore concluded that the proposal is likely to <u>reduce</u> conflict between users of the site, however this also needs to be weighed against the impacts on amenities.

Amenity Impacts

The NPPF at paragraph 127 states that development should create places with a high standard of amenity for existing and future users. Policy DM5 of the Allocations and Development Management DPD states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact and new development that cannot be afforded an adequate standard of amenity or creates an unacceptable standard of amenity will be resisted.

The servicing yards of Units A, B and C would be located to the rear of these buildings, behind which is the Riverside Walk that runs along the bank of the River Trent, and on the other side of which, is the marina to the north-west. The nearest residential dwellings to these yards would be on the other side of the retail building in the upper floor flats in the former officer brewery building to the south-east of the site, which are approx. 65m away. The comments of concern raised by two local residents have been noted and taken into account and any impact on their residential amenity must be carefully considered in line with the NPPF which seeks a high standard of amenity.

The mass of the building of Unit C is considered likely to reduce the direct transmission of noise to the south-east of the site, where the nearest residential units are located. These flats have a similar relationship with the retail units and their rear service yards at the existing retail park to the north of the application site, where there are no servicing or delivery restrictions imposed. The Council's Environmental Health officer has confirmed that they have received two noise complaints (one of which related to a group of people congregating at the site under the influence of alcohol); and one when the end unit was occupied by Big W approx. 10 years ago, however, it is also acknowledged that this might be that the units are predominantly occupied by comparison good uses where there is unlikely to be the same pressures for deliveries during unsociable hours.

It is also recognized that the site is located on a busy thoroughfare road within a mixed use area of the town where residential properties are already in very close proximity to the adjacent 24 hour petrol filling station on one of the busiest routes through the town.

The agent states that boundary treatments would act to screen out light overspill and headlights from delivery vehicles on entering and exiting the site (e.g. 1.8m high venetian hit and miss fencing to the boundary with the Almshouses) and that a condition that requires compliance with the submitted Service Delivery Management Plan (attached) for Units A, B and C would be acceptable to his client and Environmental Health officers have confirmed that this could be adequately enforced by them and that should any issues arise regarding disturbance that they could serve a Community Protection Notice or Abatement Notice to deal with the matter.

Some information has also been submitted regarding the numbers of vehicles that would be required to service Unit C on a weekly basis but very approximate rather than precise timings for comings and goings have been given. The agent has confirmed that the main daily deliveries would be by two artic vehicles (early AM and PM) which would increase at "peak trading times." Further clarification has been sought from the agent on more precise timings and what is meant by peak trading which will be reported to the Committee on late items. It is considered that a condition seeking to enforce the number of vehicle deliveries to Unit C, whilst maybe desirable, is unlikely to be an enforceable one in reality.

Whilst it is acknowledged that an approval of this application as it stands would mean deliveries could take place in the middle of the night, it is considered that a combination of the distance between the rear service yard and residential properties, the likely noise buffer offered by the built form of the building, together with the character of the surrounding area and a condition requiring compliance with the Service Delivery Management Plan would lead to an on-balanced support for the proposal. This is also offered in light of the fact that Units A and B would be occupied by a bulky goods and comparison goods uses where deliveries are unlikely to require unsociable hour deliveries and would therefore unlikely to result in any cumulative impacts on the site.

The retention of the limited servicing/delivery restrictions on Unit D is considered to be appropriate given its different positioning on the site and its closer proximity to residential living accommodation.

Other material planning considerations such as impact on the vitality and viability of the town centre, impact on heritage assets, highway safety, flood risk, archaeology and contaminated land matters have all been considered within the applications already approved on the site. Given that the current proposal relates to servicing/delivery arrangements, there is no reason to deviate from the approval of previous applications and therefore it is found that the scheme is acceptable in relation to all other material planning considerations.

Just for additional clarification, it has been established through the consideration of previous applications that the reserved matter approval granted under reference 16/01958/RMAM although specifically pursuant to the 13/00997/OUTM outline consent in the description of the proposal, can inure for the benefit of any subsequent S73 outline consent provided that outline is approved and implemented before the time limit set out within the existing reserved matter approval, which is stated as 29 March 2021.

Conclusion and Planning Balance

It is considered that the proposal is likely to result in reduced conflict between all different users within the site, to the benefit of highway safety. The proposed impact on amenity is considered to be much more of a balanced decision, however, taking into account the distance of approx. 65m to the nearest residential properties, the built form of Unit C that would offer a buffer from noise and the general characteristics of the area, together with the submitted Service Delivery Management Plan that can be conditioned to control operational activities, it is considered that the proposal is unlikely to result in unacceptable impacts from noise and disturbance to other nearby uses. It is therefore recommended that the revised wording of Condition 19 would read:-

"All servicing/delivery arrangements to Units A, B and C of the development hereby approved shall carried out in strict accordance with the submitted Service Delivery Management Plan. Servicing of Unit D of the development hereby approved shall not take place outside the following times: 9.00 am - 10.30 am and 19.00 pm- 21.00 pm.

Reason: In order to reduce conflict between customers/pedestrians and service vehicles and safeguard the living conditions of occupiers of nearby dwellings."

RECOMMENDATION

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

Conditions

01

The development hereby permitted shall begin not later than 29 March 2021.

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

02

The development hereby approved shall be built out in a single phase or in no more than two phases in accordance with Phasing Plan SW146-PH1 001. In the case of the latter, the first phase shall include:-

- all surface water attenuation works (as set out in Conditions 5 part (1), 6 and 7) across the areas identified as Phase 1 and Phase 2;
- all archaeological works (as set out in Condition 3) across the areas identified as Phase 1 and Phase 2;
- all land contamination works (as set out in Condition 4) across the areas identified as Phase 1 and Phase 2;
- all provision of compensatory flood storage (as set out in Condition 5 part (2));
- the pedestrian link between the development and the Riverside Walk identified within Phase 1 (as set out in Condition 9).

Reason: In the interests of the proper development of the site and in compliance with previously imposed conditions.

03

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 (defined by Condition 2) in full accordance with:

- SW146-001 Archaeology Statement;
- Method Statement for the Archaeological Excavation and Recording at the Former Warwick's and Richardson's Brewery, Northgate, Newark by Archaeological Project Services Nov 2008;
- Archaeological Evaluation and Watching Brief on Land at the former Warwicks & Richardsons Brewery, Northgate, Newark by Archaeological Project Services Report No: 34/11 dated March 2011;
- 1 March 2018 submission of revised Mitigation Strategy and Method Statement for Archaeological Monitoring and Recording at North Gate, Newark by Peak and Trent Archaeology dated February 2018;

comprising the written scheme of investigation submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON. The developer shall afford access to the site at all reasonable times to any archaeologist nominated by the local planning authority and allow the archaeologist to observe the excavations and record items of interest and finds.

Reason: In order to afford appropriate protection for the potential archaeological significances of the site.

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 in full accordance with:

The scheme shall be implemented in full accordance with the Detailed Quantitative Risk Assessment at The Maltings Retail Park, Northgate, Newark, Report No: NE2711F, October 2016 by Sub Surface North East Limited submitted to discharge Parts A and B of this condition, and approved on 8 January 2019 under application reference 18/02320/DISCON.

Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

05

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) 03/09/13-NWT/1500/FRA Rev C-BWB Consulting (D Harvey) and the following mitigation measures detailed within the FRA:

- 1. Limiting the surface water run-off generated by the 1:100 critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of compensatory flood storage on a level for level basis as detailed in Appendix D and the revised Floodplain Compensation Plan (Drawing No: MNN-BWB-DDG-XX-DR-D-1500 Rev P5) which was approved as a non-material amendment on 28 December 2018 under reference 18/01160/NMA.
- 3. Finished floor levels are set no lower than 11.87 m above Ordnance Datum (AOD). (The mitigation measures shall be fully 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.

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 (defined by Condition 2) of points 1 and 2 set out above. Point 3 shall be fully implemented prior to occupation of any of the buildings pursuant to each Phase as defined by Condition 2.

Reason: 1) To prevent flooding by ensuring the satisfactory storage of disposal of surface water from the site. 2) To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided. 3) To reduce the risk of flooding to the proposed development and future occupiers.

06

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 (defined by Condition 2) in full accordance with:-

- BWB Statement Summary WJ/NTH2312 dated 23 Nov 2016;
- 500 P1 Existing Catchment Areas Layout;
- 501 P1 Proposed Catchment Areas Layout;
- 550 P1 Proposed Drainage Layout;
- 560 P1 Drainage Details Sheet 1 of 2;
- 561 P1 Drainage Details Sheet 2 of 2;
- WJ 25.11.16 BWB Micro-Drainage Model;
- WJ25.11.16 Micro-Drainage Network Details;

before the development of both Phases is completed which comprises the surface water drainage scheme submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.

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

07

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 (defined by Condition 2) in full accordance with:-

- BWB Summary Statement WJNTH2312 dated 23 November 2016;
- Proposed Drainage Layout (dated 24.11.2016 ref: NTW/2380/550) incorporating the separators into the drainage plan;

Submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.

Reason: To protect ground and surface water from pollution.

No part of the development hereby permitted shall be brought into use until:

- a) details of (i) the permanent closure of existing site accesses that have been made redundant as a consequence of this permission and (ii) the reinstatement of the access crossing as a footway, have been submitted to, and approved in writing by, the Local Planning Authority.
- b) The works have been carried out in full accordance with the approved details.

Reason: In the interests of Highway safety.

09

The approved scheme (to provide a pedestrian link between the development and the Riverside Walk) shall be implemented in full accordance with Drawing Nos: 03/360/16 Rev A and SW146-405A submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON prior to first occupation of any buildings pursuant to Phase 1 as defined by Condition 2.

Reason: To provide adequate and safe access to neighbouring developments and promote sustainable transport links.

010

No part of the development hereby permitted shall be occupied within each Phase pursuant to Condition 2 until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority (LPA). The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the LPA and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the local planning authority.

Reason: To promote sustainable transport.

011

The approved measures (to prevent the deposit of debris upon the adjacent highway) shall be implemented in accordance with Drawing No: SW146- 101A and SW146-CM01 Issue A submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON prior to any other works commencing on site within each Phase pursuant to Condition 2.

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

012

No part of the development hereby permitted shall be brought into use within each Phase pursuant to Condition 2 until provision has been made within the application site for parking of cycles in accordance with Drawing No: SW146-400B submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON. That area shall not thereafter be used for any purpose other than the parking of cycles. No part of the development hereby permitted shall be brought into use until provision has been made for the parking of cycles in accordance with the approved scheme within each Phase pursuant to Condition 2.

Reason: To promote sustainable transport.

No part of the development hereby permitted shall be occupied or brought into use within each Phase pursuant to Condition 2 until the parking/turning/servicing areas are provided in accordance with the approved plans (Proposed Site Plan - Drawing No: SW146-102 Rev C). The parking/turning/servicing areas shall not be used for any purpose other than parking/turning/loading and unloading of vehicles.

Reason: To ensure that adequate off-street parking, servicing and turning provision is made to reduce the possibility of the proposed development leading to on-street parking in the area, and in the interests of safety and convenience on the site.

014

Development shall be undertaken in accordance with the approved building details approved on 29 March 2019 under reference 16/01958/RMAM and listed below.

- Proposed Units A, B, C Elevations (Drawing No: SW146-300 Rev B) received 4 February 2019;
- Proposed Units A, B, C Elevations Sheet 2 (Drawing No: SW146-301 Rev B) received 4 February 2019;
- Proposed Units A, B, C Elevations Sheet 3 (Drawing No: SW146-302 Rev B) received 4 February 2019;
- Proposed Unit D Elevations Sheet 4 (Drawing No: SW146-303 Rev A) received 4 February 2019;
- Proposed Visuals (Drawing No: SW146-304 Rev A) received 4 February 2019.

Reason: In the interests of visual amenity.

015

Development shall be undertaken in accordance with the hard and soft landscaping details approved on 29 March 2019 under reference 16/01958/RMAM and listed below,

- Detailed Landscape Proposals (Drawing No: 01/360/16 Rev B) received 4 February 2019;
- Detailed Landscape Proposals 1 of 3 (Drawing No: 02/360/16 Rev B) received 4 February 2019;
- Detailed Landscape Proposals 2 of 3 (Drawing No: 03/360/16 Rev B) received 4 February 2019;
 and
- Tree Grilles added to Carpark 3 of 3 (Drawing No: 03/360/16 Rev B) received 4 February 2019.

Reason: In the interests of amenity and biodiversity.

016

The approved soft landscaping shall be completed during the first planting season following the commencement of the development within each Phase pursuant to Condition 2, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping shall be implemented in full prior to each Phase pursuant to Condition 2 being first brought into 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.

No raw materials, equipment, finished products or waste materials shall be stored outside buildings other than in accordance with Drawing Nos: SW146-102 Rev C, SW 146-WM01, SW146-103 Rev A and the Waste Removal, Management and Recycling Statement submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON. Any external storage shall be located in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

018

The premises (Units A to D) hereby approved shall not be open to members of the public outside the following times: 08.00 a.m. to 20.00 p.m. on any day.

Reason: In the interests of amenity and to reduce conflicts between customers and deliveries/servicing of the units.

019

All servicing/delivery arrangements to Units A, B and C of the development hereby approved shall carried out in strict accordance with the submitted Service Delivery Management Plan. Servicing of Unit D of the development hereby approved shall not take place outside the following times: 9.00 am - 10.30 am and 19.00 pm- 21.00 pm.

Reason: In order to reduce conflict between customers/pedestrians and service vehicles and safeguard the living conditions of occupiers of nearby dwellings.

020

Unit D shall be serviced only in accordance with the agreed Plan set out on Drawing Nos: SW146-103 Rev A and SW 146-SM01 submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.

Reason: In the interests of safety and convenience of the public using the adjacent parking area.

021

No part of the development hereby permitted within each Phase pursuant to Condition 2 shall be occupied or brought into use until full details of any proposed air conditioning equipment or other external plant has been submitted to and approved in writing by the local planning authority. The approved equipment and plant shall be installed strictly in accordance with the approved details.

Reason: In the interests of residential amenity.

022

The approved details (security measures) approved on Drawing No: SW146-104 Rev C submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON, shall be installed on site prior to first occupation within each Phase pursuant to Condition 2.

Reason: In the interests of designing out crime and in order to fulfil the duties under Section 17 of the Crime and Disorder Act.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended and provisions of the Town and Country Planning (Use Classes) Order 1987 as amended (and any order revoking, re-enacting or modifying either of these Orders):

Unit A on Drawing SW146-102 Rev C shall not exceed 1,520 square metres gross floorspace and shall not be used for the sale of any goods (including convenience goods) other than those within the following categories:

- (a) Electrical goods and other domestic appliances
- (b) Bathroom suites furniture and accessories; kitchen units furniture and accessories, floor and wall tiles
- (c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles
- (d) Motor and cycle goods
- (e) Furniture, bedding, floor coverings, soft furnishings and textiles;

Unit B on Drawing SW146-102 Rev C shall not exceed 2,225 square metres gross floorspace and shall not be used for the sale of convenience goods;

Unit C on Drawing SW146-102 Rev C shall not exceed 2,480 square metres gross floorspace. Of this floorspace, no more than 1,520 square metres shall be permitted to sell an unrestricted range of convenience and comparison goods. The remaining floorspace shall only be used for the sale of comparison goods within the following goods categories:

- (a) Electrical goods and other domestic appliances
- (b) Bathroom suites furniture and accessories; kitchen units furniture and accessories, floor and wall tiles
- (c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles
- (d) Motor and cycle goods
- (e) Furniture, bedding, floor coverings, soft furnishings and textiles;

Unit D on Drawing SW146-102 Rev C shall not exceed 528 square metres gross floorspace and shall not be used for the sale of convenience goods, but may be used for the bulk sale of wine and spirits.

Reason: In order to protect the vitality and viability of the town centre from significant harm, to ensure that the range of goods sold is appropriate for the sites location and layout and to control the character of the development.

024

No retail unit shown on Drawing SW146-102 Rev C shall be subdivided to create a unit with a gross floorspace of less than 523 square metres.

Reason: In order to protect the vitality and viability of the town centre from significant harm and to control the character of the development.

No development shall commence on any part of the application site unless or until a priority junction on Northgate has been provided as shown for indicative purposes only on drawing BMT/120/TT/001 Rev P3 to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and capacity.

026

The development hereby permitted shall not be commenced unless or until improvements to the Northgate/Queens Road junction has been made to provide MOVA traffic signal control and nearside pedestrian detection facilities (or similar arrangements to provide the same effect) to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and capacity.

027

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 7, Class A of the Order in respect of:

• The extension or alteration of a shop (including the insertion of mezzanine floors)

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

Reason: In order to protect the vitality and viability of the town centre from harm.

028

Otherwise than in the circumstances set out below, for a period of five years from the date on which the development is first occupied, no retail floor space hereby approved shall be occupied by any retailer who at the date of the grant of this permission occupies retail floor space which exceeds 400 sqm [Gross External Area] within Newark Town Centre.

Such occupation shall only be permitted where such retailer as identified above submits a scheme which commits to retaining their presence as a retailer within Newark Town Centre for a minimum period of 5 years following the date of their proposed occupation of any retail floorspace hereby approved, and such scheme has been approved in writing by the Local Planning Authority.

Reason: To safeguard the vitality and viability of Newark Town Centre in accordance with the NPPF and Core Policy 8 of the Newark and Sherwood Amended Core Strategy (2019) together with Policy DM11 of the Allocation and Development Management DPD (2013).

029

At no time shall the gross floorspace of open, unrestricted A1 use exceed 1,520 square metres across the whole development.

Reason: To safeguard the vitality and viability of Newark Town Centre in accordance with the NPPF and Core Policy 8 of the Newark and Sherwood Amended Core Strategy (2019) together with Policy DM11 of the Allocation and Development Management DPD (2013).

The development hereby approved shall be carried out in accordance with the Reserved Matters approval under reference 16/01958/RMAM dated 29 March 2019.

Reason: The time limit for the submission of reserved matters approval has now expired and this is the only detailed matters approval that can be granted within the timescale set out under the 13/00997/OUTM consent.

031

This permission shall not be exercised in addition to the extant planning permissions Ref No 13/00997/OUTM granted by the Local Planning Authority on 4 December 2013 and Ref No 18/01137/OUTM granted by the Local Planning Authority on 6 June 2019, but shall be an alternative to these permissions.

Reason: To safeguard the vitality and viability of Newark Town Centre in accordance with the NPPF and Core Policy 8 of the Newark and Sherwood Amended Core Strategy (2019) together with Policy DM11 of the Allocation and Development Management DPD (2013).

032

The development authorised by this planning permission shall not be commenced if at any point prior to the date of commencement the development authorised by:

- (i) planning permission Ref No 13/00997/OUTM granted by the Local Planning Authority on 4 December 2013; and/or
- (ii) planning permission Ref No 18/01137/OUTM granted by the Local Planning Authority on 6 June 2019,

has already been commenced.

Reason: To safeguard the vitality and viability of Newark Town Centre in accordance with the NPPF and Core Policy 8 of the Newark and Sherwood Amended Core Strategy (2019) together with Policy DM11 of the Allocation and Development Management DPD (2013).

033

Prior to any of the Phase 2 of the development hereby approved being first brought into use, the palisade fencing shown on Drawing No: SW146-SHO-01 Rev B, shall be removed from the site.

Reason: In the interests of the visual amenity of the area.

034

Notwithstanding the details on the approved plan, the palisade fencing shown on Drawing No: SW146-SHO-01 Rev B shall not have an aluminium finish, but shall be powder coated in green prior to installation and shall be retained as such whilst it remains on the site.

Reason: In the interests of the visual amenity of the area.

035

Prior to the installation of the 3.1m high mesh fencing shown on Drawing No: SW146-SHO-01 Rev B, details of the design and appearance of the anti-climb mechanism to be installed at the top of the fence shall be submitted to and approved in writing by the Local Planning Authority. Only the anti-climb details that have been agreed shall be installed.

Reason: In the interests of the visual amenity of the area.

036

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

- Location Plan (Drawing No: SW146-100);
- Proposed Site Plan (Drawing No: SW146-102 Rev C);
- Proposed Site Plan Phasing Plan (Drawing No: SW146-PH1 001);
- Site Hoarding Layout Plan (Drawing No: SW146-SHO- 01 Rev B).

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.

Notes to Applicant

01

The applicant's attention is drawn to those conditions on the decision notice, which should be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised.

02

An advisory booklet is available Developing Land in Nottinghamshire: A guide to submitting planning applications for land that may be contaminated. This is available from Planning Services, the Proactive Team of Environmental Services or the NSDC website using the following link: http://www.newark-sherwooddc.gov.uk/pp/gold/viewGold.asp?IDType=Page&ID=7895. Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

Natural England Block 6 & 7 Government Buildings Chalfont Drive Nottingham NG8 3SN

Tel: 0115 929 1191 Fax: 0115 929 4886

Email: eastmidlands@naturalengland.org.uk

English Heritage
Ancient Monuments Inspector
44 Derngate
Northampton,
NN1 1UH

Tel: 01604 735400 Fax 01604 735401

E-mail: eastmidlands@english-heritage.org.uk

Heritage Planning Specialists
Nottinghamshire County Council
Trent Bridge House
Fox Road
West Bridgford
Nottingham
NG2 6BJ

Tel: +44 (0)115 977 2162 Fax: +44 (0)115 977 2418

E-mail: heritage@nottscc.gov.uk

to prevent damage or harm to the historic environment.

03

The Environment Agency advises that further information on SUDS can be found in:

The CIRIA C697 document SUDS manual

HR Wallingford SR666 Use of SUDs in high density developments

The Interim Code of Practice for Sustainable Drainage Systems. The Interim Code of Practice provides advice on design, adoption and maintenance issues and a full overview of other technical guidance on SUDS.

The Interim Code of Practice is available on www.environment-agency.gov.uk and CIRIA's website at www.ciria.org.uk

04

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact David Albans tel 01623 520735 for details see www.leics.gov.uk/index/htd.htm

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

Advice regarding travel plans can be obtained from the travel plans officer at Trent Bridge House, Fox Road, West Bridgeford, Nottingham NG2 6BJ, tel 0115 9774523.

05

The applicant is advised that under the CIL Regulations improvements to the Northgate/Queens Road junction will be made to provide MOVA traffic signal control and nearside pedestrian detection facilities (or similar arrangements to provide the same effect) and a priority junction shall be provided on Northgate.

06

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

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development and is being sought under the reserved matters approval under reference 16/01958/MRAM.

07

The applicant is advised that a public sewer is located within the site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent.

You are advised to contact Severn Trent Water to discuss the proposal further.

08

"The applicant is advised to contact the Works Engineers team of the Canal and River Trust at the Fazeley office (contact Jonathan Pritchett on 01827 252052) to ensure that any necessary consents are obtained and the works are compliant with the current Code of Practice for Works affecting the Canal & River Trust."

"The application documents indicate that surface water is to be discharged to the waterway. The applicant is advised that such discharge will require consent from the Canal & River Trust. Please be advised that canal and River trust is not a land drainage authority and that such consent is not granted as of right, and will be subject to completion of a commercial agreement where it is granted. Please contact Nick Pogson at the Newark office on 01636 675719 for further advice. Please note that it is likely that a silt trap/oil interceptor will be required."

09

The application as submitted is acceptable. In granting permission the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

BACKGROUND PAPERS

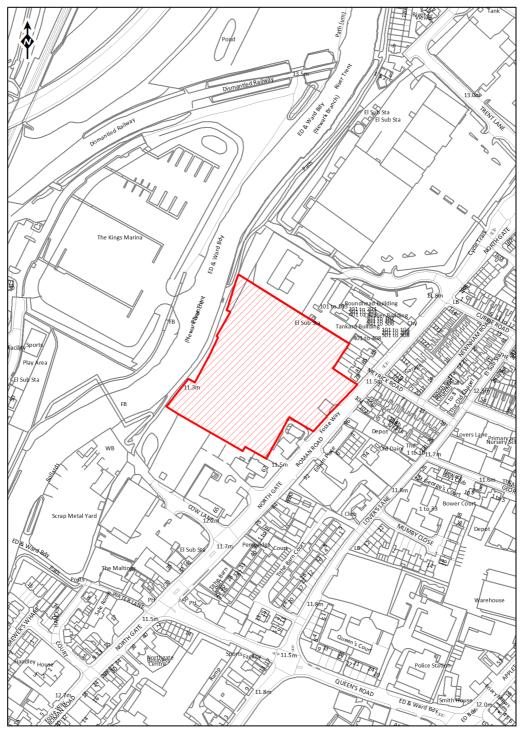
Application case file.

For further information, please contact **Julia Lockwood** on ext **5902**.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 20/00711/S73M



© Crown Copyright and database right 2020 Ordnance Survey. Licence 100022288. Scale: Not to scale

The Maltings Retail Park, Newark Delivery Service Management Plan (DSMP)

1.0 Introduction

- 1.1 This document sets out a combination of measures, actions and guidelines that in combination will control and limit noise generated by deliveries and servicing vehicles at Units A, B and C at The Maltings Retail Park, off Northgate, Newark.
- 1.2 At time of writing, the only confirmed occupier of the retail park is Marks and Spencer who will occupy Unit C. The future occupiers of Units A and B will be expected to comply with the broad requirements of this DSMP.
- 1.3 Delivery arrangements for Unit D are not covered by this DSMP and will be controlled by pre-existing conditions, or subject to a further DSMP to be approved by the Local Planning Authority.

2.0 Method of Implementation

- 2.1 The occupiers of the units will be responsible for implementing the plan and to ensure that suppliers are notified of the servicing arrangements detailed within this DSMP.
- 2.2 The occupiers of units and the landlord will monitor the plan and propose improvements if required.
- 2.3 All staff involved in deliveries to the store and all delivery vehicle drivers will be informed of the following procedures for carrying out deliveries, with the objective of minimising noise.

3.0 Deliveries

General Principles

- 3.1 The following general principles apply to the servicing of Units A-C:
 - i A member of staff will open the loading bay door prior to the delivery vehicle getting into position, in order to avoid engine idling;
 - ii The use of alarms will be kept to a minimum;
 - iii Staff will be instructed to work quietly in the service yard at all times.

Delivery vehicles

- 3.2 The Marks & Spencer vehicles that will provide food deliveries to Unit C will:
 - i Be fitted with industry standard refrigeration equipment:
 - ii Have refrigerated boxes with significant insulation that reduces noise transmission;
 - iii Contain cages and trolleys fitted with quiet wheels;

iv Have reversing alarms fitted as standard. Marks & Spencer ensures that the alarms are muted when operating in sensitive locations, if Health and Safety assessments allow. M&S vehicles are fitted with broadband or 'white noise' reversing alarms; and

v Have loading platforms (tail-lifts) at the rear of the vehicle that meet industry standards.

Delivery Protocol -

- 3.3 In respect of Unit C, the majority of deliveries to the store will be delivered by 16.5 m articulated vehicles. M&S store staff will have prior information about delivery times for their own vehicles, which will form the overwhelming bulk of deliveries.
- 3.4 All deliveries to Units A-C will be managed through careful scheduling and Drivers will be instructed as follows:
 - i Consideration to be given to noise and local residents as the drivers approach the stores, particularly during periods outside of store opening times.
 - ii Drivers to manoeuvre slowly and carefully and avoid over-revving the engine or slamming vehicle doors;
 - iii Drivers will be instructed not to leave engines running when unloading at the store, thereby eliminating noise pollution from both the vehicle and the fridge engine;
 - iv Drivers will be instructed to turn off delivery vehicle cab radios whilst in the service yard;
 - v All drivers shall be asked to close doors gently and not slam them.

Agenda Item 11

PLANNING COMMITTEE - 08.09.2020

Application No: 20/01312/FUL

Proposal: Demolition of existing garage and erection of single storey dwelling

Location: 5 Chaucer Road, Balderton, Newark, Notts, NG24 3RA

Applicant: Mr P Sheldon

Agent: Mike Sibthorpe Planning

Registered: 22.07.2020 Target Date: 15.09.2020

This application has been referred to the Planning Committee by Cllr B Brooks and the panel consider that given its site history it warrants a debate by the Committee as the officer recommendation now differs from the views of Balderton Parish Council.

The Site

The application site relates to a section of residential curtilage and an access driveway, currently associated to 5 Chaucer Road, a semi- detached single storey bungalow located within the established urban area of Balderton. The existing driveway is off Bullpit Road and runs between No. 35 and No. 37 Bullpit Road which is bound by hedgerows.

The application site is level in nature and there is a mixture of panel fencing and hedging along the shared boundaries with the closest neighbouring properties. On site there is a detached single brick garage with a pitched roof and an area of hardstanding located close to the eastern boundary with 37 Bullpit Road.

Relevant Planning History

The site has a history of applications on this site including two dismissed appeals:

17/00104/FUL – Erection of single storey dwelling on L shaped footprint. Refused 16.03.2017 for the following reason:

'In the opinion of the Local Planning Authority (LPA) the proposed development would result in a material adverse impact on the character and appearance of the site and wider setting by virtue of the backland position and cramped appearance in relation to its boundaries. The proposal is therefore contrary to the aims of Policy DM5 of the Allocations and Development Management DPD as well as Paragraph 53 of the NPPF a material planning consideration. There are no other material planning considerations that outweigh this harm in the opinion of the LPA.'

15/01141/FUL – Householder application for proposed extension to side/rear of existing bungalow. Approved 04.09.2015.

EXP/0075/12 – Erect a study/games room attached to existing garage, plus installation of air source heat pump. Advice given that planning permission was not required.

09/01011/FUL – Proposed single storey three bed bungalow with parking provision for 2 vehicles and enlarge car parking area for existing dwelling (Re-submission). Refused 02 September 2009 (on grounds of impact on character/appearance and car parking arrangements/highway safety) and dismissed at Appeal. In dismissing this appeal (APP/B3030/A/09/2112698) in January 2010 the Inspector concluded that whilst the height of the dwelling had been reduced the footprint was still large and it would be cramped in relation to its boundaries and would severely restrict the garden space for the host dwelling. The Inspector was not persuaded by the highways reason for refusal but did have some concerns regarding what they considered to be a harmful effect to the outlook of neighbours which added limited weight to the decision.

08/02287/FUL - New (1 ½ storey) dwelling with attached garage, enlargement of existing frontage parking area. Refused 05.02.2009 (on grounds of inappropriate character/precedent and backland development that harmed the amenities of neighbours through overlooking) and dismissed at appeal April 2009. In dismissing the appeal (APP/B3030/A/09/2100561) in June 2009 the Inspector agreed the harm to character but was not convinced regarding the impact on amenity or that it would set a precedent.

95/50031/EXP – Garage, permission not required 16.11.95.

The Proposal

Full planning permission is sought for a detached single storey bungalow with a simple, broadly rectangular form with small projecting gable to the frontage and pitched roof. The dwelling would measure 9.6m across by 8.3m deep (max) to a height of 4.8m to ridge and 2.6m to eaves. This would be orientated with its frontage facing east c5m from the boundary with 37 Bullpit Road.

The proposed bungalow would comprise an entrance hall, kitchen, open plan living room, bathroom and two bedrooms.

The north (side) elevation would be 1.9m from the boundary (comprising fencing) with dwellings on Wordsworth Drive whilst the rear (west) elevation would be 6.2m from that shared with 3 Chaucer Road. A new timber fence between the proposal and the host dwelling would be installed 3m from the new dwelling leaving c8.4m of garden depth (at its shortest) for the host dwelling. An area of hardstanding would front the dwelling (eastern part of the site) to form a parking and turning area for vehicles. The private garden of the new dwelling would lie to its west.

The Submission

Existing Site Layout: PS.02
Proposed Site Layout: PS.03
Proposed Plans and Elevations PS.04
Site location Plan PS.01
Design and Access Statement

<u>Departure/Public Advertisement Procedure</u>

Occupiers of eight properties have been individually notified by letter.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2019)

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 7 - Sustainable Transport

Core Policy 3 – Housing Mix, Type and Density

Core Policy 9 - Sustainable Design

Core Policy 10 - Climate Change

NAP1 - Newark Urban Area

Allocations & Development Management DPD

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM5 – Design

DM12 – Presumption in Favour of Sustainable Development

Other Material Considerations

National Planning Policy Framework NPPG

Consultations

Balderton Parish Council – Object

'This scheme is considered to be detrimental to the character of the area and would prejudice the private amenities of neighbouring properties.'

Representations have been received from 2 local residents/interested parties which can be summarised as follows:

- Object to this backland development
- Large plots form nice gardens, parkland and outlook
- Would harm the charm and character of the area
- Would set harmful precedent
- Three previous applications and appeals have been rejected
- Nothing has changed and should not be allowed
- Comparison with Knotts Court development in D&A Statement is inappropriate

Comments of the Business Manager

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

Principle of Development

The site is located within Balderton, part of the defined Newark Urban Area which is a Sub Regional Centre as set out in the Settlement Hierarchy defined by Spatial Policies 1 and 2. These policies provide that new housing and employment growth should be focussed in this area as it is considered to be a sustainable location for new development. As such, the proposed development would therefore be acceptable in principle subject to an assessment of the site specific impacts as set out below.

Design, Character and Density

Core Policy 3 states that the Council will seek to secure an appropriate mix of housing types to reflect local housing need including smaller houses of 2 bedrooms or less and housing for the elderly and disabled population.

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.

Policy DM5 of the DPD sets out the Council's design criteria for assessing proposals and 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 122 of the NPPF which provides that decisions should make efficient use of land but also consider the desirability of maintaining an areas prevailing character and setting (including residential gardens.

In considering the character of the immediate locality, I am mindful that there is a range of designs and sizes of dwellings albeit the prevailing character is of detached and semi-detached dwellings (both single and two storey) that front onto a highway and are set within generous sized rear gardens. In terms of the wider setting, I note the agent has cited an application for a 2 bedroom dwelling on a former garage site (planning reference 17/02308/FUL) off Bullpit Road as being of relevance. This is some distance away from the application site (at the junction of Bullpit Road with Main Street) in an area with a slightly differing character. However I can see the resultant development is similar.

In assessing this application now before Members it is important to consider whether the previous concerns have been adequately addressed by this new scheme. In dismissing the second appeal the Inspector stated:

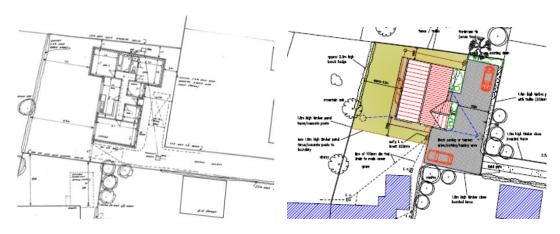
"On my site visit I was able to judge the character of the area which comprised a mix of postwar 2 storey houses and bungalows. These dwellings typically have deep rear gardens which gives the internal part of this block of 14 dwellings a pleasant green rear environment. The proposed bungalow would have a cramped appearance being built very close to the site boundaries on 2 sides without the relief of a spacious rear garden. The division of the site would also severely restrict the garden space for the host dwelling, notwithstanding the current proposal for the demolition of its extension. In these ways the proposal, if built, would have a harmful effect on the established layout of the area of the area which is valued by its residents. I do not consider that the changes introduced by the appellant set out in paragraph 3 above alter the conclusions on this issue; they merely minimise the impact on neighbours from those which would have arisen from the previous scheme."

The 2^{nd} appeal proposed a bungalow of a similar height (4.75m) to this scheme and whilst the Inspector noted that this would reduce the visibility of the building from the public realm he also noted that the footprint had not been reduced from the 1^{st} appeal proposal (para 3 of his decision). This coupled with the close proximity of the dwelling to the boundaries led the inspector to conclude the harm had not been addressed.

In contrast to the appeal, this dwelling's footprint has been significantly reduced (it is now a modest 2 bedroom bungalow as opposed to a 3 bed) giving it more space to the boundaries and allowing for a slightly larger host garden, which in my view is not dissimilar in size and nature to that of no. 37 Bullpit Road to the east.

2nd appeal layout

Current Proposal



In addition, the proposed dwelling given its low height and its positioning tucked behind the built form of existing dwellings on Bullpit Road means that this would be discrete and barely visible from the public realm. The open green character would therefore be preserved. Whilst I note there is concern that a precedent could be set, I find no similar plot where this could be repeated as this site with a separate access is, from what I can see, unique for this area. This was also the conclusions of the previous Inspector on the second appeal.

It is worth noting that the proposal would also deliver a modest 2 bedroom dwelling which accords with the general need in the district for smaller two bedroom dwellings that could accommodate residents with a more mature demographic.

Impact on Neighbouring Amenity

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 seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

The proposed dwelling would be truly single storey with ground floor windows only. I am not concerned regarding overlooking as the windows of the bungalow would be low level and there are existing boundaries in place to screen the development. The distance between dwellings is also such that this would not have an undue impact ether in terms of overlooking or from being overbearing. I am satisfied that there would be no overshadowing or any other detrimental impact so adverse that it would justify a refusal. In my view the proposal accords with CP9 and DM5 in this respect.

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.

Standing advice now applies for this development albeit I note on the other three schemes this was not the case at that time. I also note that the previous appeal inspector was satisfied that the previous scheme would not amount to a highway safety concern despite vehicles having to reverse onto the highway.

In this case the access to the site would utilise the existing vehicular access which currently serves a residential garage which would be demolished to facilitate the development. As no change would occur in terms of the siting of the access and intensity of its use, it is reasonable to conclude that this would cause no safety issues. There is now space within the site for at least two cars to park, turn and allow them to leave in a forward gear.

I am satisfied therefore that the scheme meets the expectations of standing advice and policies SP7 and DM5 in terms of parking provision and safety.

Other Matters

The fall back positon put forward within the submitted Design and Access Statement in relation to a curtilage building being erected under permitted development rights is noted. Notwithstanding that there are significant differences between the curtilage building that could be erected under permitted development rights and the proposed scheme, given my findings in terms of its acceptability/character it does not matter.

Conclusions

The principle of development within the defined built up part of Balderton is acceptable subject to an assessment on site specific matters. The three previous refusals and two dismissed appeals are also material considerations in the determining of this application. Since the appeals, the Development Plan and national planning policy has changed albeit the general thrust of policy has not.

What has changed however is the footprint of the proposed development has been significantly reduced from the previous iterations. This scheme proposes a modest 2 bed bungalow that would assist in meeting the general housing requirements for the district and potentially the elderly and less mobile demographic. The low height, single storey nature of the development, the reduced footprint and positioning tucked behind existing development would still allow the sense of green space and openness to be read visually from the main road frontages. The perception would be that the character is therefore preserved. The bungalow would also have more space around it and distance to boundaries on each elevation so would avoid any sense of it being cramped and the host dwelling would retain a garden that is commensurate to its size and not dissimilar to the dwelling to the east. No harm in terms of living conditions has been identified and parking and highway safety are considered satisfactory. No other material considerations have been raised that lead me to a different conclusion. I conclude that the proposal would accord with the development plan and I recommend approval.

RECOMMENDATION

That planning permission is approved subject to the following conditions:

Conditions

01

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

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

02

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: Inadequate details have been provided with the application and in the interests of visual amenity.

03

Prior to first occupation/use of the development hereby approved full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;

boundary treatments;

hard surfacing materials;

Reason: Inadequate details have been provided and this is necessary 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

The dwelling hereby approved shall not be occupied until the parking and turning area show on drawing number PS.03 has been provided in a bound material (which shall be agreed as part of condition 3) and it shall thereafter be retained for parking for the lifetime of development.

Reason: To ensure that adequate provision is made for parking and turning in the interests of highway safety.

06

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

Proposed Site Layout: PS.03 Proposed Plans and Elevations PS.04 Site location Plan PS.01

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.

07

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

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

Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.

Class F: Hard surfaces 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) in the interests of residential amenity and character.

Notes to Applicant

01

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

02

The applicant's attention is drawn to those conditions on the decision notice, which should be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised.

03

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

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/ or from the Planning Portal: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

BACKGROUND PAPERS

Application case file.

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

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 20/01312/FUL



© Crown Copyright and database right 2020 Ordnance Survey. Licence 100022288. Scale: Not to scale

Agenda Item 12

PLANNING COMMITTEE - 8th SEPTEMBER 2020

Application 20/00565/FUL

No:

Proposal: Householder application for demolition of existing outbuilding and construction of

two storey rear extension.

Location: Hendre Cottage, Main Street, Epperstone, NG14 6AD

Applicant: Mr and Mrs Wells

Registered: 04.05.2020 Target Date: 29.06.2020

Weblink https://publicaccess.newark-sherwooddc.gov.uk/online-

applications/applicationDetails.do?activeTab=documents&keyVal=Q8EM1ULBGQE00

Extension of Time Agreed Until 11th September 2020

This application is being referred to the Planning Committee for determination by the Development Manager due to personal circumstances that have been put forward by the applicant to be considered as part of the application. Due to reasons of privacy and compliance with the General Data Protection Regulations, full details are not included within the report, however should members wish to obtain further details then they should contact officers individually.

The Site

Hendre Cottage is a semi detached dwellinghouse located immediately adjacent to the footway on the northern side of Main Street, Epperstone. The house is constructed of red bricks with a clay pantile roof which is customary for this part of the district. The property is joined to a further premise to the east which is current being used as a café.

The property is enclosed to the rear by mature planting that borders each boundary of a substantial rear garden which is set at a higher level that the rear elevation of the dwellinghouse.

The rear elevation of the property currently consists of a single story projection which is currently being used as part of the kitchen and a separate toilet facility. To the west (side) elevation of the property is an existing outbuilding

The proposal site is situated within Epperstone Conservation Area (CA) and the Green Belt.

Relevant Planning History

FUL/940548 – Improvements, alterations and extensions to dwellinghouse – approved.

The Proposal

The proposed development seeks approval for the removal of a small outbuilding at the rear of the property, and the addition of a two storey extension perpendicular to the main house. The extension is set down from the ridge of the main house, and has a narrow gable.

The proposal would be constructed of traditional materials to match the existing host property.

The proposal would provide considerable ground floor living space and at first floor a substantial main bedroom with bathroom facilities.

The initial proposal when submitted was nearly 9m off the back wall (as measured by the main catslide element), and over 12m in the roof line (as measured by the ridge). Given that the cottage is only 2 bays in width (c.7.6m), the extension would have been a considerable addition and, when combined with the additions already at the rear, the extension was considered by Conservation colleagues to be disproportionate to the modest cottage characteristics of the host building.

Following discussions with the agent a revised scheme has been submitted in which the overall length of the extension has been maintained but the applicant's agent has amended the plans to include a step within the main roofline of the extension in order to reduce the overall bulk of the extension and to thus increase the subservient appearance of the proposal. The revised latter part of the extension would now have an eaves height of 4.3m from ground level and measure 4.9m from the land level immediately to the north of the proposed extension due to the difference in ground levels.

During the lifetime of the application addition information has been received from the applicant which describes the serious medical condition of their children and why the proposed extension is required in order to accommodate their special mobility and medical care requirements.

Departure/Public Advertisement Procedure

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

Planning Policy Framework

The Development Plan

Epperstone Neighbourhood Plan (adopted December 2019)

Policy EP 11: Design Principles

Policy EP 16: Epperstone Conservation Area

Newark and Sherwood Core Strategy DPD (adopted March 2019)

Spatial Policy 4A – Extent of the Green Belt

Spatial Policy 4B – Green Belt Development

Spatial Policy 7 - Sustainable Transport

Core Policy 9 - Sustainable Design

Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 14 – Historic Environment

Allocations & Development Management DPD

DM5 - Design

DM6 - Householder Development

DM7 - Biodiversity and Green Infrastructure

DM9 – Protecting and Enhancing the Historic Environment

DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2018 Planning Practice Guidance

Consultations

Epperstone Parish Council – Supports the proposal

Internal Drainage Board – Do not object to the proposal.

NSDC Conservation Officer – Comments received in relation to initial. Following the submission of the revised proposal the Conservation Officer has commented that they no longer object to the proposal subject to conditions.

Heritage assets affected

The proposal site is situated within Epperstone Conservation Area (CA). Hendre Cottage is a period building and is considered to make a positive contribution to the character and appearance of the CA.

Den Cottages and The Old Forge opposite are both Grade II listed.

Legal and policy considerations

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In addition, section 72 of the Act requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF – revised February 2019). When considering the impact of a proposed development on the

Agenda Page 151

significance of a designated heritage asset, great weight should be given to the asset's conservation, for example.

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;

and

c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of conservation areas when considering new development (paragraph 200).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

Significance of heritage asset(s)

Epperstone CA was first designated in 1972, and reviewed in 2006 when the area was extended. The adopted Epperstone CA Appraisal (2006) provides a useful assessment of the CA, including its origins, settlement layout patterns and architectural interest.

From the Cross Keys to Chapel Lane, this part of the CA is typified by houses and cottages built on the pavement edge and the character is one of close knit and tighter development, especially at the junction of Toad Lane and Chapel Lane where the small cottages on the pavement edge together with the high boundary wall at The Manor form a strong sense of enclosure.

Contrary to the submitted Heritage Statement, Hendre Cottage is identified in the Appraisal as a building which has Local Interest (as shown on Map 3 of the Appraisal). The cottage is modestly proportioned, and comprises red brick above a stone plinth, The cottage has a pantile roof with chimneys, and attractive Yorkshire sliders facing the road. The building appears to have late 18th century origins with later 19th and 20th century phases.

Comments of the Business Manager

The proposed development seeks approval for the removal of a small outbuilding at the rear of the property, and the addition of a new two storey extension perpendicular to the main house.

Agenda Page 152

The extension is set down from the ridge of the main house, and has a narrow gable. The extension will run as far as the end of the existing outbuilding.

Conservation objects to the proposed development in its current form.

Removal of the outbuilding, which has no intrinsic interest, is acceptable.

It is acknowledged that many traditional vernacular buildings in this area enjoy service accommodation, and this often takes the form of a perpendicular rear extension.

The narrowness of the gable (under 4m), and the height of the extension, which is set below the ridge of the host property, is appropriate in its subservience to the main cottage. The overall length of the addition is too great, however, with the extension measuring nearly 9m off the back wall (as measured by the main catslide element), and over 12m in the roof line (as measured by the ridge). Given that the cottage is only 2 bays in width (c.7.6m), the extension is a considerable addition. Combined with the additions already at the rear, the extension feels disproportionate to the modest cottage characteristics of the host building. The extension will be visible in aspect from Main Street, notably on approach from the east, and I therefore feel that the extension will be relatively dominating to what is otherwise a modest cottage range (please also note that in accordance with paragraph 13 of the PPG, impact on significance is not limited to public access).

The lack of articulation of fenestration and detailing in the extension is also unhelpful in this context (traditional service wings would have included appropriate joinery within bays on the courtyard side in this type of setting).

Recommendation/summary of opinion

In its current form, the proposals result in some minor harm to the special character and appearance of Epperstone CA and the setting of Den Cottages and The Old Forge. For the purposes of the NPPF, this harm is less than substantial. Sections 66 and 72 of the Act provide a strong presumption against harm to listed buildings and conservation areas. The proposal is also contrary to heritage advice contained within the Council's LDF DPDs and section 16 of the NPPF.

To address our concerns, the scheme should be revised. The roof line should be stepped down mid-way along the service wing and reduced in length. Given the modest proportions of upper floor rooms, this will inevitably require some compromise. However, we would be happy to explore these options further (I recognise that there are topography constraints here also).

In addition, appropriate fenestration should be considered on the east elevation, and if possible, the French doors revised for either a traditional half glazed 4 panel door, or a plank door (could be pinned back and glazed), or a simpler glazed bifold type door which might reference traditional workshop/cartshed type openings which have been infilled (this would work better as part of a single storey element). Working up the detailing would also assist, both in the masonry (dentil courses, arched headers, traditional brick bonding etc) and joinery design, although this might be dealt with via suitably worded conditions. A chimney could also be considered.

Representations have been received from 1 local residents which can be summarised as follows:

- Do not object to the application.
- Request that the bathroom window be conditioned to have obscure glazing.

 Agenda Page 153

Appraisal

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 12th December 2019 Newark and Sherwood District Council adopted the Epperstone 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 Epperstone. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

The application site is located at the edge although within the settlement of Epperstone which is wholly washed over by the Green Belt, as identified with Spatial Policy 4a of the Amended Core Strategy. Spatial Policy 4b of the Amended Core Strategy states:

'new housing and employment development will be focused in the Principal Villages of Blidworth and Lowdham, along with Gunthorpe and the part of Bulcote which is attached to Burton Joyce. These locations are excluded from the Green Belt and defined by Village Envelopes.'

Spatial Policy 4b goes onto advice that 'Other development in the Green Belt not identified in this policy will be judged according to national Green Belt policy.'

The NPPF states that substantial weight is given to any harm to the Green Belt although there are exceptions to this including that any extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building, could be considered acceptable. Para 145 of the NPPF advises that 'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt' and then goes onto the list the exceptions to this which include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

Under current policy there is no definitive percentage of floor space increase considered to be appropriate development within the Green Belt and as such, it is one of judgement for the LPA.

Generally, and as a rule of thumb where other local planning authorities have set thresholds within development plan policies these typically range between 30 to 50% (volume and/or floorspace increase) in determining whether householder extensions are disproportionate to the original dwelling.

Notwithstanding the degree of judgement involved in firstly determining whether a development proposal is inappropriate (by reason of being disproportionate to the original building) it is useful to understand the size of the proposed extensions compared to the original building.

The table below shows the existing and proposed footprint for the building

	Original dwelling	Previous extension	Extension sought under this application	% Total Increase to original building
Floorspace	Ground floor 38m2 First floor	Ground Floor 10m2 First Floor	Ground Floor 26m2 First Floor	94%
	36m2	9m2	25m2	
	Total 74m2	Total 19m2	Total 51m2	
Footprint	Total	Total	Total	103%
	52m2	23m2	31m2	

However, whilst the above calculations help in quantifying the difference in size between the original building, the previous extension and the proposed additions, I am mindful that neither the NPPF nor the policies within the Core Strategy set out a specific percentage when considering what constitutes an addition to an existing building being disproportionate. Consideration therefore also needs to be given to the design of the proposal and whether its scale, form, mass and layout, result in a property which would have an acceptable impact on the openness of the Green Belt.

In terms of the impact on the openness of the Green Belt, I am mindful that the proposed extension is substantial in comparison to the exiting property and although it will be to the rear elevation, and thus would not be highly visible from the street scene or any other public vantage point, I nevertheless consider that the proposed development would result in a large development of significant mass and bulk that will occupy a large portion of residential curtilage associated to the dwelling and has the potential to be seen as an imposing structure within both the immediate setting and beyond the site. It is also of relevance that the NPPF, local policy and case law does not indicate that a development that is not viewable from public vantage points is acceptable.

In light of the above, and in considering the percentage increase in footprint of the building which are well in excess of the thresholds stated, I am of the view that the proposed development would result in a disproportionate addition to the host building and have an adverse impact on the openness of the Green Belt.

Notwithstanding this, I am aware that paragraph 144 of the NPPF offers that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

It is necessary to assess the degree of weight to be accorded to a factor that could be considered as a 'very special circumstance' within the "Wednesbury Principles". In this case it is necessary to determine whether the individual factor that has been put forward would outweigh the harm to the openness to the Green Belt.

The weight to be given to any particular factor will be very much a matter of degree and planning judgement and something for the decision-taker.

There cannot be a formula for providing a ready answer to any development control question on the green belt. Neither is there any categorical way of deciding whether any particular factor is a 'very special circumstance' and the list is endless but the case must be decided on the planning balance qualitatively rather than quantitatively.

What is required of the decision taker above all, is a value judgement and inevitably decision takers are given wide latitude, as indeed is inherent in the entire development control regime. It is considered that the proposed extension on its own is inappropriate development that would result in significant harm to the Green Belt.

The applicants have put forward an argument that the benefits of the extension to the mobility and welfare of their children is such that this alone would amount to a 'very special circumstance' in its own right. Whilst officers are extremely sympathetic to issues facing the applicants and their family, in this instance I considered that whilst they would carry some weight, they would not on their own be enough to outweigh the harm of the extension to the Green Belt by reason of inappropriateness, and any other harm. It is of particular importance that personal circumstances are rarely a reason for granting a planning permission. Permissions go with the land rather than to the person. Whilst a condition could be attached saying the permission is for the applicants only, once the development is built it would not be reasonable to have a condition requiring the extension to be demolished should the applicants leave the property. The development would therefore be there permanently if approved.

Heritage and Impact on Visual Amenity

As the site is located within the conservation area, the following legal obligations and planning policy guidance is relevant.

The legal framework is set out in Section 72 of the Planning (Listed Building and Conservation Area) Act 1990 requires the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

In planning policy terms set out within the Development Plan, as the site is within a Conservation Area, development should take account of the distinctive character of the area and seek to preserve or enhance the conservation area, as stated by policy DM9 of the DPD. Policy CP14 of the Core Strategy reflects this guidance and requires continued preservation and enhancement of heritage assets.

In more general design terms, Core Policy 9 states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context

Agenda Page 156

complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. Furthermore, the NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive.

I note the comments from the Conservation Officer, who considered that the initial proposal felt disproportionate to the modest cottage characteristics of the host building. In response to the comments of the Conservation Officer a revised scheme has been submitted which includes a step midway through the roofline and increased masonry detailing including arched headers.

Based upon these changes, and the positive comments that have now been received from the Conservation Officer, I consider the revised proposal to be an improvement to original scheme in terms of its impact upon the Conservation Area. The proposal would therefore respect the character and appearance of the Conservation Area and thus accord with the aims of Policies DM9 and Core Policy 14.

Impact upon Residential Amenity

Policy DM6 of the DPD states planning permission will be granted for the extension of dwellings provided it would not adversely affect the amenities of the adjoining premises, in terms of loss of privacy, light and overbearing impact.

I am mindful that the latter part of the proposed extension would come close to the side boundary of the property with the neighbour at The Gray House and that the extension would be 2 storeys and thus higher than the existing outbuilding that is proposed to be demolished. Although this is the front garden of the Gray House it is considered that this is a relatively private space given the existing screening along the frontage. Nevertheless, I am of the opinion that the proposal would not result in any material overbearing or overshadowing impact on the adjoining property. Notwithstanding this, whilst the window proposed within the side elevation would be relatively small, I am concerned about the potential for overlooking of the existing property and therefore considered that should the proposal to be approved then it would be necessary to impose a condition that requires the window to be obscure glazed and non opening below a height of 1.7 metres from the floor height which is served. In regard to the potential impact on Sunnyside to the east, I am mindful that the proposed rear extension would be separated from the boundary by an existing two and single storey extension. As such, I am satisfied that proposal would not result in material overbearing or overshadowing impact on the amenity of this neighbouring property.

Other matters

I note the concerns raised in relation to potential overlooking from the window located within the side elevation of the first floor of the proposed extension and consider that as the window is shown as serving a bathroom it would be reasonable to attach a condition requiring that the windows be glazed with obscure glass at all times.

Conclusion

It is concluded that the proposal would have a harmful impact upon the openness of the Green Belt as the proposed development results in an increased footprint of 103% over the original building when taken into account with the previous extension. This is considered to represent a disproportionate addition to the host building and would result in a detrimental impact upon the

openness by virtue of its scale and mass of the extension when taken into account with the overall size and proportions of the proposed extension.

For these reasons, I conclude that the proposal would represent inappropriate development in the Green Belt, which paragraph 143 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Whilst details of the applicant's personal circumstances have been put forward that would carry limited weight and officers consider that this is a balanced judgement, ultimately it is considered that the harm to the Green Belt by reason of inappropriateness, and any other harm, is not outweighed in this instance.

Recommendation

That planning permission is refused for the following reason

01

In the opinion of the District Council the proposed extension, together with the previous extension, would result in a disproportionate addition to the building over and above the size of the original building and would adversely affect the openness of the Green Belt. It would therefore constitute inappropriate development within the Green Belt. There are no very special circumstances of sufficient weight to outweigh this harm. The proposed development would therefore be contrary to Spatial Policy 4b of the Newark and Sherwood Amended Core Strategy (2019) and the National Planning Policy Framework.

Refused Drawing Numbers:

Existing elevations – (Drawing No: 2006.060.002) Existing Floor Plan – (Drawing No: 2006.060.001)

Existing outbuilding elevations – (Drawing No: 2006 060 007)
Revised proposed floor plan – (Drawing No: 2006.060.003 REV D)
Revised proposed elevations – (Drawing No: 2006.060.004 REV D)

Location plan and site plan – (Drawing No: 2006.060.005)

Notes to Applicant

01

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

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

BACKGROUND PAPERS

Application case file.

For further information, please contact Richard Marshall on ext 5801.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 20/00565/FUL



 $@ \ \, \text{Crown Copyright and database right 2020 Ordnance Survey. Licence 100022288. Scale: Not to scale } \\$

PLANNING COMMITTEE 8 SEPTEMBER 2020

ADOPTION OF PLANNING ENFORCEMENT PLAN (PEP)

1.0 Purpose of Report

- 1.1 Members will recollect a report regarding adoption of the Council's Planning Enforcement Plan (PEP) was presented to the Planning Committee prior to being presented to Economic Development Committee on 3 March 2020. In accordance with the recommendation, the PEP was consulted on between 22 June and 31 July. This report responds to the responses received and recommends the Planning Committee support the adoption of the PEP, as amended, by the Economic Development Committee.
- 1.2 National Planning Policy Framework (NPPF) states that effective enforcement is important to maintain public confidence in the planning system. It also makes clear that enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control. Additionally, the national Planning Practice Guidance states that local enforcement plans are important because:

"The preparation and adoption of a local enforcement plan is important because it:

- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
- sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
- provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers;
- provides greater certainty for all parties engaged in the development process."

Paragraph: 006 Reference ID: 17b-006-20140306

Revision date: 06 03 2014

- 1.3 In line with this it is encouraged that Local Planning Authorities (LPA's) consider publishing a local planning enforcement plan (PEP) to manage enforcement proactively, in a way that is appropriate to their area. It is advised that such a plan should set out how the LPA will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.
- 1.4 At present the Council has a Corporate Enforcement Policy, which was written in the knowledge of an ability to have a PEP for specific service areas. In recognition of the growing consciousness of the planning enforcement function, the attached PEP has been written in order to give elected members and the wider public a clearer understanding of how it is envisioned that the service will function. The purpose of this report is to set out the purpose of the PEP, with a dialogue behind the philosophy and considerations contained within, and ultimately to request that Members consider supporting the adoption of the PEP. Should the Planning Committee support the proposal, the matter would then be advanced to the Economic Development Committee for adoption, together with any recommended changes.

2.0 Background Information

- 2.1 The purpose of the proposed local planning enforcement plan is to provide information on how the Council will respond to suspected breaches of planning control, tackle unauthorised developments and monitor the implementation of planning permissions.
- 2.2 It is not a criminal offence to carry out unauthorised development (unless an enforcement notice is in place), and there are many different ways that the Council can tackle unauthorised development and other breaches of planning control. The NPPF advises that that LPA's should act in a proportionate way when tackling breaches of planning control and formal enforcement action should be used as a last resort.
- 2.3 This means the Council cannot normally justify taking formal enforcement action against minor breaches of planning control but in other cases the Council may take formal enforcement action to resolve a breach of planning control. In some cases, the Council may seek a retrospective planning application to resolve a breach of planning control instead of taking action, whilst in others the Council might determine not to take any further action.
- 2.4 The Council also has to prioritise cases to ensure there are sufficient resources to make sure serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently and with a view to the planning enforcement service undertaking increased activity in a proactive approach. This means that whilst we will take a consistent approach to planning enforcement, different cases may well be dealt with differently depending on the individual circumstances of the case.
- 2.5 Therefore, the preparation and adoption of a local enforcement plan is important because it:
 - Sets out the objectives and priorities which are tailored to local circumstances;
 - Outlines the priorities for enforcement action, which will inform decisions about when to take enforcement action;
 - Provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers; and,
 - Offers greater certainty for all parties engaged in the development process.

It is therefore anticipated that adoption of the PEP will be the catalyst for driving the planning enforcement service towards being a key component in an effective development management service.

3.0 Proposals

1.1 The planning enforcement function plays a key role in helping the Council to deliver an effective Development Management service. The team forms part of the development management activity to deliver good community outcomes in line with the Community Plan (2019 – 2023) and Local Plan.

- 1.2 The planning enforcement process is not an isolated activity simply limited to reacting to complaints about breaches of planning control. Whilst it is not expedient for the Council to monitor every planning permission that is implemented across the District, the increased resources allocated to the function has led to an opportunity to evaluate the current function and working practices and to explore opportunities to increase the overall efficiency of the enforcement service with a view to increasing the level of proactive development monitoring within the District.
- 1.3 Members will be aware that whilst the investigation of suspected breaches of planning control is a statutory function, and will lead to the determination of whether a breach has taken place, ultimately the Council does not have a duty to take enforcement action.
- 1.4 The PEP therefore seeks to provide a clearer understanding of the discretionary nature of the planning enforcement function and to explain how investigations will be prioritised following receipt and the associated timescale outlined within the PEP. It is envisaged that the PEP will provide greater transparency and accountability about how the local planning authority prioritise enforcement action and how it is decided if it is expedient to exercise its discretionary powers.
- 1.5 Ultimately the PEP is intended to provide greater certainty for all parties engaged in the development process.

Prioritisation of Investigations

- 3.6 The PEP contains a scale of case prioritisation. This is designed to guarantee that there are sufficient resources to ensure that serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently. This means that whilst we will take a consistent approach to planning enforcement, different cases may well be dealt with on a different timetable depending on the individual circumstances of the case. In these respects, it is important that we can show how we decide to deal with some issues urgently and how long we will normally need to deal with less urgent cases.
- 3.7 A clear policy statement is a way of managing expectations, and everyone (including members) has an important role in seeing that it is respected and that the enforcement team can go about its business in a purposeful and efficient way.
- 3.8 Without this, the enforcement team can come under pressure complaints that are not always deserving of immediate attention.

Performance Management

- 3.9 Government, in recognition of the discretionary nature of planning enforcement, has never set 'targets' or 'standards' for planning enforcement, as is the case with development management.
- 3.10 From reviewing the approach taken to performance management from other local authorities it is noted that authorities commonly set target times for carrying out some form of action (this is usually a site visit) following receipt of a complaint. Some

authorities' PEPs set targets for completing the first phase of the investigation, and for the closure or resolution of cases.

- 3.11 Therefore in order to increase the transparency and accountability of the planning enforcement function, the PEP contains targets for response times for the recognition of the initial report and then the initial investigation and assessment of the enforcement action. These targets are based upon the level of prioritisation of the enforcement case.
- 3.12 The PEP that is proposed places targets on taking action, rather than specifically a 'site visit', as it is acknowledged that it may be possible to make contact with a developer or an alleged 'contravener' without an initial site visit, thus increasing the efficiency of the service. The PEP does not place a target on the outcome of enforcement cases as it is considered that such targets would not reflect the often complex and discretionary nature of planning enforcement investigations, which can include decisions of organisations or processes beyond the control of this authority (e.g. a court case or appeal).
- 3.13 It is also considered that it is important that a balance is struck for performance targets between a level that is challenging and motivating, but is also realistic and does not unduly raise public expectations. It is important that enforcement targets should also relate to the planning service objectives in order to ensure a corporate response to workload.

Proactive Enforcement

- 3.14 Historically the planning enforcement function at Newark and Sherwood has largely been 'reactive' in that we investigate alleged breaches of planning control as they are reported to the authority.
- 3.15 However, nationally it has been noted that enforcement officers are also becoming proactive in dealing with local problems through direct targeted interventions. This can be through working alongside other departments to tackle the problem of empty run down properties affecting the morale of the local community, taking direct action to deal with unauthorised advertisements and flyposting, or to remove eyesores and clean up properties under section 215 powers (untidy land).
- 3.16 There are further gains that can be made from the team checking when notified of a commencement [of development] to draw attention to the developer of any conditions that may cause particular problems if not addressed, and to build relations on particular sites that are likely to create concerns for the local community.
- 3.17 The PEP recognises this impetus for a more proactive approach in certain circumstances and the potential benefits to the wider community.

Reporting to Committee

3.18 It is proposed to continue with the quarterly reports to Planning Committee setting out a snap shot on the general volumes of planning enforcement cases received and dealt with, along with details of the following:

- An outline of the enforcement activity during the previous quarter which captures the overall split to show the number of cases investigated, how many are found to be a breach of planning or otherwise.
- A summary of formal action taken for that quarter.
- Examples of cases where breaches of planning control have been resolved without formal action having been taken.
- Notices complied with.
- 3.19 In addition, once the enforcement team has been brought up to a full complement, it is also anticipated that figures will be presented in relation to the performance standards outlined within the PEP.

Consultation

3.20 In line with the Planning Practice Guidance, consultation has been undertaken regarding the contents of the Plan between 22nd June and 31st July. Consultation has been undertaken with all Members of the District Council, Parish Councils, Agents, consultees, members of the public engaged with the planning process and via the Council's website. Two responses have been received from South Clifton Parish Council and Girton Parish Council as follows:

South Clifton Parish Council:

"It is remarkable how many ways the planning enforcement team have for doing nothing. There is a gap between the stated actions and what is seen on the ground.

Contrary to the stated intention the Plan reinforces the lack of confidence in the Newark & Sherwood Planning Enforcement Team"

Girton Parish Planning

"The PEP consultation document is an excellent plan with some good ideas. I especially favour the "proactive enforcement" angle and the "performance management" ideas."

- 3.21 Clearly the views of the two parishes in respect to the document are very much in contrast to one another. With reference to South Clifton's response until the PEP is adopted, what is cited within the document within some areas would not be seen such as proactive enforcement. The resources available to the Enforcement team has increased since the previous report was presented to Members, although not to the level anticipated prior to the outbreak of the Covid-19 pandemic. It is hoped, subject to budgets permitting to be able to recruit the final member of the team in the final quarter of 2020/21 which will then enable, subject to its adoption, all of the measures within the PEP to be undertaken. It is hoped that this will then overcome the criticism raised by South Clifton Parish Council. Notwithstanding this we would also draw Member's attention to the contents of the quarterly reports to the planning committee which have outlined the continuing work of the enforcement section.
- 3.22 With regards to their point regarding ways in which the planning enforcement team have for doing nothing. The reason for the PEP is very much to outline what a planning enforcement team is lawfully able to do and what it cannot. Many complaints are raised with the planning team that do not fall within the remit of planning legislation and thus we are not able to deal with them. It is hoped the document, as well as the summary document attached, will be of assistance to members of the public.

3.23 Whilst these comments do not raise any need to amend the PEP previously presented, it has been amended in light of the late representations received and presented to Planning Committee in relation to the Empty Homes Officer and Data Protection, as well as providing clarification as to periods for compliance for the initial phase of an investigation. The latter are underlined within Part 3.

4.0 Conclusions

4.1 The PEP has been written to reflect the Council's commitment to focus on the needs of the Newark and Sherwood community and to reflect the objectives contained within the Community Plan, towards which the planning enforcement service will be at the forefront. The PEP seeks to not only provide information as to how the enforcement service will operate, and how recorded cases will be prioritised, but also set targets for standards of service that customers can expect to receive from the service.

5.0 **Equalities Implications**

5.1 There are no equalities implications. All alleged breaches of planning control will be investigated in accordance with the standards and timescales set out within the Plan, once adopted.

6.0 <u>Financial Implications</u>

6.1 There are no direct financial implications arising from the adoption of the Planning Enforcement Plan. However, its adoption will have the benefit of ensuring that Planning Enforcement resources are directed in a timely manner according to the priorities set out.

7.0 Community Plan – Alignment to Objectives

7.1 The PEP aligns with the Council's Community Plan Objectives 'Continue to maintain the high standard of cleanliness and appearance of the local environment'; 'Enhance and protect the district's natural environment'; and 'Reduce crime and anti-social behaviour, and increase feelings of safety in our communities'.

8.0 Comments of Director

The development and adoption of a Planning Enforcement Plan (PEP) is welcomed. It will allow the service to set clear, but deliverable expectations for service users and members of the public. A targeted focus on major developments, alongside the additional resources already committed in the 2020/21 budgets onwards assist delivery of any adopted PEP.

9.0 RECOMMENDATION

That the attached Planning Enforcement Plan (Appendix 1) and summary document (Appendix 2) be noted and Members consider ratifying the Plan and recommend the plan be presented to Economic Development Committee for adoption and its use in the investigation of planning enforcement investigations.

Agenda Page 166

Reason for Recommendation

The PEP is a document that is recognised by the NPPF as being an important document in ensuring effective enforcement takes place and to provide confidence to the local community. The adoption of the document will show clear guidelines on what the Planning Enforcement is and is not able to do and the timescales for investigating cases.

Background Papers

National Planning Policy Framework 2019 Planning Committee – Adoption of Planning Enforcement Plan (PEP) – 3 March 2020

For further information please contact Richard Marshall on Ext 5811

Matt Lamb
Director – Planning & Regeneration



Planning Enforcement Plan

Date 2020



Contents

PART O	NE – GENERAL PRINCIPLES	5
1.	Introduction	5
1.1	Why is a planning enforcement plan important?	5
1.2	Aims of the Policy	
1.3	General Statement	6
1.4 Obje	Relationship with the Council's Corporate Enforcement Policy and Corporate T ctives	_
PART T	WO - KEY PRINCIPLES OF PLANNING ENFORCEMENT	
2.1	Why is effective planning enforcement important?	8
2.2	Investigation	8
2.3	What is a Breach of Planning Control?	8
2.4	Duties of the Enforcement Function	9
2.5	Expediency	
2.6	Decision Making	11
PART TI	HREE – ENFORCEMENT CASE PRIORITY SYSTEM	13
3.1	Prioritisation Overview	
3.2	What is a high priority case?	13
3.3	What is a medium priority case?	13
3.4	What is a low priority case?	
3.5	Performance Standards	14
PART FO	OUR - PLANNING ENFORCEMENT INVESTIGATION PROCESS	15
4.1	Powers of Entry	15
4.2	Gathering Evidence	15
4.3	No Breach of Control	16
4.4	Potential Breach of Control	16
4.5	Breach of Control Identified	16
PART FI	IVE - FORMAL ENFORCEMENT ACTION	18
5.1	What types of formal enforcement action can the Council take?	18
5.1	1.1 Enforcement Notices	18
5 1	1.2 Ston Notices	10

5.1	.4	Breach of Condition Notice	19
5.1	L.5	Injunction	20
5.1	. .6	Prosecution	20
5.1	L. 7	Listed Building Enforcement Notice	20
5.1	1.8	Community Protection Notices	21
5.1	L.9	Section 215 Notices (Requiring proper maintenance of land)	21
5.1	.10	Other default powers	21
5.1	11	Advertisements and fly-posting	
5.2	App	peal against an Enforcement Notice	23
5.3		er forms of Enforcement Action	
5.4	Imn	nunity from Enforcement Action	24
5.5	Wh	at types of complaints cannot be dealt with by planning enforcement?	24
5.5	5.1	Approved development or works	24
5.5	5.2	Boundary disputes	
5.5	5.3	Damage to private property	
5.5	5.4	Dangerous Structures	25
5.5	5.5	Empty Properties	
5.5	5.6	Fly-tipping	
5.5	5.7	Highways Land	25
5.5	5.8	Invasive non-native plants and harmful weeds	26
5.5	5.9	Light Pollution	
5.5	5.10	Noise Nuisance	26
5.5	5.11	Odour Nuisance	26
5.5	5.12	Parking Restrictions & On-Street Parking	26
5.5	5.13	Quarry Sites and Active Mineral Extraction	27
5.5	5.14	Trespass	27
5.5	5.15	Vermin	27
5.5	5.16	Waste sites	27
PART SI	X - RE	PORTING A BREACH OF PLANNING CONTROL	28
6.1	Rep	orting	28
PART SE	EVEN -	MANAGEMENT SYSTEMS	29
7.1	Equ	alities and Human Rights	29
7.2	Hov	v will human rights be taken into account in planning enforcement?	29
7.2	D-1	- Durate atticus	20

7.4	Officer Conduct	30
7.5	The Regulators Compliance Code	30
7.6	Contact Details	30
7.7	Implementation and Monitoring	30
7.7.	1 Who will be responsible for implementing the Planning Enforcement Plan?	30
7.8	How will District Councillors be involved?	31
7.9	What service standards will be monitored?	31



PART ONE – GENERAL PRINCIPLES

1. Introduction

This Plan has been the subject of a public consultation exercise carried out between 22^{nd} June and 31^{st} July 2020. The Plan was considered by the Economic Development Committee and approved on the $\frac{xxx}{x}$.

This Plan sets out the general principles that form the standard operating procedures and function of the Planning Enforcement Service, within the Planning Development Business Unit of Newark and Sherwood District Council. This policy/ plan should be

1.1 Why is a planning enforcement plan important?

The National Planning Policy Framework states that the Council should act in a proportionate way when tackling breaches of planning control and formal enforcement action should be used as a last resort. In addition, it is not a criminal offence to carry out unauthorised development (unless, for example, the development relates to a listed building, advertisement or is in breach of an enforcement notice), and there are many different ways that the Council can tackle unauthorised development and other breaches of planning control. This means the Council cannot normally justify taking formal enforcement action against minor breaches of planning control and may decide not to take formal action against some cases.

Therefore, in some cases, the Council may seek a retrospective planning application to resolve a breach of planning control instead of taking action whilst in others the Council might determine not to take any further action because the works that have been carried out do not cause any harm. However, in other cases the Council may take formal enforcement action to resolve a breach of planning control and it is important that we can show how we decide when we will take formal enforcement action.

The Council also has to prioritise cases to ensure there are sufficient resources to make sure serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently. This means that whilst we will take a consistent approach to planning enforcement: different cases may well be dealt with differently depending on the individual circumstances of the case. In these respects, it is important that we can show how we decide to deal with some issues urgently and how long we will normally need to deal with less urgent cases.

Therefore, the preparation and adoption of a local enforcement plan is important because it:

- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
- sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;

- provides greater transparency and accountability about how the Local Planning Authority will decide if it is expedient to exercise its discretionary powers; and,
- provides greater certainty for all parties engaged in the development process.

1.2 Aims of the Policy

In order to provide the best possible service, it is essential that the Council gives clear information on what it is able to do and how the service is prioritised, given the available resources.

This document is written with due consideration to relevant Government Policy, Legislation and Guidance, to provide a clear statement of the decision-making framework that will enable the effective provision of a Planning Enforcement Service through the implementation of sound procedures and working practices.

1.3 General Statement

The Council's primary objective is to achieve regulatory compliance and to protect the amenity, privacy and overall well-being and prosperity of the residents and businesses of Newark and Sherwood district.

Where it becomes necessary to take formal action in respect of breaches of planning control, the Council ensures such action is taken, where it can be shown to be expedient and in the public interest to do so in accordance with the principles contained within this policy.

There is a wide range of enforcement tools available to the Council to remedy breaches of planning control, with prosecution and direct action being the most serious. The Council will always choose an enforcement sanction that is commensurate with the breach of planning control to which it relates. This policy is built around a process of escalation. In most circumstances the Council will only issue a formal notice where a breach of planning control has caused, or is likely to cause, material loss or harm to amenity, and where informal negotiations have been or are expected to be unsuccessful. Where there is a 'technical breach of planning control', but that breach is not considered to be causing 'harm', the Council may decide that further enforcement action is not expedient.

1.4 Relationship with the Council's Corporate Enforcement Policy and Corporate Targets and Objectives

The District Council adopted its Corporate Enforcement Policy on 4th June 2015. This policy provides operational guidance to authorised officers and information to Elected Members and the public in relation to breaches of planning control.

The Corporate Policy, which deals with general enforcement matters common to all service areas, is applicable to all Council employees working in enforcement roles and those from other service areas who support the delivery of those functions. It is also applicable to agency/contract staff working on behalf of the Council.

The purpose of this policy is to set out the steps Newark & Sherwood District Council will use to secure compliance with the law whilst minimising the burden on individuals, businesses and the Council.

The District Council has identified the following as its priority objectives within the Corporate Plan:

- Improve the cleanliness and appearance of the local environment;
- Reduce crime and anti-social behaviour, and increase feelings of safety in our communities;
- Improve transport infrastructure to reduce congestion and facilitate growth;
- Build more homes and provide an excellent housing management service;
- Increase visits to the District and the use of visitor attractions by local residents;
- Protect, promote and enhance the district's natural environment and deliver the Council's environmental ambitions;
- Enhance and sustain the town centres;
- Improve the quality of life and social mobility in target areas;
- Improve the health and wellbeing of local residents;
- Increase participation with the Council and with local communities; and
- Continue to modernise working practices and embed a stronger commercial culture to improve value for money, generate more income and increase residents' satisfaction.

The Planning Enforcement Team contributes to the achievement of a number of the Council's priority objectives by:

- Protecting the amenity of those who live and work in the district from the harmful effects of unauthorised development and the neglect of land and buildings through negotiation but where necessary by taking appropriate formal enforcement against perpetrators.
- Protecting both the natural and built historic environment
- Ensuring that environmental, economic and social benefits negotiated through planning applications are achieved
- Enabling businesses to operate in such a way that maintains economic competitiveness without this being achieved at the expense of the environment and/or public amenity.

PART TWO - KEY PRINCIPLES OF PLANNING ENFORCEMENT

2.1 Why is effective planning enforcement important?

Effective planning enforcement is important to:

- tackle breaches of planning control that have an unacceptable adverse impact on the character and appearance of the local area, or have an unacceptable adverse impact on the living conditions of local residents;
- maintain the integrity of the decision-making process by tackling unauthorised development that would not normally be granted planning approval; and
- maintain public confidence in the Council's decision-making processes by ensuring planning conditions and planning obligations needed to make development acceptable in planning terms are complied with.

2.2 Investigation

The Council's planning enforcement function is responsible for the investigation and enforcement of 'breaches of planning control'. Breaches of planning control are restricted to matters falling within the scope of 'development'.

Development is defined as:

"Except where the context otherwise requires... the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land"

s.55 Town and Country Planning Act 1990 (as amended).

2.3 What is a Breach of Planning Control?

The Town and Country Planning Act 1990 defines a breach of planning control as "the carrying out of development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted."

A breach of planning control can include the following:

- Building work and/or a material change of use undertaken without planning permission being granted;
- Development not being carried out in accordance with the approved plans of a planning permission;
- Non-compliance with conditions attached to a planning permission: and
- non-compliance with a planning obligation contained in a s.106 legal agreement attached to a planning permission; and

There are also other legislative codes which fall within the remit of the enforcement function. Breaches of this legislation can include the following:

- Works being carried out to a Listed Building which affect its character without listed building consent being granted;
- Non-compliance with conditions attached to a listed building consent;
- The display of advertisements for which express consent is required but not granted;
- The removal of protected trees and/or trees situated within a Conservation Area for which notification or consent is required but not given: and
- unauthorised removal of important hedgerows.

Not all development or change of use requires planning permission from the local planning authority.

The Town and Country Planning (Use Classes) Order 1987 (as amended) allows for certain changes of use without the need for planning permission. For example, the change of use from a dry cleaners to a travel agents does not require permission.

The Town and County Planning (General Permitted Development) (England) Order 2015 (as amended) grants permission for some developments without the need to apply for consent from the Council. Development granted by virtue of the Order is considered to be 'permitted development'. Permitted development cannot be subject to enforcement action even in instances where development is considered to cause harm. Further information on permitted development is available from the Planning Portal website.

The Enforcement Team are not able to assist in matters which are covered by other legislation, for example, complaints in relation to public health matters, high hedges or the improper use of the highway. Any complaints with regard to these issues will be passed onto the relevant department.

The Council is required to operate its enforcement function within government guidelines and in accordance with Council policy and therefore must determine whether or not a breach of planning control is a breach of policy and then whether the breach unacceptably affects, amenity or the general quality of life, such that enforcement action is warranted and justifiable.

2.4 Duties of the Enforcement Function

The Enforcement Team plays a key role in helping the Council to deliver an effective Development Management service. The team forms part of the development management activity to deliver good community outcomes in line with the adopted Development Plan.

The planning enforcement process is not an isolated activity simply limited to reacting to complaints about breaches of planning control. The Council does not have sufficient resources to monitor every planning permission that is implemented across the District. The team therefore, receives support from Town and Parish Councils, as well as some ad-hoc monitoring of development by planning case officers. However, we need to rely on reports of suspected breaches of planning

conditions by neighbours and other interested parties to be able to identify problems.

Investigation of suspected breaches of planning control is a statutory function. Investigation will determine whether a breach has taken place and also to determine whether enforcement action is necessary. However the Council does not have a duty to take enforcement action.

To carry out work or change the use of land or buildings without first obtaining planning permission is not a criminal offence. It is unauthorised, but not illegal, and in the majority of cases the Council is likely to provide the opportunity to submit an application for retrospective planning permission, in accordance with Section 73A of the Town and Country Planning Act 1990 (as amended) and guidance issued by Government. Occasions where the Council is not likely to encourage a retrospective application would be when an unauthorised development is so harmful (for example to highway safety) that it would be highly unlikely to gain permission.

2.5 Expediency

For all investigations where a breach of planning control has been identified, the Council must assess any actual and/or potential harm caused by the breach. This assessment of 'expediency' ensures that the Council fully considers the implications of each breach of planning control before determining the most appropriate course of action. Therefore, the breach of control is not in itself sufficient to merit enforcement action.

National planning policy, namely 'National Planning Policy Framework (NPPF)', states that:

"Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

Newark and Sherwood District Council promotes this approach. Planning enforcement should not be used as a punitive system. Where a breach of planning control is acceptable based on planning merits, it should not become the subject of enforcement action. In short, planning enforcement action will not be taken solely to regularise development that is otherwise acceptable.

An assessment of 'expediency' will be required in all cases where a breach of planning control has been identified. An 'expediency' test involves the Council assessing the planning merits of the unauthorised development and the impact of the Council's enforcement powers, to determine whether action is required to control the unauthorised development or require its cessation/removal. The Council has a statutory duty to assess the expediency of enforcement action to ensure consistency and quality of decision-making. The assessment of expediency is based on a variety of factors.

2.6 Decision Making

All planning enforcement decisions must be made with regard to the interests of the public as a whole. It is not the role of the planning system or planning enforcement to protect the interests of one party against those of another. As such, breaches of planning control are not subject to public consultation. The following factors cannot be taken into account when assessing expediency:

- Breaches of restrictive covenants;
- Private disputes;
- Competition between businesses;
- Damage to property;
- Boundary or other land disputes; or
- Reduction in value of land or property.

Where necessary the views of various partner agencies and statutory consultees such as Nottinghamshire County Council, the Environment Agency, Natural England and Historic England may be sought in order that the Council makes an informed decision. The views of other agencies will be of particular importance where their technical or specialist knowledge is required.

However, harmful unauthorised development should be pursued to ensure it is either made acceptable by the imposition of additional requirements or limitations by way of conditions. If it is not possible to alter development to make it acceptable then action will be considered to require the unauthorised use/development to cease or be removed. Formal action will not be taken solely because development has started without the benefit of planning permission without first examining whether there are sound and valid reasons for doing so. The Council is not automatically required or committed to take action on breaches of planning control. The particular circumstances of every case must always be considered. It is not usual for formal action to be taken against a minor breach of control that causes no real harm. Enforcement action will be taken urgently where it is considered commensurate with the seriousness of the breach of planning control and expedient and in the public interest to do so.

All of the Council's decisions will have regard to the following current statutory guidance and codes of practice:

- Planning Practice Guidance
- The Statutory Code of Practice for Regulators
- The Code for Crown Prosecutors
- The Human Rights Act 1998
- National Planning Policy Framework (NPPF)
- Police and Criminal Evidence Act 1984 (PACE)

Emerging or replacement statutory guidance and codes of practice will be given regard alongside this plan as appropriate.

The UK planning system has generated a significant amount of case law. When it is derived from the High Court and above, this sets a legal precedent that dictates how the law should be interpreted by decision makers and investigators. Legal precedent is subject to continual change as new cases are put before the Courts, and it is in the best interests of the Council to be well informed on this subject as such changes can significantly enhance or impair the actions of the Council when dealing with breaches of planning control.

Given the high number of applications which are received each year, it is not possible to monitor all developments. Priority will be given to key identified sites which will undergo direct monitoring to ensure the development is being carried out in accordance with the approved plans.

In adopting a proactive enforcement approach, this will assist in a move towards an effective development management service enhancing the traditional reactive approach of enforcing contraventions.

The Council is responsible for the investigation of all breaches of planning control that are 'District matters'. District matters comprise all breaches of planning control, with the exception of mining and mineral extraction, and waste deposit and disposal. These are 'County Matters' that are investigated and enforced by Nottinghamshire County Council. Often District and County matters will overlap, and in these circumstances should enforcement action be required then the most appropriate form of enforcement action will be agreed after consultation with Nottinghamshire County Council, bearing in mind the nature of the breach and enforcement 'tools' available.

PART THREE – ENFORCEMENT CASE PRIORITY SYSTEM

3.1 Prioritisation Overview

It is acknowledged that some alleged breaches need to be given a higher priority than others. Priority will be given to cases where there is the possibility of the greatest harm being caused. Accordingly, the priority performance standards for the delivery of the service have been designed to reflect this.

The following priority system will apply to each case received. On receipt of a complaint, it will be prioritised according to the following categories. The category of each case may change following the initial site visit and depending on the level of harm being caused. The Council also recognises that not all alleged breaches of planning control require an immediate site visit, as such the system of prioritisation reflects the urgency that some form of 'action' is required. This may be a site inspection, however it could also be less 'direct', such as a phone call to a developer/property owner or an initial piece of correspondence.

3.2 What is a high priority case?

High priority cases are cases where there is an immediate and serious risk of harm or irreparable damage resulting from the unauthorised works that might be taking place. We will aim to investigate these cases on the same day that they are reported to the Council where this is a business working day, or the next day the Council offices are open. We will then decide what further action to take, if any, within 24 hours. Examples of high priority cases are as follows:

- Demolition in a Conservation Area;
- Destruction of an important hedgerow;
- Hazardous substances;
- Unauthorised works to protected trees; and
- Unauthorised works to listed buildings.

3.3 What is a medium priority case?

Medium priority cases will not normally require immediate action to prevent serious harm. They will include suspected breaches of planning control that would not normally get planning permission because they are contrary to local planning policies and/or have a harmful impact on the amenity of the area. We will aim to start starting investigation within 14 days of receiving a complaint. If a complaint is received on a non-working day, the timescales start from the first working day after. We will then decide what further action to take, if any, within four weeks of the site visit. Examples of medium priority cases are as follows:

- Unauthorised development that contravenes local planning policy;
- Unauthorised development that significantly impacts on local amenity and public safety;
- Unauthorised development that results in harm to the setting of a listed building.

- Unauthorised development that results in harm to the character of a Conservation Area;
- Unauthorised development in Green Belt;
- Operational building works;
- Unauthorised changes of use;
- Erection of unauthorised advertisements that have a detrimental impact on highway safety or within Newark/ Southwell town centre locations; and
- Breaches of 'conditions precedent' attached to planning permissions

3.4 What is a low priority case?

Low priority cases will be minor breaches of planning control. We will aim to start investigating cases that are likely to be a low priority by visiting the site within four weeks of receiving a complaint. If a complaint is received on a non-working day, the timescales start from the first working day after. We will then decide what further action to take, if any, within six weeks of the site visit. Examples of low priority cases are as follows:

- Running a small business from a residential property;
- Unauthorised advertisements;
- Unauthorised fences and walls;
- Other breaches of planning conditions
- Unauthorised householder developments; and
- Untidy land and buildings.

3.5 Performance Standards

We will seek to acknowledge all complaints within 5 working days. In most cases this is by the same method through which the complaint was received. Complaints should be received in writing or logged through the Council's website reporting form and provide a minimum level of information in order for the alleged breach to be properly investigated. Where insufficient information has been provided, we will not always be able to investigate.

The timescale for completing an investigation varies depending on the complexity of the case, workloads of officers and the need to regularise the alleged breach of planning control. We will try to notify the complainant at significant points in the investigation. However the statutory process we have to follow means that, quite often, extended periods of time will pass without any apparent progress. For example where the Council has to allow time for a planning application to be prepared and submitted, and then determined, a period of four months may be typical. Serious cases that result in the service of formal notices, a resultant appeal and possible challenges through the courts can, and do, take many years to resolve.

It is important to emphasise that statutory notices can only be issued in relation to confirmed breaches of planning and listed building control. It is not possible to issue Notices where it is suspected that a breach of planning might occur at some point in the future.

PART FOUR - PLANNING ENFORCEMENT INVESTIGATION PROCESS

Following the receipt of the complaint, an investigation will be carried out according to the priority system as set out above, which most often will also necessitate in a site visit being undertaken. From the evidence collected during the site inspection, an assessment will be made as to whether there is a breach of planning control and if so, whether planning permission is required for the works.

4.1 Powers of Entry

In all but the most straightforward cases, officers will undertake a site visit to try to establish whether a breach of planning control has taken place. The majority of site visits are made without prior arrangement, and officers are required to identify themselves as enforcement officers as soon as they enter the site.

The Council's planning enforcement officers have powers of entry, for the purpose of investigating alleged breaches of planning control, under the following provisions:

- Town and Country Planning Act 1990 (as amended);
- Town and Country Planning (Listed Building and Conservation Areas) Act 1990 (as amended);
- Planning (Hazardous Substances) Act 1990 (as amended);
- Planning (Hedgerow Regulations) Act 1997;
- Local Government (Miscellaneous Provisions) Act 1976, 1982; and
- Planning (Consequential Provisions) Act 1990 (as amended)

Where site visits are made and no occupier can be found at the time of visit, officers have powers to inspect the land in their absence. Officers do not have powers to force entry into any dwellinghouse. Where appropriate, officers will leave a business card requesting the occupier of the land to contact the Council. If during a site visit officers are refused entry onto land or buildings, the Council has the right to apply to the Magistrates' Court for a warrant to enter the property. This course of action will only be taken in cases where it is considered both necessary and proportionate to the alleged breach under investigation.

4.2 Gathering Evidence

Whilst on site, officers may ask questions of any occupiers present, and may take measurements and where appropriate photographs. Any information gathered will be used to ascertain whether a breach of planning control has taken place. If a breach has occurred, this information will be used to assess the most appropriate course of action to resolve the matter.

Where a complaint relates to an alleged unauthorised use of land, officers will make a reasonable attempt to determine whether a breach has taken place. In most cases a 'reasonable attempt' will consist of undertaking site visits at days and/or times deemed most suitable for the allegation. This approach ensures that the Council's resources are used efficiently. Where officers can find no evidence of a breach of

planning control the investigation will be closed and no further action taken. Such cases will not be reinvestigated unless the complainant is able to provide more substantive evidence of the alleged breach of planning control.

Officers may also make use of the 'planning contravention notice' if they have reasonable suspicion that a breach of planning control is likely to have occurred. This tool will be used in accordance with Government guidance and best practice.

Officers may use a variety of other methods to determine whether or not a breach of planning control has taken place, including obtaining information from witnesses to an alleged breach, and consultation with the Council's Planning Development Team. The Council may also seek clarification from case law or obtain legal advice where the subject of an investigation is complicated or contentious.

4.3 No Breach of Control

In most cases, the initial site visit/ investigation will reveal that the matter does not constitute a breach of planning control. This can be because the matter does not constitute development or benefits from permitted development rights. In such instances, the case officer will undertake to contact the complainant to explain that the Council is unable to take any action through its planning enforcement powers in line with the performance standards set out in paragraph 3.5.

4.4 Potential Breach of Control

Due to the complex nature of the planning regime, in many cases it is not possible to come to an immediate determination as to whether or not a breach of planning control has occurred. This is particularly relevant in relation to complaints regarding a material change of use. In these cases, it is often necessary to carry out additional observations over a period of time before a determination can be made as to whether there has been a breach of planning control.

In instances such as this, it may be necessary for the investigating officer to contact the complainant to request further information or observations.

4.5 Breach of Control Identified

When it is determined that planning permission is required, we will contact those believed to be responsible and set out the appropriate course of action so that the breach can be resolved.

In many cases a retrospective application will be invited in order to resolve the breach. This is in accordance with national policy and allows for a full formal assessment to be carried out on the development with statutory consultation with consultees and neighbours.

If the Council has not been successful in securing the submission of a valid planning application or remedial actions have not been carried out, a Section 330 or Planning

Contravention Notice (PCN) may be issued. These notices can be used in order to gain additional information to further investigate a breach of planning control and/or to enable the service of a formal notice. The owner will be advised that it is in their best interests to resolve the breach, as any outstanding notice served will appear on any land search which may affect any future sale of the property.

In cases where it is considered that permission is unlikely to be granted, we will ask for the use to cease or the unauthorised development to be removed voluntarily. A suitable period of time is usually given depending on what needs to be done.

Harm can be caused through a number of factors including:

- Adverse impact on visual amenity due to poor design or inappropriate materials;
- Loss of protected trees or damage to listed buildings;
- Adverse impact on residential amenity;
- Noise, nuisance or disturbance from the operation of a business; and
- Untidy land and run down or derelict buildings that result in a poor quality environment.

It is usually considered inappropriate to take formal enforcement action against a trivial or technical breach of planning control which causes no harm to amenity in the locality of the site.

PART FIVE - FORMAL ENFORCEMENT ACTION

Formal enforcement action is only instigated when it is considered expedient and all other avenues to resolve the problem have failed. Any action taken must meet the tests as set out in government guidance and be proportionate to the breach of planning control to which it relates.

Under the adopted scheme of delegation, the decision to take formal enforcement action or to instigate prosecution proceedings, is taken under delegated powers. Enforcement 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.

5.1 What types of formal enforcement action can the Council take?

There is a range of ways of tackling breaches of planning control available to the Council through formal enforcement action. In each case officers not only have to determine which of the options would be the most effective way of dealing with the breach but also which would be the most proportionate way of securing a resolution.

In these terms, in most medium and in some high priority cases, issuing an enforcement notice will normally be the right approach for officers to take when it appears to them that there has been a breach of planning control and it is expedient to take formal enforcement action when taking into account the provisions of the development plan and any other material considerations (including the guidance in this document).

5.1.1 Enforcement Notices

An enforcement notice should enable every person who receives a copy to know:

- exactly what, in the Local Planning Authority's view, constitutes the breach of planning control; and
- what steps the Local Planning Authority require to be taken, or what activities are required to cease to remedy the breach of planning control.

There is a right of appeal against an enforcement notice, however it is an offence not to comply with an enforcement notice once the period for compliance has lapsed.

Therefore, it is important that the recipient of an enforcement notice takes immediate action to lodge an appeal against the notice if they think there are good grounds to do so or take immediate steps to comply with the notice.

5.1.2 Stop Notices

A stop notice can prohibit any or all of the activities which comprise the alleged breach(es) of planning control specified in a related enforcement notice, ahead of the deadline for compliance in that enforcement notice. Therefore, a stop notice

might be issued alongside an enforcement notice because it is important to prevent a development from continuing before the enforcement notice comes into effect.

There are very strict limitations on the use of a stop notice including potential compensation to be paid by the Council if a successful appeal is made against the serving of stop notice. The compensation would be for any loss or damage directly attributable to the prohibition effected by the notice. It is therefore unlikely that officers will consider issuing a stop notice unless there are very serious risks of irreparable harm from on-going development. For example, a stop notice may be considered where an unauthorised development involves the demolition of an unlisted building in a designated Conservation Area and an agreement to stop demolition with immediate effect has not been reached. A stop notice cannot prohibit the use of any building as a dwellinghouse.

5.1.3 Temporary Stop Notices

A temporary stop notice requires that an activity which is a breach of planning control should stop immediately. A temporary stop notice must state the date the temporary stop notice has been served, the activity that has to cease, and that any person contravening it may be prosecuted for an offence.

The Council does not need to have served an enforcement notice before it issues a temporary stop notice and officers may consider issuing a temporary stop notices in some high and medium priority cases when it is essential to take immediate action to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area.

A temporary stop notice expires after 28 days, so officers will consider what further action is required within this period if an alternative way of dealing with the breach which would overcome the objections to it in an environmentally and legally acceptable way cannot be agreed with the recipient of the temporary stop notice.

5.1.4 Breach of Condition Notice

A breach of condition notice is mainly intended as an alternative to an enforcement notice for remedying a breach of condition. Officers will consider issuing a breach of condition in addition to an enforcement notice, as an alternative to a stop notice, where officers consider it is expedient to stop the breach of conditions quickly and before any appeal against the enforcement notice is determined.

A breach of condition notice is therefore most likely to be used in some high or medium priority cases when immediate action is required to stop a continuing breach of conditions in the interests of safeguarding amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area. There is no right of appeal to the Planning Inspectorate against a breach of condition notice.

5.1.5 Injunction

The Council can apply for an injunction whether or not it has exercised, or proposes to exercise, any of their other powers to enforce planning control. However, starting proceedings for an injunction is one of the most serious types of enforcement action that the Council can take because if a person fails to comply with an injunction (once it has been granted) they may be committed to prison for contempt of court. Additionally, once an injunction has been granted, it cannot be discharged except where there has been a significant change of circumstances since the order was made.

Therefore, officers will only consider applying for an injunction if there have been persistent breaches of planning control such as failure to comply with the requirements of an enforcement notice over a long period and/or other enforcement options have been, or would be, ineffective in the event of a serious breach of planning control that would cause substantial and/or immediate harm to the local area.

5.1.6 Prosecution

When officers are dealing with high priority cases, many of the breaches of planning control may constitute a criminal offence subject to prosecution including unauthorised works to protected trees, removal of important hedgerows and unauthorised works to listed buildings.

Officers will take further legal advice in these cases with a view to pursuing a prosecution in the event of a serious breach of planning control that has resulted in substantial harm to the local area. It is therefore important that a person that is contacted by officers about a high priority case makes every effort to stop any unauthorised works or activities on site immediately.

Officers will also take further legal advice with a view to pursuing a prosecution in the event of non-compliance with the requirements of an enforcement notice, breach of conditions notice, stop notice, temporary stop notice, listed building enforcement notice, community protection notice or a section 215 notice.

5.1.7 Listed Building Enforcement Notice

Although broadly similar, there are a number of important differences between planning enforcement notices and listed building enforcement notices including the fact that there are no time-limits for issuing listed building enforcement notices.

Officers will consider issuing a listed building enforcement notice in medium and high priority cases where works have been carried out without the necessary listed building consent, or a condition attached to that consent has not been complied when such works materially detract from the historic or architectural significance of the building and there is no agreement to put those works right in any other way.

5.1.8 Community Protection Notices

Officers have the power to issue a Community Protection Notice under the Anti-Social Behaviour, Crime and Policing Act 2014 and these Notices can be used to tackle a wide range of issues including:

- untidy land / buildings;
- unauthorised use of land; and
- unauthorised buildings / structures.

Where any of the above problems are causing ongoing detrimental effects to the living conditions of the local community, a Community Protection Notice can contain reasonable requirements:

- to stop doing specified things;
- to do specified things; or,
- to take reasonable steps to achieve specified results.

Officers will consider issuing a Community Protection Notice if an earlier written warning that a Notice may be issued has been ignored and may be used as an alternative to a section 215 Notice.

5.1.9 Section 215 Notices (Requiring proper maintenance of land)

Section 215 of the 1990 Act provides the Council with the power, in certain circumstances, to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area. If it appears to officers that the public amenity of part of the District is being adversely affected by the condition of neighbouring land and buildings, they may consider serving a section 215 notice on the owner requiring that the situation be remedied.

These notices will set out the steps that need to be taken, and the time within which they must be carried out. The Council also have powers under s219 of the 1990 Act to undertake the clean-up works itself and to recover the costs from the landowner.

5.1.10 Other default powers

The Council can prosecute for a failure to comply with an enforcement notice but it can also consider using its default powers under s.178 of the 1990 Act to enter enforcement notice land and carry out the requirements of the notice itself.

It is an offence to willfully obstruct anyone who is exercising those powers on the Council's behalf and Council can recover from the person who is then the owner of the land any expenses reasonably incurred by them in undertaking this work.

Officers will only consider using these default powers when all other methods to persuade the owner or occupier of land to carry out any steps required by an enforcement notice have failed

5.1.11 Advertisements and fly-posting

Where signs, adverts or fly-posting are unauthorised and are damaging the character and appearance of the local area, officers will normally serve advance written notice to anyone who can be identified as the person responsible, that:

- in the Council's opinion the advert or sign is displayed illegally;
- the Council intends to remove it after the expiry of a period specified in the notice; and
- may include the issuing of fixed penalty notices or a prosecution. We may also recharge our costs for removing any posters from any party gaining benefit from the advert.

Officers can then remove the sign or adverts 2 clear days after the notice was served.

However, the Council need not give any notice to remove fly-posters where a placard or poster does not give the address of the person displaying it and officers do not know that address and are unable to ascertain the relevant address after making reasonable enquiries.

Our aim, in line with the Council's Community Plan is to keep the local highways clear of litter, street furniture clean and property free of graffiti, a view shared by the Council, residents and all who use our services. In addition, the businesses involved are gaining an unfair advantage over law abiding businesses by not paying for advertising space.

The planning department will not usually deal with complaints about any structures, advertisements, A-boards or any other operations, such as cars sales for example, that have taken place on land within the boundaries of a highway, which will normally include grass verges, footpaths and pavements and other highway infrastructure like barriers, lampposts and bridges, as well as the road itself.

Concerns regarding structures or advertisements on a County Road can be reported to Nottinghamshire County Council at enquiries@nottscc.gov.uk, or by telephoning 0300 500 8080. For issues taking place on the strategic road network such as the A1 or the A46, Highways England can be contacted at 0300 123 5000 or by emailing info@highwaysengland.co.uk.

Charitable/community events

Although the organisers of some charitable or community events choose to advertise on the public highway, this is contrary to the Highways Act 1980. Adverts on the public highway, be they on lamp columns, traffic signs or signals, trees or pedestrian barriers, highway verges, can pose a danger to both pedestrians and motorists, and they also make an area look untidy and create an eyesore.

However, we will not generally take any action to remove charitable 'fly posting' or prosecute the organisers. A charitable event may be for religious, educational, cultural, political, social or recreational purposes. Any event must be for purely

charitable purposes and cannot be for any commercial purpose. We require that organisers observe the following conditions:

- Adverts should only be affixed to lamp columns, and not to traffic signs, traffic signals, trees or pedestrian barriers. They should not be on telegraph poles, bus stops or utilities boxes.
- Adverts should not be placed within 5m of a traffic junction.
- The method of affixing the advert must not damage the lamp column in any way.
- Adverts should not be affixed earlier than seven days before the event, and removed within 24 hours after then event.
- All fixings must be removed when the advert is removed.
- Thought should be given to the size, design and number of adverts. Large banners will not be acceptable. Typically no more than A4 in size and a minimal number sited local to the event.
- The adverts should state the name of the charity that is benefiting from the event. Also include charity registration number where available.
- Please note that we may remove and confiscate any adverts that do not observe these conditions, or pose a danger, are offensive, or too numerous.
- The event must be purely for charitable reasons and not have a commercial element or be solely commercial.

Advertising any local event should be undertaken in a variety of methods including social media and local publications and not rely on the public posting of such events.

5.2 Appeal against an Enforcement Notice

There is a right to appeal to the Planning Inspectorate (who act on behalf of the Secretary of State) against an Enforcement Notice. If an appeal is lodged, the Notice does not come into effect and the requirements to comply with the Notice are suspended until the outcome of the appeal is decided.

If the appeal is allowed, no further action can be taken. If the appeal is dismissed, the requirements of the Enforcement Notice come into effect from the date of the decision letter from the Planning Inspectorate. The Inspector has the ability to vary an Enforcement Notice provided that he or she is satisfied that it does not cause injustice to either party.

Failure to comply with an Enforcement Notice constitutes a criminal offence and the Council may instigate prosecution proceedings against the parties concerned in the Magistrates' Court. Accordingly, formal enforcement action is in many cases, not straightforward and can be a lengthy and time consuming process.

5.3 Other forms of Enforcement Action

The Council can also carry out other formal enforcement proceedings including:

- Service of a Breach of Condition Notice where development has taken place without compliance with a condition(s) of a planning permission;
- Service of a notice requiring the proper maintenance of land or building;
- Prosecution in connection with unauthorised advertisements;
- Prosecution for unauthorised works to a listed building;
- Prosecution for unauthorised works to a protected tree; and
- Completion of a Section 106 Planning Obligation.

5.4 Immunity from Enforcement Action

When investigating breaches of planning control, officers must identify whether or not a breach is immune from enforcement action. Where a breach of planning control continues undetected and therefore without any intervention by way of formal enforcement action it will become lawful by the passage of time. In such circumstances the breach becomes immune from enforcement action, which means the Council is unable to remove or mitigate the development.

Immunity timescales are as follows:

- Four years where the breach consists of the carrying out of building, mining, engineering or other operations without planning permission.
- Four years for a change of use of any building to use as a single dwelling house.
- Ten years in any other case.

However, deliberate concealment of a breach of planning control in order to gain immunity from enforcement action does not necessarily benefit from the statutory immunity timescales. New powers inserted into the Town and Country Planning Act 1990 (as amended) by the Localism Act 2011 allow the Council to apply to the Magistrates' Court for a Planning Enforcement Order, where a deliberate concealment of a breach of planning control becomes evident. Where such a breach of planning control is discovered, consideration will be given to the expediency and anticipated success of using such powers. The application can be made at any time within six months of the date on which there was sufficient evidence to justify the application.

5.5 What types of complaints cannot be dealt with by planning enforcement?

Before reporting a suspected breach of planning control, it is important to check that the matter is for the Council's Planning Department to deal with so we can avoid any unnecessary work or delay in taking the most appropriate action. The most common issues that are incorrectly reported to the Council's Planning Enforcement Team are listed below.

5.5.1 Approved development or works

In some cases, we receive reports of suspected breaches of planning control about development or works that have been granted planning permission. We publish details of most planning applications on the Council's website including details of approved plans, planning conditions and planning obligations.

If it is found that works or a development has already got consent and is being carried out in accordance with the permission, then we will not take planning enforcement action. However, a complaint can still be made to the Council's Complaints Department about the way we dealt with an application for planning permission but not about the decision itself.

5.5.2 Boundary disputes

The planning department cannot deal with boundary disputes. These types of problems should normally be dealt with as a private matter by the individuals concerned, which may involve instructing a solicitor or other suitably qualified professional to deal with the matter. We may be able to provide extracts from plans or details of application site boundaries on request but these details will also normally be available on the Council's website.

5.5.3 Damage to private property

Similar to the above, the planning department cannot deal with reports about damage to private property. These types of problems should normally be dealt with as a private matter by the individuals concerned, which may involve instructing a solicitor or other suitably qualified professional to deal with the matter or the matter may need to be reported to the police.

5.5.4 Dangerous Structures

The Planning Department cannot deal with reports of dangerous structures, which should be reported to East Midlands Building Control Partnership who can be contacted on 0333 003 8132 or by email at info@eastmidlandsbc.com.

5.5.5 Empty Properties

The Planning Department cannot deal with empty properties, these issues should be reported to Council's Public Protection Business Unit by telephoning 01636 650000 or by emailing Environmental.Health@nsdc.info.

5.5.6 Fly-tipping

The planning department cannot deal with reports of fly-tipping, which should be reported to the Council's Environmental Health Department by telephoning 01636 650000 or by emailing Environmental.Health@nsdc.info.

5.5.7 Highways Land

The planning department will generally not deal with complaints about any structures or any other operations that have taken place on land within the boundaries of a highway, which will normally include grass verges, footpaths and pavements and other highway infrastructure like barriers, lampposts and bridges, as well as the road itself.

Complaints about activities taking place on highways land that is connected to the local road network should be reported to the Highways Department at Nottinghamshire County Council (VIA East Midlands) by telephoning 0115 8042100. Complaints about activities taking place on highways land connected to the strategic road network should be reported to Highways England by telephoning 0300 123 5000.

5.5.8 Invasive non-native plants and harmful weeds

Unless a breach of a planning condition has been identified, complaints about nonnative invasive species or harmful weeds cannot be dealt with by the Planning Department and should be reported to the Environment Agency and more information can be found on their website at www.gov.uk/government/organisations/environment-agency

5.5.9 Light Pollution

Unless a breach of a planning control has been identified, complaints about light pollution cannot be dealt with by the Planning Department and should be reported to the Council's Environmental Health Department by telephoning 01636 650000 or by emailing Environmental.Health@nsdc.info

5.5.10 Noise Nuisance

Unless a breach of a planning control has been identified, complaints about noise nuisance cannot be dealt with by the Planning Department and should be reported to the Council's Environmental Health Department by telephoning 01636 650000 or by emailing Environmental.Health@nsdc.info

5.5.11 Odour Nuisance

Unless a breach of a planning control has been identified, complaints about odour nuisance cannot be dealt with by the Planning Department and should be reported to the Council's Environmental Health Department by telephoning 01636 650000 or by emailing Environmental.Health@nsdc.info

5.5.12 Parking Restrictions & On-Street Parking

The Council's Civil Enforcement Officers (CEO) or Nottinghamshire County Council Civil Parking Enforcement (CPE) are responsible for the enforcement of parking restrictions in Nottinghamshire. CEOs have replaced traditional traffic wardens and enforce a range of restrictions. Further information can be found on the Council's website via https://www.newark-sherwooddc.gov.uk/parkingfines/ or Nottingham County Council's website via the following link - https://www.derbyshire.gov.uk/transport_roads/roads_traffic/parking/parking_enfo rcement/default.asp or can be reported to Newark & Sherwood District Council on 01636 650000 or Nottinghamshire County Council on 00345 5201357. For police related offences, please call 101 or 999 in an emergency.

5.5.13 Quarry Sites and Active Mineral Extraction

All issues relating to quarrying or mineral extraction should be discussed with Nottinghamshire County Council who can be contacted by telephone at 0300 500 8080 or by emailing enquiries@nottscc.gov.uk

5.5.14 Trespass

Reports about private individuals trespassing cannot be dealt with by the planning department and these types of problems should normally be dealt with as a private matter by the individuals concerned, which may involve instructing a solicitor or other suitably qualified professional to deal with the matter or reporting the matter to the police.

5.5.15 Vermin

The planning department cannot deal with reports of vermin or other types of infestation, which should be reported to the Council's Environmental Health Department by telephoning the Council's Environmental Health Department by telephoning 01636 650000 or by emailing Environmental.Health@nsdc.info

5.5.16 Waste sites

Any complaints about the operation of a waste transfer site including public amenity waste disposal sites and scrapyards should be directed to Nottinghamshire County Council who can be contacted by telephone at 0300 500 8080 or by emailing enquiries@nottscc.gov.uk

PART SIX - REPORTING A BREACH OF PLANNING CONTROL

6.1 Reporting

The majority of investigations into breaches of planning control result from complaints from members of the public and local councillors. The assistance of the public is therefore important to the success of an effective enforcement function.

Complaints can be made in person via our Customer Service Centre, in writing or by email at planning.enforcement@neward-sherwooddc.gov.uk

Any information provided by members of the public is treated in confidence unless it is necessary to disclose this information at an appeal or in court when it may be made public. In such cases, the individual's consent will be sought prior to this information being made public. Such occasions are rare and involvement is on a voluntary basis.

Given that the complainant's details are entirely confidential, we do not usually investigate anonymous complaints. If complainants feel uncomfortable in providing their contact details they are advised to contact a ward councillor or Parish/ Town Council to make the complaint on their behalf. In this scenario an officer will be able to advise on the best course of action and provide an update of the outcome of the enforcement investigation.

PART SEVEN - MANAGEMENT SYSTEMS

7.1 Equalities and Human Rights

Equality issues have been considered when drawing up this policy. The application of this Enforcement Policy will be objective and equality will be achieved by ensuring decisions are not influenced by a person's age, disability, race, religion or belief, sex, sexual orientation, gender re-assignment, marriage and civil partnership, pregnancy or maternity status. Officers will comply with the Human Rights Act and only depart from those requirements in exceptional circumstances. Officers will ensure that all enforcement action is justified, auditable, proportionate, authorised, and necessary having regard to the circumstances of the individual case.

7.2 How will human rights be taken into account in planning enforcement?

The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action should be taken, officers, where relevant, will have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

When considering commencing formal enforcement action, officers must be satisfied that there has been a breach of planning control and that the activity which amounts to the breach must be stopped within the time limits set for compliance or by action to be taken through the courts in the wider public interest. In compliance with Article 6 of the Human Rights Act 1998, a recipient of a formal enforcement notice will also have the right of appeal or the right to a fair trial in the event of non-compliance with a formal enforcement notice or on receipt of a summons.

7.3 Data Protection

The Council needs to hold and process personal information so that it may properly perform its statutory functions. The Data Protection Act 2018 requires that the Council looks after personal information it holds, keep only what is needed and dispose of it in accordance with the Council's Data Retention Schedule. The Council may share personal information held where legislation allows and will have information sharing protocols in place where required. Prior to sharing information, the Council will consider the proposed use of the information, the secure transfer of information and measures that are in place to keep the information secure once it has left the Council's control. For further details please see the Council's Data Privacy Policy https://www.newark-sherwooddc.gov.uk/yourcouncil/privacy/.

Information received, including personal data, will be treated in confidence where this is possible and where an overriding public interest does not require its processing. However, should an investigation proceed to legal proceedings then the Council may be required to reveal information such an individual's identity.

7.4 Officer Conduct

In addition to the principles set out in this Policy, officers will always present themselves professionally and courteously. Officers will introduce themselves and in what capacity they are acting. However there may be occasions when officers legitimately delay identifying themselves until a later stage of an investigation, particularly where they are engaged in authorised covert operations. Officers will carry and show their identify card or authorisation as appropriate.

7.5 The Regulators Compliance Code

The Council has been required by the Legislative and Regulatory Reform Act 2006 ("the Act") to have regard to the Regulators Code when developing this policy and the operational procedures sitting beneath it, taking into consideration the six core objectives. In so far as it relates to the enforcement sanctions, this enforcement policy is complaint with the Code in that it aims to promote efficient and effective approaches to regulatory inspection and enforcement.

7.6 Contact Details

You may contact a member of the Enforcement Team in several ways:

- Email: planning.enforcement@neward-sherwooddc.gov.uk
- Phone: 01636 650000; 01636 655801; 01636 655391
- In person: Our Customer Services Centre is open between 09:00am until
 17:00pm Monday to Friday
- By Submitting the online form http://www.newark.sherwood.gov.uk/planningenforcement/reportbreachofp lanning/
- In writing: Planning Enforcement Team, Newark and Sherwood District Council, Castle House, Great North Road, Newark, NG24 1BY

7.7 Implementation and Monitoring

7.7.1 Who will be responsible for implementing the Planning Enforcement Plan?

The Director – Growth and Regeneration, the Business Manager – Planning Development and the Senior Enforcement Officer will be responsible for implementing the plan and ensuring the guidelines in this document are followed by officers.

The Director – Growth and Regeneration, the Business Manager – Planning Development and the Senior Enforcement Officer will assist, where appropriate, with deciding what action should be taken when an investigation into a suspected breach of planning control has been completed.

The Council's solicitors will be consulted before any legal action is commenced and the Council's solicitors will assist with any legal proceedings including instructing a QC to represent the Council in any court proceedings.

The Enforcement Officer(s) will normally be expected to prepare a statement of case and/or represent the Council at an informal hearing or public inquiry in the event of an appeal to the Planning Inspectorate where an enforcement notice has been served in particularly complex or high profile enforcement cases.

The Business Manager – Planning Development and/or the Senior Enforcement Officer will assist the Enforcement Officer or Planning Officers, where appropriate, to prepare a statement of case in other more straightforward cases.

7.8 How will District Councillors be involved?

Ward Councillors will normally be informed before officers take formal action in respects of any suspected breach of planning control in their local area where the case is sensitive or contentious.

On a quarterly basis, District Councillors will also receive a report of actions taken on breaches of planning control, together with updates regarding any appeals and further legal action taken.

7.9 What service standards will be monitored?

- The nature of planning enforcement means that it is not possible to target a timescale in which to close a case. For example, if an enforcement notice is served, officers have no control over how long the Planning Inspectorate will take to deal with any subsequent appeal against that enforcement notice and cannot guarantee the outcome of that appeal
- It is also not possible for officers to meaningfully control how many complaints the Planning Department receive about suspected breaches of planning control or how many breaches occur within the District at any particular time, although it is hoped this document will help reduce both.
- However, as previously highlighted, this document sets out the service standards that officers consider are specific, measurable, achievable and realistic. We will monitor our performance against these standards and publish the results on a half-yearly basis. These results will be assessed to see whether this Plan is working or needs to be reviewed. Achieving a culture of compliance would be one key measure of whether the Plan has been successful.
- The Planning Enforcement Plan will also be reviewed if there are any substantial changes to relevant legislation, national policy or national guidance or within three years after publication depending on whichever is the sooner.



Planning Enforcement Plan Summary Document.



What do we do?

The role of the planning enforcement team is to investigate complaints relating to breaches of planning, tree protection, listed building, conservation area or advertisement control within the District.

What is a breach of planning control?

A breach of planning control includes building or engineering works without planning permission, material changes of use of land or buildings without planning permission or the failure to comply with conditions imposed on a planning permission. Breaches of planning control are not a criminal offence.

Unauthorised works to listed buildings, unauthorised works to or felling of trees protected by a tree preservation order, unauthorised display of advertisements and the demolition of buildings/works to trees in a conservation area are criminal offences.

It is important to note that listed building consent is required for any works to a listed building, whether internal or external, and not just works to those items specifically mentioned in the building's listing. Unauthorised works are, as indicated above, a serious criminal offence.

How do we deal with breaches of control?

An enforcement officer will visit the site complained of to establish whether there is a breach of planning control. If there is, they will make an assessment of the harm being caused by the breach. Should the level of harm not be significant, then no further action will be taken.

Where it is appropriate, in the public interest, the Council will take proportionate and appropriate action to secure compliance with planning legislation. This may include the service of formal notices or prosecution.

What can't we deal with?

There are matters which are frequently reported to planning enforcement officers that are civil matters and in such cases the informant will be directed to the Citizens Advice Bureau or to their own legal advisor. These matters include boundary disputes and the enforcement of covenants attached to house deeds. In common with the Land Registry, the council cannot determine boundaries on sites, the only competent bodies to determine boundaries being the county courts or High Court.

The use of, or development on, adopted highways, pavements or highway grass verges or the siting of advertising 'A' boards on them, are dealt with by the Highways Department of Nottinghamshire County Council

The following matters are also not breaches of planning control: Small scale business activities carried out from home; any internal works to buildings which are not listed buildings; the lopping or removal of trees or hedges which are not located in a Conservation Area or covered by a Tree Preservation Order or the painting of the exterior of an unlisted Agenda Page 201

house - whatever the colour.

How do I make a complaint?

Complaints should be made in writing, or if made verbally, followed up in a written form so that the nature of the complaint is clear and the harm that it is causing is understood. Concerns regarding suspected breaches can be made in writing to the council offices; by filling in an electronic form on the Council's website at www.newark.sherwood.gov.uk/planningenforcement/reportbreachofplanning/or by e-mail to planning.enforcement@nsdc.info. Anonymous and apparently vexatious complaints will not normally be investigated.

Complaints will not be accepted by social media, e.g. Facebook, twitter etc. Such complaints cannot always adequately identify the person submitting the complaint or where they live in order to attach appropriate weight to the issues raised.

The personal information you provide will only be used by the Council, in accordance with General Data Protection Regulation (GDPR) 2016 and used for the purposes of our investigations.

Our privacy notice provides further information - https://www.newark-sherwooddc.gov.uk/yourcouncil/privacy/

Standards of service

Enforcement officers have a very high workload, necessitating a priority system to ensure that the most serious breaches are given priority. All cases will be investigated at the first available opportunity and, additionally, we aim to have commenced investigations within the time scale shown below:-

Priority	Complaint type	Investigation commencement timescale*
High	 Demolition in a Conservation Area; Destruction of an important hedgerow; Hazardous substances; Unauthorised works to protected trees; and Unauthorised works to listed buildings. 	As soon as possible and in any case within 24 hours of receiving the case
Medium	 Unauthorised development that contravenes local planning policy; Unauthorised development that significantly impacts on local amenity and public safety; Unauthorised development that results in harm to the setting of a listed building; Unauthorised development that results in harm to the character of a Conservation Area; Unauthorised development in Green Belt; Operational building works; Unauthorised changes of use; Erection of unauthorised advertisements that have a detrimental impact on highway safety or within Newark/ Southwell town centre locations; and Breaches of 'conditions precedent' attached to planning permissions 	As soon as possible and in any case within 24 hours of receiving the case
Low	 Running a small business from a residential property; 	As soon as possible and in any case within 14 working days

|--|

^{*} Timescales commence from the first working day after a complaint is received. Weekends and bank holidays are therefore not counted.

PLANNING COMMITTEE - 8 SEPTEMBER 2020

Appeals Lodged

1.0 Members are advised that the appeals listed at **Appendix A** to this report have been received and are to be dealt with as stated. If Members wish to incorporate any specific points within the Council's evidence please forward these to Planning Services without delay.

2.0 Recommendation

That the report be noted.

Background Papers

Application case files.

Further information regarding the relevant planning application and appeal can be viewed on our website at https://publicaccess.newark-sherwooddc.gov.uk/online-applications/search.do?action=simple&searchType=Application or please contact our Planning Development Business Unit on 01636 650000 or email planning@nsdc.info quoting the relevant application number.

Lisa Hughes
Business Manager – Planning Development

Agenda Page 205

Appendix A: Appeals Lodged (received between 21 July 2020 to 24 August 2020)

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/TPO/B3030/7876	20/00378/TPO	26 Blenheim Avenue	Undertake works to trees	Fast Track Appeal	Refusal of a tree
		Lowdham	protected by TPO 93 G6		consent
		NG14 7WD	Removal of Willow Tree		application
APP/B3030/W/20/3253683	19/01858/FULM	Land Off Oldbridge Way	Residential development of	Written	Refusal of a
		Bilsthorpe	120no. 2, 3 and 4 bed dwellings	Representation	planning
			and ancillary works		application
APP/B3030/W/20/3255075	20/00529/FUL	Plot 7 Balderton House	Erection of Dwelling and	Written	Refusal of a
		Main Street	Amendments to Bin Collection	Representation	planning
		Balderton	Area Including Replacement of		application
			Trellis Fence with Brick Wall and		
			New Brick Wall		
APP/B3030/W/20/3255351	20/00113/S73	Land At Rear	Application to vary condition 02	Written	Refusal of
		37 Easthorpe	to add extension to approved	Representation	permission to
		Southwell	dwelling, attached to planning		vary a
			permission 17/01839/FUL;		condition(s)
			Demolition of shed and erection		
			of 1 No. 4 bedroomed house		

Agenda Item 18

PLANNING COMMITTEE - 8 SEPTEMBER 2020

Appendix B: Appeals Determined (between 21 July 2020 to 24 August 2020)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
19/00277/ENF	The Old Smithy 134 Low Street Collingham NG23 7NL	Without planning permission, the erection of a wooden structure (verandah) on the rear elevation of the dwellinghouse			Appeal Allowed	10th August 2020
19/02159/FUL	Land At Ollerton Road Edwinstowe	Development of one temporary construction access point	Planning Committee	Committee Overturn	Appeal Withdrawn	13th August 2020
19/01858/FULM	Land Off Oldbridge Way Bilsthorpe	Residential development of 120no. 2, 3 and 4 bed dwellings and ancillary works	Planning Committee	Committee Overturn	Appeal Withdrawn	13th August 2020
19/01979/FUL	5 Rigg Lane Blidworth NG21 0NS	Householder application for demolition of conservatory and two dormer windows. New single storey rear extension and dormer windows to front elevation.	Delegated Officer	Yes	Appeal Not Determined	27th July 2020

Recommendation

That the report be noted.

Background Papers

Application case files.

Ther information regarding the relevant planning application and appeal can be viewed on our website at https://publicaccess.newark-wewwooddc.gov.uk/online-applications/search.do?action=simple&searchType=Application or please contact our Planning Development Business Unit on on one of the planning of the relevant application number.

Hughes

Business Manager – Planning Development

6

PLANNING COMMITTEE 8 SEPTEMBER 2020

SPRINGFIELD BUNGALOW, NOTTINGHAM ROAD, SOUTHWELL, NG25 0QW - APPEAL COSTS

1.0 Purpose of Report

- 1.1 To update Members in respect of the costs applications made in relation to the two planning appeals made following refusal of applications seeking to vary planning conditions at the Planning Committee held on 23 July 2019.
- 1.2 The applications and their reasons for refusal are:
 - 19/00689/FUL 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

In the opinion of the Local Planning Authority given the location and design of the access constructed at the junction with Halloughton Road, together with the quantum of residential development it would serve, any relaxation in road standards would be both detrimental and unacceptable from a highway safety perspective. The proposed variation of conditions would result in a departure from both Nottinghamshire County Council reported highway standards and from a previously approved scheme in terms of both kerb radii and visibility splays. Such a compromise in standards is considered unacceptable.

There are no other material planning considerations that would be considered to outweigh this identified harm. The proposal therefore amounts to a detrimental impact on the highways safety of the area contrary to Spatial Policy 7 (Sustainable Transport) of the Amended Core Strategy (March 2019), policy DM5 (Design) of the Allocations and Development Management Development Plan Document (July 2013) and policy TA3 (Highways Impact) of the Southwell Neighbourhood Plan (2016) together with the NPPF (2019), a material planning consideration.

 19/00779/FULM - 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

In the opinion of the Local; Planning Authority given the location and design of the access constructed at the junction with Halloughton Road, together with the quantum of the approved residential development it would serve, any relaxation in road standards would be both detrimental and unacceptable from a highway safety perspective. The proposed variation of condition 11 of planning permission 15/01295/FULM in relation to the provision of reduced visibility splays at this junction would result in a departure from both Nottinghamshire County Council reported highway standards.

Such a compromise in standards is considered unacceptable. There are no other material planning considerations that would be considered to outweigh this identified harm. The proposal therefore amounts to a detrimental impact on the highways safety of the area contrary to Spatial Policy 7 (Sustainable Transport) of the Amended Core Strategy (March 2019), policy DM5 (Design) of the Allocations and Development Management Development Plan Document (July 2013) and policy TA3 (Highways Impact) of the Southwell Neighbourhood Plan (2016) together with the NPPF (2019), a material planning consideration.

1.3 Members will be aware from Planning Committee on 4 December 2019 that both planning appeals were allowed and the costs claim made by the appellant was agreed in full by the Planning Inspectorate.

2.0 <u>Background Information</u>

- 2.1 Generally the parties involved in a planning appeal are expected to cover their own expenses in proceeding with or defending an appeal. However, when a party (which could be the Council, appellant or consultee) has behaved unreasonably, and this has cause another party to incur unnecessary or waste expense in an appeal process, they may be subject to an award of costs (refer Planning Practice Guidance, paragraph 028 Reference ID: 16-028-20140306, Revision date: 06 03 2014). Additionally, a Planning Inspector or the Secretary of State may also, without an application for costs from any party, may make an award of costs, if they consider that party has acted unreasonably.
- 2.2 The appellant submitted their costs application to the Council following the Inspector's judgement outlining the work and personnel involved with preparing the appeal. This was challenged in terms of the amount of the information provided resulting in clarification of these aspects. These were verified and considered to be reasonable in terms of the appeal. The costs paid as a result of these two appeals is £59,751.90.
- 2.3 Whilst the Council holds insurance that covers, inter alia, 'compensatory damages' and 'wrongful acts', the decision by the Committee does not fall within the scope of these or any other part of the insurance held. The costs therefore have to come from the Council's reserves.
- 2.4 This is not an insubstantial amount to be awarded. However, it is important to note that costs can be awarded when a party has acted unreasonably of many hundreds of thousands of pounds. Officers, both planning and the legal team will always offer advice during consideration of an application when:
 - it is being recommended for refusal contrary to officer recommendation;
 - additional reasons for refusal are being recommended; or
 - additional conditions are being recommended on a grant of permission.

3.0 **RECOMMENDATIONS** that:

- (a) Members note the contents of this report; and
- (b) consider the likelihood of a costs award being made when determining applications.

Reason for Recommendations

To raise awareness of when costs might be awarded and to minimise the risk of costs being awarded.

Background Papers

For further information please contact Lisa Hughes on Ext 5565.

Matt Lamb
Director – Planning & Regeneration

Agenda Item 17

PLANNING COMMITTEE 8 SEPTEMBER 2020

QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report relates to the first quarter from 1 January 2020 to 31 March 2020, as well as the second quarter 1 April to 30 June 2020. The report provides an update on cases where formal action has been taken and also includes case studies which show how the breaches of planning control have been resolved through negotiation.

This report presents a snap shot on the general volumes of cases received and dealt with as follows:

- Schedule A outlines the enforcement activity during the quarter which captures the overall split to show of the cases investigated, how many are found to be a breach of planning or otherwise.
- Schedule B details a summary of formal action taken since the last report was compiled which in this case is for the quarter(s).
- Schedule C provides examples of cases where breaches of planning control have been resolved without formal action having been taken.
- Schedule D Notices complied with.

SCHEDULE A

Table 1

SCHEDULE A:	1 to 31 January	1 to 29	1 to 31 March	Totals
ENFORCEMENT CASES	2020	February 2020	2020	
Cases Received	34	42	27	103
Case Closed*	36	38	24	98
Notices Issued	2	2	2	4
Notices Complied With	0	3	6	9
Appeal Lodged**	3	0	1	4
Prosecutions/Injunctions***	0	0	0	0

SCHEDULE A:	1 to 30 April	1 to 31 May	1 to 30 June	Totals
ENFORCEMENT CASES	2020	2020	2020	
Cases Received	15	44	66	125
Case Closed*	19	18	39	76
Notice Issued	0	2	0	2
Notice Complied With	2	1	1	4
Appeal Lodged**	0	0	1	
Prosecutions/Injunctions***	0	0	0	0

^{**} Appeals lodged during Quarter 1 and Quarter 2, 2020 are:

- 18/00051/ENF x2 Land to the rear of Hardy's Business Park, Hawton Lane, Farndon. Unauthorised expansion of open-air storage site and associated operational development.
- 19/00277/ENF The Old Smithy, 134 Low Street, Collingham. Unauthorised erection of a verandah on the rear elevation.

Agenda Page 210

• 20/00019/ENFNOT – 32 King Street, Southwell. Material change of use to a hairdressers, to a mixed-used hairdressers and drinking establishment.

*It should be noted that 'case closed' can include a number of outcomes, which are generally breach resolved (through planning application or removal), no breach identified (not development or permitted development), or that a breach exists but it is not expedient to pursue. Please note that 'Notice' for the purposes of these statistics does not include Planning Contravention Notices issued.

Of the cases closed, the reasons for these closures are detailed below in Table 2:

Table 2

			Breach		
	Total	No Breach	Resolved	Breach - No	Other
Month/Year	Number of	(No Further	(through	Further Action	(such as
Widitily Year	Cases	Action	negotiation,	(as not	Duplicate
	Closed	required)	permission	expedient)	Case)
			granted etc)		
January 2020	36	17	13	5	1
February 2020	38	15	15	8	0
March 2020	23	8	8	5	2
Totals	98	41	36	18	3
Average	32	13	12	6	1





Month/Year	Total Number of Cases Closed	No Breach (No Further Action required)	Breach Resolved (through negotiation, permission granted etc)	Breach - No Further Action (as not expedient)	Other (such as Duplicate Case)	Notice Issued (Awaiting Compliance)
April 2020	19	3	10	6	0	0
May 2020	18	6	3	7	1	1
June 2020	39	21	8	8	2	0
Totals	76	30	21	21	3	1
Average	25	13	10	7	1	0





SCHEDULE B. FORMAL ACTION TAKEN (1 January to 31 March 2020, 1 April to 30 June 2020)

Schedule B provides a more detailed position statement on formal action (such as enforcement notices served) since the previous performance report was brought before Members. This table does not detail Planning Contravention Notices served.

Enforcement Ref: 20/00016/ENF

Site Address: 7 Moor Lane, East Stoke, Newark on Trent, NG23 5QD

Alleged Breach: Failure to comply with condition 03 of planning permission 19/01125/FUL

Date received: 16 January 2020

ACTION TO DATE: Breach of Condition Notice served in January 2020

Background

Planning permission reference 19/01125/FUL granted retrospective planning permission for the erection of a bungalow (erected in breach of the initial approval, reference 18/00625/FUL). Condition 03 required the submission of an archaeological survey scheme within three months from the date permission was granted. This lapsed in November 2019.

Opportunity was given to the landowners to undertake and submit the relevant Discharge of Condition application, but no such application was received. In order to secure archaeological surveys on land within the Battle of Stoke Field catchment area, a BCN was issued to ensure compliance. The necessary documents have been submitted and approved, and are awaiting implementation.

Enforcement Ref: 19/00382/ENF

Site Address: Three Pines, Boat Lane, Hoveringham, Nottinghamshire, NG14 7JP

Alleged Breach: Erection of a means of enclosure requiring planning permission

Date received: October 2019

ACTION TO DATE: Enforcement Notice issued February 2020

Background

Officers were notified that fencing and gates exceeding 1 metre in height had been erected adjacent to the road at Three Pines, Hoveringham, without planning permission having been granted. A retrospective application for planning permission was submitted but ultimately refused on account of the uncharacteristic appearance of the fence within the Hoveringham Conservation Area and the Green Belt.

The Notice was subsequently served and requires the reduction in height of the fencing and gates to no more than 1 metre, in accordance with permitted development allowances.



Enforcement Ref: 20/00118/ENF

Site Address: Land adjacent to Old Norse House, Station Road, Bleasby

Alleged Breach: The material change of use of agricultural land to residential

Date received: May 2020

ACTION TO DATE: Enforcement Notice issued May 2020

Background

An application for the change of use of agricultural land to residential, in addition to the erection of a garage unit was submitted to the Local Planning Authority in January 2020 (reference 20/00041/FUL). It became clear to the case officer that the change of use had already occurred, with hard surfacing laid for the parking of domestic vehicles.

The Enforcement Notice was issued once the application had been refused, requiring the hard surfacing to be removed, land reseeded, and residential use to cease. An appeal is in progress against the refusal of application reference 20/00041/FUL.

SCHEDULE C: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION

Formal enforcement action is usually the last resort and where negotiations have failed to produce a satisfactory resolution of a breach of planning control. In the vast majority of cases negotiation, or the threat of formal action, is enough to secure compliance with planning legislation and the following are just a few examples of how officers have resolved breaches through negotiation during the last quarter.

Enforcement Ref: 19/00058/ENF

Site Address: 60 High Street, Collingham, Newark on Trent, NG23 7LB

Alleged Breach: The erection of a ventilation flue on the side & rear elevation of the premises

Date received: February 2019

Background

In February 2019, the LPA received notification that a large and unsightly ventilation flue had been erected on the side and rear elevation of 60 High Street, a prominent building within the Collingham Conservation Area. No permission had been sought for the installation.

A retrospective application for planning permission was submitted (reference 19/00618/FUL) but did not receive a positive response from Officers. The applicant revised the scheme in order to install a different flue, to be screened through brick-cladding to provide a makeshift chimney effect. The revised scheme was approved and the scheme implemented in a timely manner.



Unauthorised Flue – now removed

Enforcement Ref: 19/00436/ENF

Site Address: 34 Victoria Street, Newark on Trent, NG24 4UT

Alleged Breach: Alterations to a boundary wall and the erection of timber fencing

Date received: November 2019

Background

Officers received notification that alterations to the side-boundary wall of the property – which is located within the Newark Conservation Area – in order to erect uncharacteristic timber fencing atop the remaining wall. This was considered to be unacceptable and that the fencing had to be removed.

Officers met with the owner of the property and provided a number of options. The owner opted to rebuild the wall and remove the fencing, which was promptly undertaken. The wall has been rebuilt in an acceptable manner and the breach thereby resolved.



Before



After

Enforcement Ref: 19/00410/ENF

Site Address: 16 Vernon Avenue, Newark, NG24 1PG

Alleged Breach: Erection of an outbuilding forward of the principal elevation of the dwelling

Date received: October 2019

Background

The Local Planning Authority received concerns relating to the erection of a large and imposing storage unit which had been erected on the driveway of 16 Vernon Avenue. As the structure was located forward of the principal elevation of the house, planning permission was required.

Due to the needs of the occupants, Officers undertook discussions in order to reduce the size of the storage unit so as to lessen its visual impact on the street scene and neighbouring properties whilst meeting the needs of the residents.

Amendments were promptly undertaken to an agreed specification, resolving the impact on local amenity. The structure technically still requires planning permission, but is considered to be acceptable on its planning merits.



Before



After

<u>SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER(S)</u>

Enforcement Ref: 19/00182/ENF, 19/00190/ENF, 19/00191/ENF

Site Address: 15, 17 and 19 Syerston Way, Newark, NG24 2SU

Alleged Breach: Infilling of drainage ditch to provide additional residential space

Date received: May 2019

ACTION TO DATE: Complied with Enforcement Notice issued. Breach resolved.

Background

In May 2019, Officers received an allegation that an overgrown strip of land, including a drainage ditch, had been purchased, cleared and infilled to provide for an extended residential curtilage. All three properties submitted retrospective planning applications, which were refused by Officers.

An Enforcement Notice was served on each landowner, requiring the reversal of the works and the reinstatement of the drainage channel. A site visit found the Notice had been complied with within the required timescale.



Before



After

Enforcement Ref: 17/00017/ENF

Site Address: Epperstone Manor, Main Street, Epperstone

Alleged Breach: Untidy Land remaining following completion of housing development

Date received: May 2018

ACTION TO DATE: Two Section 215 Notices (utidy land) issued and complied with

Background

The redevelopment of Epperstone Manor has been a long-term project spanning a period of years, and was completed around 2017/18. An open field to the south of the housing scheme was used as the building yard, but had been left in an untidy and abandoned condition following completion of the scheme. This included the siting of machinery, stacked storage containers and site offices, debris, skips and the land left to become overgrown.

Two Section 215 Notices were issued in summer 2018, and has been a gradual process of the landowner removing and reusing the materials left on the land. As of October 2019, the two S215 Notices were considered to have been complied with, and the condition of the land drastically improved. A final site visit in June 2020 found that some further items had been removed from the land, leading to the final closure of the case.





Before





After

RECOMMENDATION

That Planning Committee considers the contents of the report and identifies any issues it wishes to examine further.

Background Papers

Enforcement Case Files

For further information please contact Richard Marshall on extension 5801, Chris Briggs on extension 5391, or planning@nsdc.info

Lisa Hughes Business Manager – Planning Development

PLANNING COMMITTEE 8 SEPTEMBER 2020

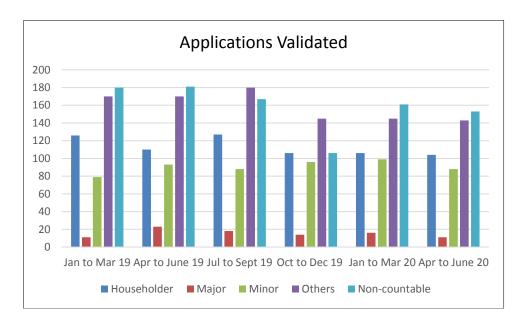
DEVELOPMENT MANAGEMENT PERFORMANCE REPORT

1.0 Purpose of Report

- 1.1 This report relates to the performance of the Planning Development Business Unit over the three month period April to June 2020. However, in order for the latest quarter's performance to be understood in context, in some areas data going back to January 2019 is provided. Members are made aware of the performance of the Planning Enforcement team but has not been provided details on the performance of the rest of the department in terms of numbers and types of applications received, nor performance in relation to planning appeals.
- 1.2 It is hoped the following information is useful and provides insight into the activities undertaken by the section.

2.0 Application Numbers

2.1 The graph below show the number of applications that have been received as valid each quarter from January 2019 up until June 2020. They are presented in line with the Council's reporting to Government. Definitions of what each application type constitutes is provided below the graph. In the first quarter of 2020/21, a total of 721 applications were received. This, compared to the same quarter in 2019/20 shows a comparable number of householder and minor applications with a slight drop in relation to major, other and non-countable. Taking account of the impact of the Covid-19 pandemic on the economy, it would appear from this first quarter that there hasn't been a significant change for planning, however monitoring over the coming months will determine whether this is the case.



Major applications are those with 10 or more dwellings, sites of 1 hectare or more, or provision of 1,000m² new floor area or more.

Minor applications include (but are not limited to) up to 9 dwellings, gypsy and traveller sites and commercial proposals not falling within the major category.

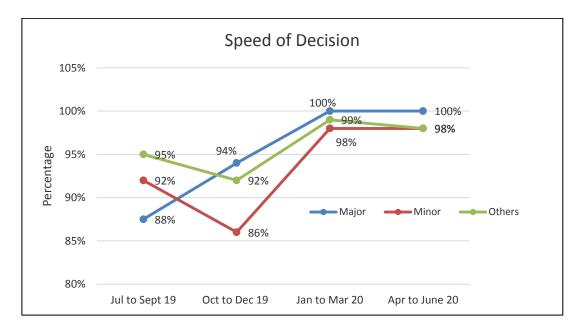
Others include (but are not limited to) householder, advertisements and listed building applications. However, for the benefit of the above graph, householders have been extracted from the others category.

The 'non countable' category are those applications which are not reported to the Ministry for Housing, Communities and Local Government (MHCLG). Such applications include, but are not limited to: prior approvals, discharge of conditions, etc.

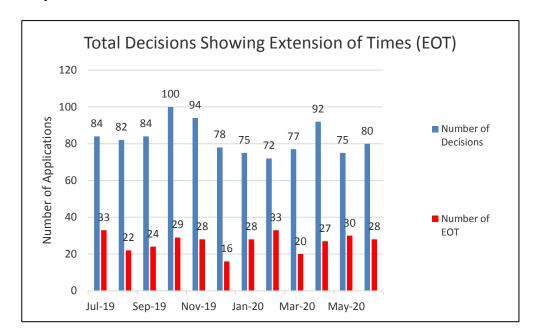
From the graph above, it can be seen that non-countable and others comprise the highest numbers, with householders shortly behind. This is not surprising based on the larger scale of development major and minor predominantly comprise (and thus fewer are submitted).

3.0 Performance

- 3.1 Government (MHCLG) monitor planning authorities on their speed of making decisions in relation to major and non-major applications. The target at national level is to determine 60% of major applications within the statutory period of 13 weeks or subject to the agreement of a time extension over a rolling two-year period. For non-majors, it is 70% over a two-year period. In addition, the Council has a local performance indicator for majors, minors and others of 90% per quarter. This local target is very challenging when taking account, in accordance with the National Planning Policy Framework, to work positively and proactively with applicants in determining applications i.e. trying to find solutions as opposed to refusing a planning application that might be amended.
- 3.2 For authorities who under-perform against their national target, they will be classed as 'poorly performing' and applications for major development may be made by developers directly to the Planning Inspectorate. The Council would not receive the fees for these but would be expected to deal with all of the associated administration.
- 3.3 The following graph relates to the percentage of planning applications determined within set timescales.

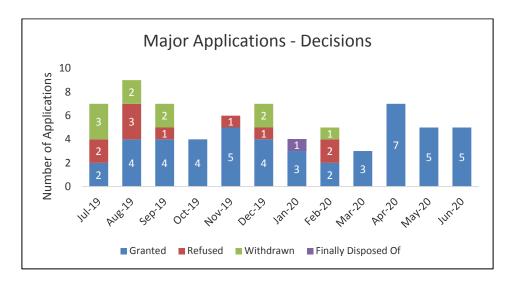


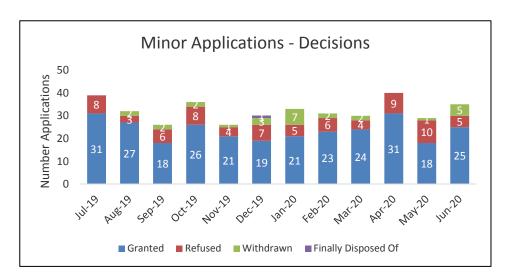
- 3.2 Over the previous two quarters, performance for majors has risen to 100% from 94% and 88% the previous quarters. For this and the previous quarters, minors has remained at 98% (rising from 86% and 92%) and for others has been at 99% and 98% (rising from 95% and 92%). As Members will be aware the previous quarter (April to June) has resulted in Officers working solely from home, as well as for part of March due to Covid-19. The above graph demonstrates how the team has been able to maintain and exceed previous performance.
- 3.3 These targets continue to be achieved due in part to seeking time extensions for dealing with the applications beyond their statutory time period from applicants. Time extensions might be sought for a variety of reasons but might include seeking negotiations, complex and/or controversial proposals and items presented to Committee. Time extensions do not go against the authority in terms of speed of decision making when reporting.
- 3.4 The graph below shows the total number of applications determined each month in blue and alongside, those in red are the number of applications where time extensions have been sought of those determined. Seeking time extensions means that case officer workloads increase overall which makes dealing with newer applications on time more challenging. Over the longer term, approximately 32% of all applications determined are subject to a time extension.

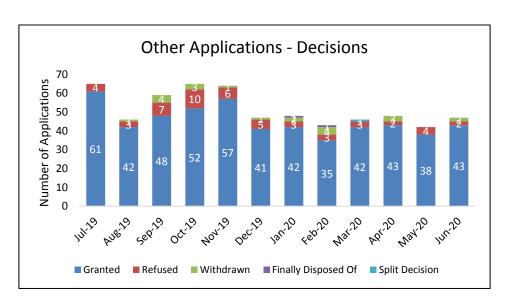


3.4 Of the decisions reported above, the following graphs show the number of decisions that were granted, refused, split (i.e. part granted and part refused) and withdrawn across the major, minor and other categories. The only types of applications where a local planning authority is able to issue a split decision are for advertisement and tree applications unlike the Planning Inspectorate who is able to do this for all application types. This therefore means, for example if a householder seeks a single storey rear extension and an outbuilding and the outbuilding is unacceptable, if the applicant is unwilling to remove the outbuilding, the Council is only able to refuse the application. All three graphs demonstrate that the majority of applications are granted. Withdrawals are not reported as part of our overall performance to government but will still have involved a significant amount of work by the case officers. These applications are frequently resubmitted, often as a 'free go', whereby no fee is payable. Finally disposed of applications are those which Agenda Page 226

have gone beyond the time period for determination and the time period for making an appeal has expired and the applicant has not engaged in further discussions regarding the proposal, notwithstanding the departments attempts to engage.





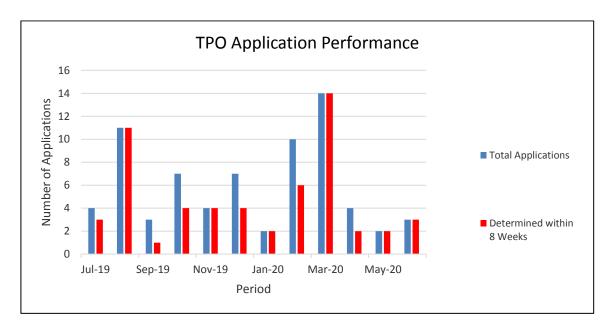


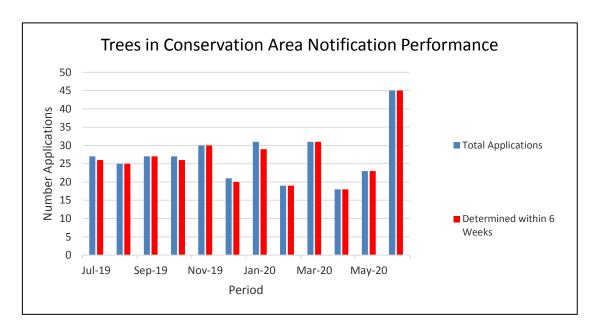
4.0 Tree Applications

- 4.1 Trees are a valued amenity contribution to the character of the District. Those that are subject to a Tree Preservation Orders (TPOs) or within a Conservation Areas require consent from the Council before works are commenced. In relation to unprotected trees within a Conservation Area, the consent seeks the Council's decision as to whether or not the tree has the necessary amenity criteria such that it should be subject to a Preservation Order. These criteria include consideration to:
 - Its condition and suitability
 - Its remaining longevity (in years) and suitability
 - Its relative public visibility and suitability
 - Other factors, such as whether it has historical value, its rarity, whether it is part of a group etc.

Where it meets these criteria, a TPO will be made. Applications for works to trees in Conservation Areas require the Council to make their determination within 6-weeks and the Order issued within this timescale. If a decision is not made by the first day of the 7th week, the applicant may undertake the works that they were seeking consent for. These applications are not subject to a planning fee.

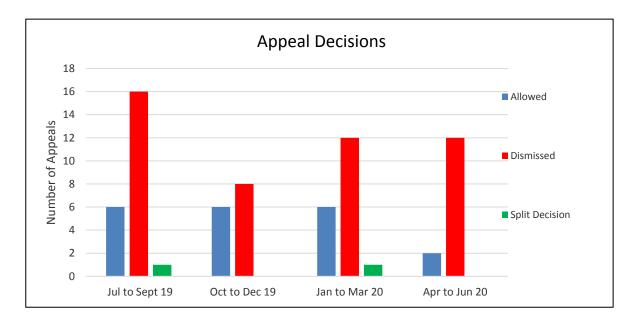
4.2 The following graphs show the number of TPO and Trees within a Conservation Area applications determined each month and whether they were determined within the statutory timescales. This shows little consistency with the number of applications received each month making resourcing more difficult. It should be noted however that where the Officer identifies a potential risk to a tree of value, this is determined within the statutory period in order that further protection for the tree can be put in place.





5.0 Appeals

5.1 The chart below shows the number of appeals against planning applications and enforcement notices that have been allowed, dismissed and split (part allowed and part refused). It can be seen that the total number of appeals fluctuates quite considerably, and like Tree applications makes resourcing them a little challenging, with a need to balance appeal work against the number of applications a case officer is dealing with, where possible. This previous quarter has seen a reduction in the number of decisions compared to the previous quarter, from 19 to 14. It is anticipated this is largely due to Covid-19 and the Planning Inspectorate assessing how its appeal inspectors could work safely. However, with the exception of October to December 2019 quarter, it can be seen the Council has a significantly greater number of cases dismissed than allowed. Where a split decision has been issued, in terms of the Government's monitoring, this is treated as a dismissal.



5.2 As well as the Government monitoring authorities in relation to performance for determining applications, it also monitors quality in relation to the number of major and non-major applications overturned (i.e. allowed) at appeal. The threshold is for fewer than Agenda Page 229

10% of major applications overturned at appeal over a rolling two-year period. For authorities who exceed this target, they will be classed as 'poorly performing' and applications for major developments may be made by developers directly to the Planning Inspectorate.

5.3 As of 1 April 2018 the Ministry of Housing, Communities and Local Government (MHCLG) implemented a threshold for quality of decisions for major and non-major applications at 10%. For clarification, this is 10% of all major decisions and a separate assessment for all non-major (i.e. minor and others) decisions refused by the Council and subsequently overturned (allowed) at appeal over a rolling two-year period.

Data is available for appeals determined between 1st April 2018 and 31st March 2020. For major applications, 113 major decisions have been determined with 6 being appealed, all of which have been dismissed. The percentage is therefore 0%. For non-majors, there have been 93 appeals determined, of which 26 were allowed. Over the same time period 1961 applications have been determined. The percentage is therefore 1.3%. The Council is significantly within the Government's target and not at risk of being classed as poorly performing.

5.4 As well as the cost of administration of appeals, the Council must have regard to the potential to have costs awarded against it, should it be found that the decision, or the Council's behaviour was unreasonable, such cases are reported to the Planning Committee (refer Springfield Bungalow on this month's agenda).

6.0 **Updates**

- This is the first of these reports to Planning Committee and it is hoped the information within it is useful. Members have previously been updated regarding workloads and actions undertaken by the Enforcement team and this report aims to fill in some of the gaps of the planning team's activities. The above data demonstrates the planning department is positively dealing with its customers and aiming to determine applications in a timely manner or subject to time extensions to enable negotiations to take place, leading to grants of permission where appropriate. Over the previous quarter, there has been two vacancies within the team which have successfully been recruited to as well as change in personnel across teams. Gareth Elliott has joined the Enforcement team, following the promotion of Richard Marshall to Senior Enforcement Officer. A new starter joined the team on the 17th August and the other appointment will be joining the Council at the beginning of November. Both recruits appear excellent and will be very much welcomed as the number of cases each officer has is challenging, especially with remote working.
- 6.2 It would be useful to understand from Members whether the information provided is helpful and/or whether different information would be of benefit. In due course, it is intended to provide a summary of conservation work.

7.0 **Equalities Implications**

7.1 None from this report

8.0 Financial Implications

8.1 None from this report.

9.0 <u>Conclusion</u>

9.1 Performance has continued to be met and exceeded, notwithstanding the need to work remotely due to Covid-19. The recent recruitment will enable further positive changes to be made to the service for the benefit of the District's communities and businesses.

10.0 <u>Community Plan – Alignment to Objectives</u>

6.1 Deliver inclusive and sustainable economic growth

Create more and better quality homes through our roles as landlord, developer and planning authority

Enhance and protect the district's natural environment

7.0 **RECOMMENDATION**

That the Committee note the contents of the report.

Reason for Recommendation

To keep Members informed of the actions and progress of the Planning Department.

Background Papers

Nil

For further information please contact Lisa Hughes (Business Manager – Planning Development).

Matt Lamb

Director – Planning & Regeneration