



*Castle House  
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**Monday, 26 October 2020**

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

**Members of the Committee:**

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

**Councillor Mrs P Rainbow  
Councillor Mrs S Saddington  
Councillor M Skinner  
Councillor T Smith  
Councillor K Walker  
Councillor Mrs Y Woodhead**

**MEETING: Planning Committee**

**DATE: Tuesday, 3 November 2020 at 2.00 pm**

**VENUE: Broadcast from the Civic Suite, Castle House,  
Great North Road, Newark NG24 1BY**

**You are hereby requested to attend the above Meeting to be held at the time/place and on the date mentioned above for the purpose of transacting the business on the Agenda as overleaf. 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](mailto:catharine.saxton@newark-sherwooddc.gov.uk).**



## AGENDA

Page Nos.

### **Remote Meeting Details**

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.

1. Apologies for Absence
2. Declarations of Interest by Members and Officers
3. Declaration of any Intentions to Record the Meeting
4. Minutes of the meeting held on 6 October 2020 5 - 13

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

5. Field At Great North Road, Fernwood- 20/01177/FULM 14 - 47
6. Grove Bungalow Barnby Road Newark On Trent - 20/01720/OUTM 48 - 71
7. Field Reference Number 7108 Eakring Road Bilsthorpe - 20/00873/FULM 72 - 102
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9. Land At Rear Of 49 & 49A The Ropewalk, Southwell - 20/01422/FUL 127 - 146
10. Land rear of The Vineries, Lower Kirklington Road, Southwell -  
20/01190/OUTM 147 - 178
11. Cosy Cot, Clifton Lane, Thorney - 20/01280/FUL 179 - 194
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13. Land At Norwell Road Caunton - 20/01436/RMA 205 - 216
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### **Part 3 - Statistical and Performance Review Items**

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| 18. | Performance Report- Quarter Two | 247 - 254 |

### **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.

#### **NOTES:-**

A Briefing Meeting will be held in Room F1, Castle House at 3.00 pm on the day of the meeting between the Business Manager – Growth & Regeneration, the Chairman and Vice-Chairman of the Committee to consider late representations received after the Agenda was published.



## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** broadcast from the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 6 October 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 L Goff, Councillor R Holloway, Councillor J Lee, Councillor Mrs P Rainbow, Councillor M Skinner, Councillor T Smith, Councillor K Walker and Councillor Mrs Y Woodhead

APOLOGIES FOR ABSENCE: Councillor Mrs M Dobson

### 249 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

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

Councillor Mrs P Rainbow declared a personal interest in Agenda Item No. 9, 10, 11 – Land Rear of 49 The Ropewalk, Southwell (20/01433/FUL, 20/01418/FUL, 20/01421/FUL), as her husband had previously tried to purchase that land.

### 250 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.

### 251 MINUTES OF THE MEETING HELD ON 8 SEPTEMBER 2020

The Business Manager – Planning Development confirmed that no new material issues had been received within the consultation period regarding Minute No. 235 – P.A. Freight Services Ltd, International Logistics Centre, Park House, Farndon Road, Newark-on-Trent (11/01300/FULM), full planning permission would therefore be approved.

AGREED that the minutes of the meeting held on 8 September 2020 were approved as a correct record of the meeting, to be signed by the Chairman.

### 252 BULCOTE FARM, OLD MAIN ROAD, BULCOTE (15/00784/FULM) AND (17/02325/FULM)

The Committee considered the report of the Business Manager – Planning Development, which sought full planning permission and listed building consent for a development comprising 56 residential units (Use Class C3) and community building (Use Class D1) through the conversion of a Grade II Listed Farm Complex "Bulcote Steading" and associated enabling residential development, with associated parking and landscaping. The application was presented to Committee in conjunction with application ref: 17/02325/FULM as follows:

Development comprising 9 residential units (Use Class C3) associated with Planning Application 15/00784/FULM and Listed Building Consent 15/00785/LBC for the Conversion of Grade II Listed Farm Complex "Bulcote Steading" and associated enabling residential development, with associated infrastructure, parking and landscaping.

Members considered the presentation from the Business Manager - Planning Development, which included photographs and plans of the proposed development. Members were also advised that the listed building consent should be omitted from the application title, as this was being considered separately.

Councillor K Simpson on behalf of Bulcote Parish Council spoke against the application, in accordance with the views of Bulcote Parish Council, as contained within the report.

Councillor T Wendels – Local Ward Member (Lowdham) spoke against the application on the grounds that Bulcote was situated within the Green belt, was a small village with no facilities and had a population of 309 people. The 65 dwellings would have a significant increase in the population and the village needed to be protected. The site access was inadequate, the applicant has had sufficient time to secure suitable access. The Highways Authority was not happy with the proposed access and were continuing to object. There were also flood management concerns. He commented that the applicant needed to secure funding from Historic England to restore the listed buildings.

The Business Manager – Planning Development confirmed that Historic England would consider providing grants subject to the buildings being Grade I or II\* listed, or the conservation area needed to be at risk, that funding was therefore not available to the applicant.

Members considered the application and some Members commented that if the proposal was not accepted then this beautiful building would go to ruin and would put a conservation area at risk. The designs put forward were sympathetic to the building. Other Members felt that the population of Bulcote would increase, concern was raised regarding quantum and the large amount of rebuild. The new buildings in their own right were good, however they would dominate the site at large and were not right within that setting. The level crossing was considered as border line risk.

A Member commented that the level crossing was no different for surrounding villages of Bleasby, Fiskerton etc. who were all hemmed in by the Newark Western Railway line, these residents would be in no different situation. Members raised concern regarding the level crossing and suggested that an alternative way was required for emergency vehicles. It was confirmed that an alternative route could be suggested for emergency vehicles using a private route to access the A6097.

A separate vote was taken for each application as follows:

AGREED (with 11 votes For and 3 votes Against) that planning permission be granted for application 15/00784/FULM

(with 10 votes For and 4 votes Against) that planning permission be granted for application 17/02325/FULM

Both applications are subject to the following:

- (a) referral to the Secretary of State;
- (b) completion of a section 106 agreement for the following:
  - ensuring the land the listed buildings are situated on are not severed from the other land;
  - binding contract for the carrying out of works for redevelopment of the site in accordance with all the necessary permissions and consents.
  - that phasing of the development ensures the works necessary (and permitted as part of this and the full planning application, if approved) to the listed buildings are completed in full whilst enabling a number of the enabling dwellings to be constructed and sold to provide funding for the heritage works;
  - having a clerk of works (or similar) to monitor the works to the listed buildings to ensure they are undertaken correctly;
  - a management company to oversee the wider development once completed;
  - the development proposed under the listed building consent is tied into the agreement;
  - the highway works as shown on drawing number 0398-02 rev G or as may be agreed through negotiation;
  - Primary education contribution of £243,964; and
  - recommendations proposed by the Council's solicitor and agreed with by the Business Manager – Planning Development;
- (c) the following planning conditions. (Each application's conditions are reported under their respective application number); and
- (d) an informative advising the applicant to seek access along A6097 when incident affecting railway crossing making it not operational.

253 BULCOTE FARM, OLD MAIN ROAD, BULCOTE (15/00785/LBC)

The Committee considered the report of the Business Manager – Planning Development, which sought listed building consent for the conversion of a Grade II Listed Farm Complex "Bulcote Steading" into 24 residential units (Use Class C3) and community building (Use Class D1).

Members considered the presentation from the Business Manager - Planning Development, which included photographs and plans of the proposed development.

Members considered the application acceptable.

AGREED (unanimously) that Listed Building Consent be approved subject to the completion of a Section 106 Planning Obligation and the conditions, as contained within the report.

- ensuring the land the listed buildings are situated on are not severed from the other land;
- binding contract for the carrying out of works for redevelopment of the site in accordance with all the necessary permissions and consents.
- that phasing of the development ensures the works necessary (and permitted as part of this and the full planning application, if approved) to the listed buildings are completed in full whilst enabling a number of the enabling dwellings to be constructed and sold to provide funding for the heritage works;
- having a clerk of works (or similar) to monitor the works to the listed buildings to ensure they are undertaken correctly;
- a management company to oversee the wider development once completed;
- the development proposed under the listed building consent is tied into the agreement; and
- recommendations proposed by the Council's solicitor and agreed with by the Business Manager – Planning Development.

254 LAND AT NEW LANE, BLIDWORTH (20/00475/FULM)

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for a residential development of 81 no. 2, 3 and 4 bed dwellings and ancillary 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 following: Conservation Officer; Neighbourhood Parties; Applicant; and Mark Spencer MP.

Councillor Cheesmond on behalf of Blidworth Parish Council spoke against the application, in accordance with the views of Blidworth Parish Council, as contained within the report.

Members considered the application and concern was raised regarding the increase in traffic that would be generated from this site. Concern was also raised regarding the proposed double yellow lines on New Lane, it was felt that this would kill the High Street as there wasn't a car parking area in situ to be used when visiting the shops on New Lane. Concern was also raised in respect to the safety of elderly residents when crossing the road. Some Members commented that this was over development of the site and would remove a green open space. Other Members commented that the site had been allocated for 100 houses and the argument for over development would be difficult to defend on appeal as the application was for 81 dwellings.

AGREED (with 10 votes For and 4 votes Against) that full planning permission be approved subject to the following:

(a) the conditions outlined below; and

(b) the sealing of a signed Section 106 agreement securing the details contained in the report.

255 FIELD AT GREAT NORTH ROAD, FERNWOOD (20/01177/FULM)

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for a single petrol filling station forecourt building with associated drive thru, drive thru kiosk, 6no. car pump islands, canopy, HGV fuelling, dedicated parking and landscaping.

Members considered the presentation from the Senior Planning Officer, which included photographs and plans of the proposed development.

Councillor N Mison – Local Ward Member (Farndon and Fernwood) spoke against the application. He explained that the site was low lying and flooded, mitigation work was taking place for drainage works. The proposed road infrastructure was raised with particular issues with some of the proposed junctions and noise implications to a residential care home. The increase in traffic was also raised and the implications on safety regarding the new Southern Secondary School. It was felt that taking into consideration all the service stations on the Farndon Relief Road, on balance this service station was not required.

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

Members considered the application and raised concerns regarding highway safety impacts, particularly the safety of pedestrian's accessing the site or travelling within the site. An amendment to the motion to approve the application was proposed for deferral.

AGREED (unanimously) that the application be Deferred for assessment of highway safety impacts – particularly safety of pedestrians who might access the site or travel within the site.

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.

(Councillor L Brazier left the meeting at this point).

256 LAND REAR OF 49 THE ROPEWALK, SOUTHWELL (20/01433/FUL)

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of 5(no.) single storey dwellings (Scheme D).

Members considered the presentation from the Business Manager - Planning Development, 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 Southwell Civic Society and Neighbouring Party.

Members considered the application and it was felt that five single storey dwellings on this site was over intensive on part back land.

A vote to approve Planning Permission was taken and lost with 3 votes For and 9 votes Against.

(Having declared a Personal Interest in this application Councillor Mrs P Rainbow took no part in the debate or vote).

AGREED (with 9 votes For and 3 votes Against) that contrary to Officer recommendation, planning permission be refused on the grounds of over intensive development on part back land site. The wording of reason for refusal to be agreed in conjunction with Chairman, Vice Chairman and Business Manager – Planning Development.

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

<b>Councillor</b>	<b>Vote</b>
R. Blaney	For
L. Brazier	Absent
M. Brock	Against
M. Brown	Against
L. Dales	For
M. Dobson	Absent
L. Goff	Against
R. Holloway	For
J. Lee	For
P. Rainbow	Took no part in the vote
M. Skinner	For
T. Smith	For
I. Walker	For
K. Walker	For
Y. Woodhead	For

257 LAND REAR OF 49 THE ROPEWALK, SOUTHWELL (20/01418/FUL)

The Committee considered the report of the Business Manager – Planning

Development, which sought the erection of 4 No. 2-storey dwellings (Scheme A).

Members considered the presentation from the Business Manager - Planning Development, 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 Southwell Civic Society.

Members considered the application and it was felt that the development was over intensive.

A vote to approve Planning Permission was taken and lost with 2 votes For and 10 votes Against.

(Having declared a Personal Interest in this application Councillor Mrs P Rainbow took no part in the debate or vote).

AGREED (with 9 votes For, 1 vote Against and 2 Abstentions) that contrary to Officer recommendation, planning permission be refused on the grounds of over intensive development. The wording of reason for refusal to be agreed in conjunction with Chairman, Vice Chairman and Business Manager – Planning Development.

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

<b>Councillor</b>	<b>Vote</b>
R. Blaney	For
L. Brazier	Absent
M. Brock	For
M. Brown	Abstention
L. Dales	For
M. Dobson	Absent
L. Goff	Against
R. Holloway	For
J. Lee	Abstention
P. Rainbow	Took no part in the vote
M. Skinner	For
T. Smith	For
I. Walker	For
K. Walker	For
Y. Woodhead	For

258 LAND REAR OF 49 THE ROPEWALK, SOUTHWELL (20/01421/FUL)

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of 3 No. dwellings: 2 x 2-storey and 1 x single storey (Scheme B)

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 following: Southwell Civic Society; Neighbouring Party; and Officers.

Members considered the application and concern was raised regarding the scale of the development and the massing.

A vote was taken and lost to approve planning permission with 1 vote For and 11 votes Against.

(Having declared a Personal Interest in this application Councillor Mrs P Rainbow took no part in the debate or vote).

AGREED (with 11 votes For and 1 vote Against) that contrary to Officer recommendation planning permission is refused, on the grounds of over intensive development. The wording of reason for refusal to be agreed in conjunction with Chairman, Vice Chairman and Business Manager – Planning Development.

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

<b>Councillor</b>	<b>Vote</b>
R. Blaney	For
L. Brazier	Absent
M. Brock	For
M. Brown	For
L. Dales	For
M. Dobson	Absent
L. Goff	Against
R. Holloway	For
J. Lee	For
P. Rainbow	Took no part in the vote
M. Skinner	For
T. Smith	For
I. Walker	For
K. Walker	For
Y. Woodhead	For

259 LAND AT FERNWOOD SOUTH, NOTTINGHAMSHIRE (16/00506/OUTM)

The Committee considered the report of the Business Manager – Planning Development, which was an updated report in respect of outline planning application for a phased residential development of up to 1,800 dwellings; a mixed use Local Centre of up to 0.75ha to include up to 535sqm of A1 food retail (not exceeding 420sqm) and non-food retail (not exceeding 115sqm), A3 food and drink uses (not exceeding 115sqm), D1 community uses (not exceeding 1,413sqm); sports pavilion up



to 252sqm; primary school (2.2ha) with school expansion land (0.8ha); formal and informal open space including sports pitches, pocket parks, structural landscaping / greenspace and drainage infrastructure; principal means of access, internal roads and associated works. All other matters to be reserved. The report provided members with an updated viability position received from the applicant and a request for changes to trigger points in relation to reviews.

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 NCC Transport and Travel Services.

Members consider the application acceptable.

AGREED (unanimously) that outline planning approval be granted subject to the conditions appended at Appendix 3 to the report and the signing of a S106 agreement to secure the contributions in Appendix 4 to the report.

260 APPEALS LODGED

AGREED that the report be noted.

261 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 5.47 pm.

Chairman

## PLANNING COMMITTEE – 3<sup>rd</sup> NOVEMBER 2020

<b>Application No:</b>	<b>20/01177/FULM</b>
<b>Proposal:</b>	<b>Proposed single petrol filling station forecourt building with associated drive thru, drive thru kiosk, 6no car pump islands, canopy, HGV fueling, dedicated parking and landscaping.</b>
<b>Location:</b>	<b>Field At Great North Road, Fernwood</b>
<b>Applicant:</b>	<b>Alliance GW Ltd And Mr.Gregory &amp; Mrs O Reilly</b>
<b>Agent:</b>	<b>Rapleys LLP - Mr Michael Birch</b>
<b>Registered:</b>	<b>02.07.2020</b> <b>Target Date: 01.10.2020</b>
	<b>Extension of Time Agreed Until 06.11.2020</b>
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QCSSO8LB13M00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QCSSO8LB13M00</a>

This application was discussed at the meeting on October 6<sup>th</sup> with Members resolving to defer the application to allow an assessment of highway safety impacts – particularly safety of pedestrians who might access the site or travel within the site. The report below has been updated with bold text to detail the discussions and submitted documents received since the October meeting. The agent has submitted a response dealing with all Member comments made at the October 6<sup>th</sup> Meeting.

This application is being referred to the Planning Committee for determination by the local ward member (Cllr Mison) due to the possible traffic impacts in general and in the context of the new Suthers School. In any case, the application would be brought before Members at the discretion of the Business Manager under the Scheme of Delegation due to the strategic nature of the application and the local concern which is contrary to the support of the Parish Council.

### The Site

The site, circa 1.9ha, is an undeveloped semi-circle of land located to the south of Balderton and to the west of Fernwood. The site is located to the west of the A1 with the B6326 curving round its western boundary, and as such the site is entirely enclosed by main roads. Equally within and adjacent to the site's boundary are a collection of hedgerows.

There is an oil pipeline and a Severn Trent Water pipeline crossing the site. The Lowfield Drain, a riparian watercourse, traverses the site. The site is located entirely within Flood Zone 1 according to the Environment Agency maps albeit land to the west is within Flood Zone 3.

Access is from the B6323, immediately south of the roundabout which services the northbound side of the A1. Furthermore, the planned Newark Southern Link road junction linking the A46 (Farndon) with the A1 (Fernwood) will be located to the west of the proposed development site.

The site forms part of the Land South of Newark allocation (NAP 2A) as defined by the Proposals Map.

Whilst the site is entirely surrounded by the road network, there are residential curtilages in nearby proximity, the closest being the rear gardens of Bilton Close to the north west around 30m away from the site boundary.

### Relevant Planning History

**20/SCR/00001** - Screening Opinion for proposed development of roadside services area.

Decision issued by letter dated 19<sup>th</sup> February 2020 confirming that an Environmental Impact Assessment was not required.

In addition to the above screening decision, pre-application advice has been sought.

### The Proposal

The proposal seeks planning permission for a Roadside Service Area (RSA). Components of the development include a petrol filling station (PFS) forecourt building with an approximate footprint of 969m<sup>2</sup> at the northern boundary of the site. The building would include a drive thru facility at the eastern side of the building. To the west of the forecourt, fronting the building, is 6 no. pump islands housed under a canopy.

The building design features render of light and dark grey as well as elements of timber cladding and large expanses of glazing. The building would be approximately 34m by 30m with a maximum pitch height of approximately 8.5m.

In the NW area of the site there would be a standalone drive thru kiosk with an approximate footprint of 145m<sup>2</sup> with an associated car parking area. This building would also feature dark grey render and timber cladding with a monopitch roof to a maximum height of approximately 6m.

Separate HGV fueling is located towards the SW boundary of the site with an associated canopy over the pumps. The site would provide a total of 99 car parking spaces (24 of which are electric charge points and 5 allocated for staff). 10 spaces are provided for motorcycles. There would also be provision for 2 caravan parking spaces; 42 HGV parking spaces; one abnormal load bay and 2 coach spaces.

**The site plan has been updated to incorporate specific recommendations of the pedestrian safety audit, namely pedestrian demarcation zones and HGV spaces with dropped kerbs as discussed further below.**

The application has been considered on the basis of the following plans and supporting documents:

- OGL Survey – GWBALDERTON061216 – AS2220/01 Rev. B dated 10 Dec 2016;
- Existing Layout – 160862-PLNG1;
- Existing Elevations – 160862-PLNG2;
- Proposed Layout – 160862-PLNG3S **Dated 16.10.2020**;
- Proposed Layout 200 Scale Sheet 1 – 160862-PLNG4P;

- Proposed Layout 200 Scale Sheet 2 – 160862-PLNG5P;
- Proposed Layout 200 Scale Sheet 3 – 160862-PLNG6M;
- Proposed Layout 200 Scale Sheet 4 – 160862-PLNG7J;
- Proposed Site Sections – 160862-PLNG8F;
- Proposed CLH Sections – 160862-PLNG9C;
- Proposed Service Road Sections – 160862-PLNG11A;
- Proposed Petrol Filling Station Building Layout– 160862-PLNG12C;
- Proposed Petrol Filling Station Roof Plan– 160862- PLNG13A;
- Proposed Petrol Filling Station Building Elevations– 160862- PLNG14A;
- Drive Thru' Coffee Shop Elevations, Internal Layout & Roof Plan – 160862-PLNG15B;
- Site Elevations– 160862-PLNG16A;
- Ancillary Details. – 160862-PLNG17B;
- Bin / Delivery Compound Detail – 160862-PLNG18;
- Typical Sub Station Detail – 160862-PLNG19;
- Computer Generated Images 1-3;
- Copy of Pre-application Letter dated 07.03.19;
  - Copy of highways england letter dated 22<sup>nd</sup> February 2019;
- Copy of Screening Opinion dated 19.02.20;
- Planning Statement by Rapleys dated 30 June 2020 Ref: MJB/17-00186;
- Design and Access Statement by Alliance GW Ltd. dated June 2020;
- Report Relating to an Assessment of Need & Related Matters by Tim Hancock dated June 2020;
- Lighting Specification and Assessment for Proposed Lighting Scheme by GW Lighting Consultancy dated 19/06/20;
  - Proposed Lighting Layout – DM109 Sheets 1 and 2;
  - Site Boundary Lux Levels;
  - Phillips BCP155 Coreline Bollard Product Specification;
  - Phillips Mini 300 LED Gen 2 Product Specification;
  - Phillips BBP400 Gen2 Range Product Specification;
  - Phillips BVP Floodlight Range Product Specification;
- Noise Assessment by SLR Ref: 424.07867.00002 Version No. 6 dated June 2020;
- Transport Assessment by SLR Ref: 424.07867.00002 Version No. Final dated June 2020 and associated appendices;
- Flood Risk and Assessment and Drainage Appraisal by SLR Ref: 424.07867.00002(00002) Version No. 2 dated June 2020;
  - Proposed New Drainage Channel Route – DWG No. 1.1;
  - Sections 1-1', 2-2' AND 3-3' – DWG No. 2.1;
  - Pipe Cross Section and Example of Scour Protection – DWG No. 2.2;
  - Method Statement relating to the Diversion of Lowfield Drain;
  - Balderton Services, Newark Technical Memo: HEC RAS Model dated June 2020;
- Extended Phase 1 Habitat Survey by CBE Consulting – P2046 / 0620 – 01 V2 dated 04 June 2020;
  - Letter from CBE Consulting Ref: P1849 /L2 – 251119 dated 25 November 2019;
  - Letter from Nottingham City Council dated 9<sup>th</sup> May 2019;
- Fernwood Business Park Overnight HGV Parking Survey prepared by Alliance GW Ltd dated December 2019;
- Fuel Storage Feasibility Assessment by EPS Strategies – UK19.4466b dated 16<sup>th</sup> June 2020 Issue 3;
- Phase 1 & II Geo-Environmental Assessment by EPS Strategies UK19.4466 dated 16<sup>th</sup> June

- 2020 Issue 3;
- Landscape and Visual Appraisal by Influence – 19/06/20 INF-N0601\_R01;
    - Planting Plan – N0601 (96)001 Rev No. B;
    - Planting Schedule & Specification – N0601 (96)002 Rev. No B;
  - Waste Management Plan dated June 2020;
  - Report on Electric Vehicle Charging Provision dated June 2020;
  - Air Quality Assessment by deltasimons – 20-1381.01 dated August 2020;
  - Response to Consultation Feedback by Rapleys dated 9<sup>th</sup> September 2020;
  - Archaeological Evaluation dated September 2020 APS Report No: 59/20;
  - EHO Comments Response Issued 24<sup>th</sup> September 2020;
  - **Letter from eps dated 16<sup>th</sup> October 2020 re: gas monitoring;**
  - **Proposed Roadside Services – Pedestrian Safety Assessment dated October 2020 Ref: 20-1081-SA by Midlands Road Safety Ltd;**
  - **Response to Application Deferral of 6<sup>th</sup> October 2020 dated 16<sup>th</sup> October 2020 by SLR;**
  - **Response to Planning Committee Member Comments.**

#### Departure/Public Advertisement Procedure

Occupiers of 17 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

#### Planning Policy Framework

##### The Development Plan

##### **Fernwood Neighbourhood Plan**

NP1: Design Principles for New Development  
 NP5: Green Spaces, Landscaping and Biodiversity  
 NP7: Supporting Better Movement and Connections  
 NP8: Enhancing the Provision of Community Facilities

##### **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 5 – Delivering the Strategy  
 Spatial Policy 6 – Infrastructure for Growth  
 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 10 – Climate Change  
 Core Policy 11 – Rural Accessibility  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 Core Policy 13 – Landscape Character  
 NAP2A – Land South of Newark  
 NAP4 – Newark Southern Link Road

## **Allocations & Development Management DPD**

DM3 – Developer Contributions and Planning Obligations  
DM4 – Renewable and Low Carbon Energy Generation  
DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM10 – Pollution and Hazardous Substances  
DM11 – Retail and Town Centre Uses  
DM12 – Presumption in Favour of Sustainable Development

## **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Government’s Ministerial Statement dated 18th May 2018 – Road Haulage

## **Consultations**

**Fernwood Parish Council** – Support the proposal (5 support, 1 object, 1 abstain) but also raise concerns regarding the road infrastructure around Fernwood and requesting signage for the village on the A1 be included in the work to deliver this project.

**Balderton Parish Council** – Support proposal but do reference a preference for it to be sited on the Business Park and raise concerns regarding the access on the bend.

**Nottinghamshire County Council Highways** – No objections subject to conditions and legal agreement to ensure costs of required changes to SLR roundabout are attributed to the developer.

**Highways England** – No objections subject to condition.

**Nottinghamshire County Council Flood** – No objections subject to condition.

**Severn Trent Water** – No comments received.

**Trent Valley IDB** – There are no Board maintained watercourses in close proximity to the site, however, the Environment Agency Lowfield Drain is in close proximity.

**Health and Safety Executive** –HSE does not need to be consulted on any developments on this site.

**Fisher German** – No objections subject to a condition removing permitted development rights.

**NSDC Archaeology** – No further archaeological work is necessary for this site and there would be no objection on archaeological grounds to the proposed development.

**Tree Officer** – Amended planting plan and schedule are now acceptable.

**NSDC Environmental Health (contaminated land)** – No objection subject to condition. **Further discussion on wording of condition since October meeting.**

**NSDC Environmental Health (air quality)** - No objection subject to condition.

**NSDC Environmental Health (noise and lighting)** – Original comments sought additional information which has been provided during the life of the application with latest comments confirming no objection subject to condition.

**NSDC Environmental Services** – Informal discussions agreeing Waste Management Plan is adequate.

**Environment Agency** - No objection subject to condition.

**Nottinghamshire County Council Planning Policy** – No comments received.

**Nottinghamshire County Council Ecology** – No comments received.

**Natural England** - Natural England has no comments to make on this application.

**Nottinghamshire Wildlife Trust** – No detailed comments to the specific application.

**Representations have been received from 37 local residents/interested parties which can be summarised as follows:**

**Fernwood Suthers School** – Object on the basis of the following summarized reasons:

- The location of the filling station off the B6326 will result in a significant increase in car and HGV traffic at a number of crossing points that will be used daily by Suthers School students.
- The B6326 has a single footpath on the southern carriageway with the filling station's proposed entrance and exit routes intersecting the footpath.
- If this scheme were to go ahead in its current form, we believe there will be an inevitable increase in traffic which will be detrimental to well-being and safety of our students, creating a significantly increased risk of injury or death through road traffic accidents.

**Fernwood Suthers Schools Head Teacher** - Object on the basis of the following summarized reasons:

- The proposed scheme currently under consideration has raised significant safety concerns regarding the inevitable increase in heavy traffic, including large vehicles including HGVs which pose a significant risk to the safety of students who travel to school from the aforementioned areas.
- Furthermore, the proposed plan shows that there is very little (if any) provision for pedestrian safety on the B6326 and on the bridge across the A1.

**Barton Willmore (on behalf of Urban & Civic Plc.):** Concerns raised for the following summarised reasons:

- The SLR roundabout is to the south of the proposed access;

- Urban & Civic do not object to the proposed Roadside Service Area. However, if permitted, at some point in time the proposed access to the Roadside Service Area and the SLR roundabout to the B6326 will need to dovetail and Urban & Civic raise concern about the timing and coordination of the works.

### *Impact on Safety*

- People regularly walk to Fernwood which would be much more difficult with added traffic / road crossings;
- The plans do not make it clear if the footpath would actually continue around the existing footpath and bridge;
- The sweeping corner is already an accident hot spot and 1 pedestrian has already been killed in the area;
- Pupils to the new secondary school and the new houses proposed will need to use this link;
- Children will have to navigate through the movement of HGV lorries and vehicles;
- It will be difficult to use the footpath if vehicles are using the entrance / exit 24/7;
- Cyclists use the path as the road is not safe;
- The Prime Minister has announced an attack on obesity yet the pedestrian / cycle routes for the school will be through a high density traffic area;
- The entrances should be equipped with CCTV;
- The safe provision for cyclists and pedestrians has never been addressed fully on the route over the A1;
- The Core Strategy states that development proposals should provide safe, attractive and convenient accesses for all;
- It must be anticipated that parents will not take the risk and choose to drive their children to school increasing traffic further;
- Having recently been involved in a serious accident on this curve I object in the grounds that any additional activity will create even more hazards;
- A car has recently crashed through the fence bordering the field;
- Robert Jenrick, in the Newark Advertiser of August 6, is quoted as saying 'Newark has a long history of being a cycling town'. How will this be achieved if roads such as the B6326 are made completely unsafe for cyclists?;
- The entrance and exit will entail many right hand turns including long slow vehicles and will be on a blind bend;
- Even the current 40mph poses a risk for pedestrians;
- The surveys underestimate the average speeds – cars are often heard racing around the Fernwood Industrial Park late in the evening;
- Within the past four weeks there has been a serious road traffic incident at the location of the proposed entry /exit;

### *Impact on Highways*

- There are no drawings with the new link road showing what it is going to look like;
- The traffic survey should take account of all of the development within and around Fernwood;
- No account has been taken of the relief road planned to join the new bridge;
- There is no indication of the pelican crossing near the entrance to the Balderton roundabout;



- This section of Great North Road is reasonably busy with the weight of the traffic set to increase with the new houses;
- The road remains narrow and the entry point will be on a partial blind bend;
- Additional traffic flow at roundabouts is unwelcomed and not compatible with local school children and young families;
- No consideration appears to have been made to take into account the proposed new layout for the junction of the A46/A1 link road;
- This section of the Great North Road is the direct route to many places since Hollowdyke Lane was closed to traffic;
- The road layout is not prepared for the increased flow for the changes of the relief road;
- The development should not compromise the ability to provide a safe and likely busy junction between the new relief road;
- The road improvements should be completed before this application is considered;
- The current roads are in a poor state of repair and barely support the current traffic;
- Road improvements appear to have been delayed or funding is at threat;
- The forecast traffic numbers are severely flawed;
- A vehicles travelling north will need to use roundabouts on either side of the services entrance, doubling the traffic numbers;
- Traffic counts should be done adjacent to the Lord Ted pub where excessive traffic queues are common;
- The size of the existing roundabout on the eastern side of the A1 do not have a large enough diameter;
- The impact of road widening has not been address in the proposal and will fundamentally change the nature of the Fernwood area;
- Lorry parking is not so much of an issue now that there are double yellows;
- Has the number of new houses to be built been factored into the appraisal;
- There are going to be a number of new roundabouts along the B6326 which will need to accommodate the additional HGVs;
- There are already problems when there is an accident on the A1 and traffic becomes gridlocked;
- School buses wait on the road which already causes problems because the road is not wide enough;
- Developers often complete one less house than the trigger points resulting in half completed schemes;
- Will Councillors seek justification for this lorry park as a means to alleviate traffic that would potentially be displaced from the recently redeveloped lorry park adjacent to the Newark Livestock Market if the proposed International Air and Space Training Institute (IASTI) is approved;
- The footpath should be relocated;
- The speed limit should be reduced to 30mph instead of 40mph;
- The area has suffered with numerous poorly designed and planned road layouts and junctions around the area for nearly 20 years and have to live with the traffic gridlock;
- The current infrastructure was never designed to accommodate a large volume of traffic and has seen no improvement;
- Have the levels of traffic been genuinely assessed in the context of the 3000+ homes to be built;
- The busiest time for lorry parks coincides with the movements of school buses;
- The current condition of the road is very poor;
- The slip road southbound is short and incorporates a tight bend;

- The B6236 is already a very busy road;
- Fernwood and Claypole are at risk of being cut off from safe access to Newark;
- There needs to be a major re-assessment of the future traffic needs in this area and the impact of the Southern Relief Road to allow the expected investment and development to take place safely;
- Traffic has adequate provision for services at the A1 / B1174 junction just north of Grantham;
- The traffic generation has been estimated using data from Gonerby Moor but there are significant differences with this scheme;
- This site will give rise to a much higher HGV usage;
- Underestimating traffic generation calls into question the junction capacity assessment;
- The TA cannot be relied on to demonstrate that the proposals will not have a severe impact in the highways network;
- Given the serious nature of the flawed TA methodology, a decision by the District Council based on the submitted application documentation would be unsafe and would result in the District Council being placed at risk of judicial challenge;

#### *Impact on Amenity*

- Added lorries would create noise pollution especially for the houses which back onto the roundabout;
- Flood lighting would impose on neighbouring residents;
- Other service areas nearby don't have residential properties adjacent;
- Flood lighting is not clear;
- The sound report focusses on raw dbL increase but does not take account the sound profile of the area;
- Residents will hear noise from air brakes and various other harsh noises;
- The layout will give clear sight into neighbouring properties;
- The development would be more appropriate by the industrial buildings;
- Any removal of trees would significantly increase noise pollution to the residents of Fernwood;
- Large sample of the baseline data in the noise report were removed due to wind noise;
- No allowance has been made for the increase in noise generated through the operation of the site – the proposed building and catering outlets will all require mechanical plant and equipment;
- The level of pollution will be extremely high and be detrimental to human health;
- The A1 causes a drone of noise all day for residents of Fernwood but this development will cause more random and overnight noise;
- There is potential for anti-social behavior;

#### *Impact on Flood Risk*

- This is a flood plain;
- There is a pipe which runs across the field which is not shown on the plan;
- Every time there is heavy rain the pipe backs up and overflows into neighbouring gardens;
- The land is prone to flooding and water held here will have nowhere to go other than on the main A1 carriageway of the roundabout;

#### *Impact on Landscape*

- The proposal will destroy the current local area of greenery;
- The Downtown services which are run by the same company are far from an idyllic picture contained within the proposal;

#### *Impact on Ecology*

- The protected woodland that forms the wildlife corridor bordering the B6326 is home to an array of endangered wildlife;
- Green space in this area is being built on at an alarming rate;

#### *Other Matters*

- Residents who are directly affected have not been notified;
- Will home insurance go up due to storage and active usage of highly flammable liquids;
- Addresses have not been checked on the noise report so the information cannot be trusted as accurate;
- The A1 has numerous service stations both north and south of the proposed site, including those dedicated to the needs of HGVs;
- There is no faith that the planning department is organized as the expiry date for comments keeps changing;
- The proposal will provide much needed resources for the area and should be accepted;
- The site notice was removed the day after it was posted;
- The proposal is not clear that it would provide overnight parking;
- The Planning Committee should visit the site during rush hour to experience the problems already experienced;
- Fernwood is typically inhabited by families and there is a long term risk on eating habits from fast food outlets;

#### Comments of the Business Manager

##### Principle of Development

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

Following public consultation and independent examination, Newark and Sherwood District Council adopted the Fernwood 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 Fernwood. 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 starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). The settlement hierarchy for the district is set out in Spatial Policy 1, whilst Spatial Policy 2 deals with the distribution of growth for the district. This identifies that the focus of growth will be in the Sub Regional Centre, followed by the Service Centres and Principal Villages. At the bottom of the hierarchy are 'other villages' which do not have defined built up areas in terms of geographically defined village boundaries.

As is confirmed by the Newark South Proposals map in the Allocations and Development Management DPD, the site falls within the Strategic Allocation for Land South. Policy NAP 2A is therefore relevant albeit prior to assessment against this policy it is deemed relevant to provide the latest position in respect to the ongoing development within the wider allocation.

Land South of Newark or Middlebeck as it is now known, first gained Outline Planning consent in 2010 with a revised application having gained permission in 2015. This is a phased development of up to 3150 homes to the south of the Newark Urban Area. Development has commenced with Avant, Bellway Homes and Countryside on site building out the residential element of the scheme, the Urban and Civic office building and a café is also open and work to build the Primary School has just commenced all in Phase 1. The Southern Link Road (SLR), which links the A1 overbridge to the A46 at Farndon, has been fully designed across its entire length and the first phase (closest to Fernwood/Balderton), apart from its junction to the A1 overbridge with a roundabout, has been completed and is open, with the remaining phases 2 and 3 linking to the A46 to be commenced in the future planned stages.



Policy NAP2A does not explicitly envisage the development of a petrol filling station; drive thru or the other associated facilities detailed. However, as is shown by the extract of an overall land south masterplan above, the site (circled in red) is shown void of built form. Other than its association with the new SLR, the site would be some distance from the main bulk of the land south proposals. The development as proposed would therefore not prejudice the delivery of the

land south allocation envisaged by NAP2A.

Notwithstanding the above, Policy NAP2A does identify a need for the provision of new and improved highway infrastructure. Whilst there is no doubt that the policy reference to highways infrastructure would have been made primarily with the new SLR in mind, there is an opportunity that the proposed development in this application will add further enhancements to the operation of the highways network in line with the aspirations of Policy NAP2A. This is explored further below.

### Impact on Economy

One of the three overarching objectives of the NPPF 2019 is an economic objective, *'to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure'* (paragraph 8). Chapter 6 goes on to confirm that planning decisions should help create the conditions in which businesses can invest, expand and adapt (paragraph 80).

The NPPF 2019 at paragraph 104 confirms that planning policies should provide for any large scale transport facilities that need to be located in the area, and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy.

Paragraph 107 goes on to state that planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance.

There is an acknowledgement that the facilities proposed will benefit from the passing trade of the adjacent strategic road network specifically the A1 but also the vehicular traffic which will use the new SLR once fully completed and operational. The Planning Statement details the factors which are considered when acquiring land for a RSA which includes location and access to traffic as well as accessibility and prominence.

The NPPF confirms that LPA's should apply a sequential test to planning applications for main town centre uses which are not located in an existing centre. The overarching aim is to sustain and enhance the vitality and viability of existing centres. For the avoidance of doubt, the proposal incorporates town centre uses as defined by the glossary of the NPPF (the retail unit and the drive thru facilities).

Core Policy 8 (Retail Hierarchy & Town Centres) has been subject to significant review through the Plan Review process (necessary in acknowledgment that the previous policy referred to the now replaced PPS4). The revised policy now better aligns with the national stance, and indeed the corresponding Allocations and Development Management DPD (specifically Policy DM11 'Retail and Town Centre Uses'). The policy details a sequential approach whereby proposals for town centre uses shall firstly be located within a centre, then edge-of-centre and only if no suitable sites are available will consideration be given to out-of-centre locations.

As is explored above, the site is within the policy allocation NAP2A and therefore cannot be considered as open countryside despite its characteristics. Notwithstanding this, I am conscious

that Policy DM8 (Development in the Open Countryside), has a specific allowance for the consideration of Roadside Services. In my view, it would be common sense to apply these principles to the current application assessment, specifically whether or not there is a specific and justified need for the particular location proposed and the development is restrained to the minimum necessary to serve this need. If this need can be accepted then the requirement of a Sequential Test would in my view fall away as there would be specific locational requirements as to why the development would not be appropriate in a town centre context.

The application has been accompanied by a 'Report Relating to an Assessment of Need & Related Matters' undertaken by Tim Hancock dated June 2020. A service area is not considered to represent a destination in its own right with services involving a detour from the road network are not providing commercially successful.

The site, whilst primarily being accessible to northbound A1 traffic, could also serve southbound traffic albeit with a slight detour to re-join the A1 southbound. The Needs report assesses available services along the road network stating distances and locations. It is concluded that the site effectively sits within a gap in the provision of roadside facilities of 26.7miles between Grantham Services and Markham Moor Services for northbound traffic. For southbound users of the A1, the site lies within a gap of 38.5miles between Blyth and Grantham facilities. **For the avoidance of doubt, the report does acknowledge the presence of the Retford Service Area and Muskham Services but goes on to identify constraints with these sites in terms of their accessibility and size.** Further assessments are also made for additional routes including traffic leaving the A1 at the A46.

Furthermore, the report details the overnight provision for HGV parking in the area noting the national stance for this to be improved. The applicants undertook a survey in Fernwood of unauthorised HGV parking between 5<sup>th</sup> and 11<sup>th</sup> December 2019. Whilst parking was limited over the weekend, the highest count occurred on the Monday evening where 26 vehicles were parked. It is stated that the findings are consistent with the view that there is a significant unsatisfied need in HGV parking on this stretch of the strategic road network. Officers have no evidence to dispute this conclusion. The proposal would also create electric charging facilities which have an increasing strategic need.

The evidence presented is considered sufficiently robust to discount the need for a Sequential Test and it is therefore accepted that there are site specific locational requirements which would accept the main town centre uses in this location. It is also not considered necessary to apply the impact tests required by Core Policy 8 given that the retail facilities would be ancillary to the wider RSA use but would also, at 183m<sup>2</sup> fall below the relevant threshold of 350m<sup>2</sup>.

At a local policy level, it is necessary to reference Core Policy 6 (Shaping our Employment Profile). CP6 outlines an intention to strengthen and broaden the diverse range of employment opportunities in the District including through *'supporting the economies of our rural communities.'*

Notwithstanding the employment generated by the construction of the site, the application form confirms that the end uses would create an additional 65 full time equivalent jobs. The support to the local economy including in the context of an employment base would therefore weigh positively in the overall planning balance undertaken below.

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. Clearly given the context of the site, the highway safety implications of the proposal are of paramount importance.

Spatial Policy 7 details that the route of the SLR which has not been built will be safeguarded. The proposal is clear that the development has been designed in full acknowledgement of the future delivery of the new SLR adjacent to the site.

The application has been accompanied by a Transport Assessment (TA). This covers numerous issues including accident data over a five year period concluding that there are no issues with road safety which would be exacerbated by vehicle movement associated with the development. As is already identified above, the proposal is not intended to become a destination in itself with the majority of visits anticipated to be association with existing journeys on the road network. In this regard, the site is considered to be safely accessible from the B6326; from the A1 northbound via Balderton Interchange and from the A1 southbound via Fernwood Roundabout and Clay Pole junction.

The TA also includes analysis of swept paths for various vehicle manoeuvres within the site confirming that the circulation and accessibility of the site is safe and suitable. Sustainability benefits within the proposal include the provision of 24 spaces with electric charging points.

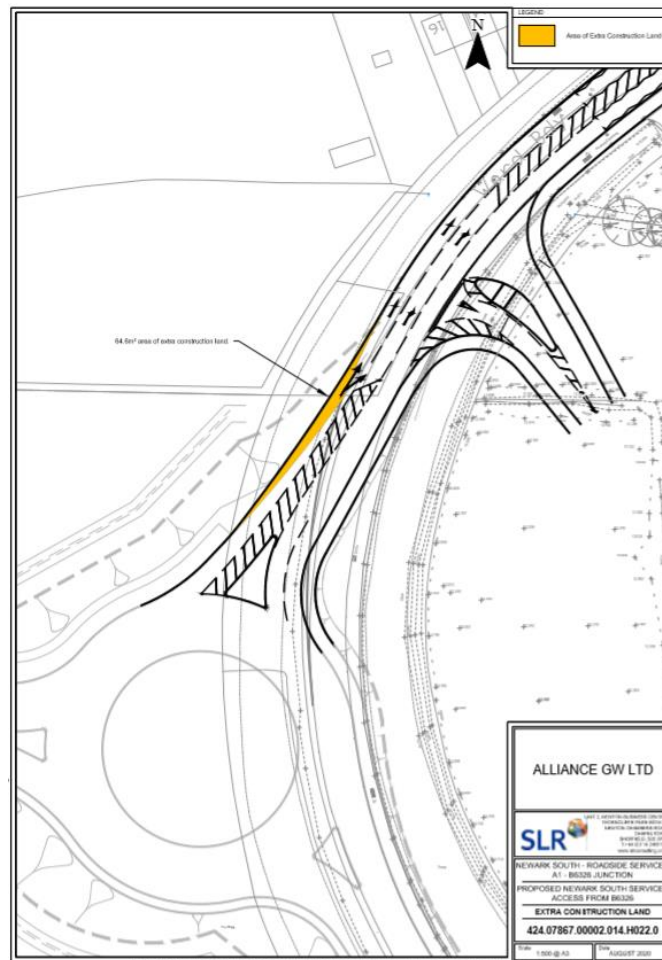
**For clarity, the scope and methodology of the TA were subject to lengthy discussions with Nottinghamshire County Council and Highways England. The complexities of the site meant that all scenarios were considered (i.e. all committed residential developments and their associated trip movements as well as all scenarios of the SLR).**

This application has been assessed by the relevant expertise at Nottinghamshire County Council as the Highways Authority and Highways England noting the adjacent A1.

Highways England comments refer to the pre-application discussions that have taken place with the applicant. The traffic impacts are not considered to be severe and subject to a condition requiring a road safety audit for new signage and implications for the users of the southern link road they raise no objections.

NCC as the Highways Authority also refer to pre-application discussions which ultimately lead them to agree that the proposal will not significantly add to delays or prompt serious or reasonable safety concerns. The comments do however go on to discuss the complexities of the site access arrangements given that the access would have to consider the future road network scenario as well as the existing. This is further complicated by the ongoing discussions around the exact design of the southern link road roundabout. As prompted by the comments, Officers have discussed the likely design with the relevant parties. Whilst assumptions have been provided, it has essentially been confirmed that the exact design is not yet known. Nevertheless an associated legal agreement would be reasonable provided it is carefully worded in order to ensure that the costs attributed to the applicant are only those that arise from the changes to the design necessitated by the proposed development. **This is likely to amount to the costs associated with around 65m<sup>2</sup> of additional construction as shown in yellow on the following plan (drawing 424.07867.00002.014.H022.0):**





It is fully appreciated that matters of highways safety form a significant concern in the context of the neighbouring comments submitted for the application. This is also acknowledged by the applicant through their response to consultations received dated 9<sup>th</sup> September 2020.

Members deferred the application from the previous meeting to allow a consideration of highway safety impacts – particularly safety of pedestrians who might access the site or travel within the site. Officers have taken the opportunity to discuss this matter with the agent; their highways consultants; and NCC Highways. It has been confirmed that the road safety audits focus on the interactions with the highways network outside of the site itself. Nevertheless, internal pedestrian safety has been carefully considered as detailed by the routes indicated by additional supporting documentation received on 19<sup>th</sup> October and included within the presentation slides.

Furthermore, an independent Pedestrian Safety Audit has been completed. The audit concludes that the proposed development will have no significant impact in terms of increased risk to pedestrians, subject to the implementation of a recommendation to offset the pedestrian demarcation areas from the HGV parking spaces within the HGV zone and the use of dropped kerbs at crossing points and DDA spaces. A revised site layout plan to this effect has been submitted.

Officers recognize that there would be nothing to prevent pedestrians accessing the buildings at the site (albeit the agent has confirmed that school children at Suthers School would not be allowed to leave the school site during breaks). However, in the context of the routes shown and the audit undertaken, this is not considered to amount to a pedestrian safety concern.



Ultimately Officers would agree with the applicant that the relevant expertise (i.e. Highways England and NCC Highways) have identified no harm to the highways network arising from the proposal. On this basis, whilst not palatable to the parties concerned, it would be inappropriate to resist the application on highways safety grounds.

NCC Highways and Highways England have suggested conditions which Officers have carefully considered. ~~The requirement for a Road Safety Audit recommended by Highways England would be better placed in the associated legal agreement. Officers have sought agreement to this from Highways England, the response of which will be reported to Members within the schedule of representation at the Committee Meeting.~~ The conditions by NCC Highways include a condition relating to mud on the highway however this would be covered by the wheel washing requirements of the suggested construction management condition. **As reported to Members in the late items schedule for the October meeting, Highways England updated comments now suggest a condition relating to a signage strategy which is considered reasonable and therefore has been added to the recommendation below (condition 20).**

### Impact on Character and Design

Core Policy 13 (Landscape Character) sets out a framework for assessing landscape character and sets expectations that development proposals should positively address the implications, aims and objectives of each landscape policy zone. The adopted Landscape Character Assessment (LCA) is a district level assessment of landscape character (that sits hand in hand with CP13) and is a useful tool in assessing local landscape character in relation to specific sites.

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings. Chapter 12 of the NPPF 2018 provides guidance in respect of achieving well-designed places confirming at paragraph 124 that, *'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*

The site is within the South Nottinghamshire Farmlands Character Area which extends over a relatively large tract of land between the southern edge of the Greater Nottingham conurbation and the urban edge of Newark. The LCA identifies that the area contains some of the highest quality agricultural land in the District with a very strong arable tradition.

The site itself is within South Nottinghamshire Policy Zone 08: Cotham Village Farmlands. The landscape condition of this area is defined as being very poor identifying that the road network forms many detracting features of the area. The overall landscape sensitivity is also defined as very low. The proposal would meet one of the aspirations for built features in that it would create new development around the existing settlements.

There is clearly a balance to be struck in terms of the landscape impacts of the proposal. For operational purposes, the development must have a degree of visibility in the wider landscape to be commercially successful. The supporting documentation to accompany the application provides a robust base on which to assess the landscape implications of the proposal including a Landscape and Visual Appraisal (LVA) and full landscape plans. Moreover, CGI Imagery has been provided

which presents a useful tool in envisaging what the proposed development will look like on the ground.



The LVA undertaken by Influence sets a study area of 750m from the application site. A series of viewpoints were selected representing different types of views and groups of receptors within the immediate area and wider surroundings. Residents at Newark settlement edge were identified as key visual receptors. The majority of the residents in Fernwood do not have visibility of the site due to dense vegetative perimeters. Impacts on residents is discussed further below in the amenity section. Other visual receptors include uses of nearby public rights of way (specifically FP9 and the cycle route).

I would concur with the assessment of the LVA that the landscape has a suburban feel and that the height of the proposed development would be comparable to nearby residential properties (which includes three storey dwellings in the village of Fernwood). The majority of the boundaries will remain intact with additional screening offered through the detailed landscape proposals. Overall, the impact on local landscape receptors of the proposed development on completion is judged as low and the nature of the effects is adverse. I would agree that the landscape impacts of the proposal would be low and in some respects mitigated by proposed additional planting which could be secured by condition. In my view, the proposal has appropriately struck the balance between being visible enough to be functional as a RSA but discrete enough so as not to harm the local landscape character.

Clearly the development would represent a fundamental change from the existing character of the site. Nevertheless I am conscious that the site is bound entirely by a major road network such that the proposed change to hardstanding would be well assimilated within the immediate site surroundings.

In terms of the specific design of the buildings, these would be modern but functional in nature with elements of render and timber cladding. Policy NP1 of the Neighbourhood Plan requires developments to draw upon local character in terms of materials and style to ensure the

development enhances the distinctiveness and quality of the village as a whole. It also encourages production of a design standards document for major developments.

Notwithstanding this, I am conscious that the site would be read as a standalone development somewhat departed from the village and better connected to the road network. The submitted Design and Access Statement details that an experienced operator, Welcome Break Services Ltd. have been secured to deliver the site and will operate under the Applegreen brand. The design development process is stated as being a collaboration process between the parties to ensure a deliverable and viable outcome.

There is an acceptance to the corporate design of the buildings and equally an acknowledgment that the varied use of materials will break up the façade and reduce the perceived bulk and scale of the buildings. Whilst the use of materials would align more with the Business Park than the residential development nearby, this is not considered fatal in principle. Overall the design of the development would comply with Policy NP1 and the relevant elements of Policy DM5.

### Impact on Trees and 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. Policy DM7 states that new development should protect, promote and enhance green infrastructure to deliver multi-functional benefits and contribute to the ecological network.

The NPPF incorporates measures to conserve and enhance the natural and local environment and requires outlines a number of principles towards the contribution and enhancements of the natural and local environment within Chapter 15.

The application has been accompanied by an Extended Phase 1 Habitat Survey based on site visits in April and June of 2019. The survey identified the following habitats within the site area:

- Species poor semi-improved grassland;
- Boundary hedgerows;
- Drainage ditch;
- Cleared ground / hardstanding;
- Small areas of Bramble and Tall ruderals;
- Dead wood piles.

There are no statutory or local ecological designations which affect the site itself. Nevertheless the hedgerows forming the boundaries of the site would be suitable for breeding birds and the southern boundary is adjacent to an area of broadleaved woodland plantation. It is recommended that if works are undertaken during bird breeding season then the hedgerows are surveyed prior to the works. There is considered to be an extremely low / negligible likelihood for the presence of reptiles on the site partially due to its isolation being surrounded by the road network. The drainage ditch has nevertheless been tested for evidence of Great Crested Newts with the results showing no DNA evidence and therefore not requiring further survey works. The site holds the moderate potential to be a habitat for amphibians but low for bats; badgers and larger mammals.

The Environment Agency comments make specific reference to water vole stating that they are believed to be present at the proposed development site. The comments go on to state that the,

*“ecological reports states that it is likely that water vole are present within the ditch on site which is to be diverted”*. In reviewing the ecological report, the language used is that it is *“possible that this species may access the drainage ditch crossing the site”* and then actually goes on to suggest no further survey works are required. Nevertheless, for the avoidance of any doubt, the condition suggested by the Environment Agency for a water vole protection plan is considered reasonable and necessary to the development in the context of the importance of the species. This has been agreed by the agent on behalf of the applicant.

Suggested mitigation measures are set out at Appendix 4 of the Report and could also be reasonably conditioned if permission were to be forthcoming.

The application has not been supported by a specific Tree Survey. However, the positioning of trees and hedgerows are indicated on the existing layout plan and topographical survey. This shows that there are hedgerows internally within the site which would be affected by the proposed development. In addition there are tree specimens close to the existing access point from the B6326 (which would need to be removed to facilitate the development). The landscaping plans show that the majority of the hedgerows around the site boundaries would be retained. These plans (which have been updated during the life of the application) also show detailed proposed planting areas and tree specimens as well as a low maintenance grass mix on an east west transect across the site to allow for the oil pipeline easement. Having assessed the site as existing, it is not considered justifiable to insist on a specific Tree Survey. The trees close to the existing access are set internally within the site and therefore in my view do not contribute significantly to the landscape character of the wider area. The comprehensive landscaping scheme, the delivery of which could be secured by condition, would be sufficient to mitigate the loss of trees and internal hedgerows required to facilitate that development.

The proposal has provided a landscape strategy and assessed the impact of the proposed on local biodiversity, both of which are specific requirements of Policy NP5 of the NP. The proposal would also accord with Core Policy 12 and Policy DM7 such that there would be no reason to resist the application on ecological grounds subject to the imposition of the aforementioned conditions.

#### Impact on Amenity

Policy DM5 is clear 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. Paragraph 127 of the NPPF confirms that decisions should ensure that developments create places with a high standard of amenity for existing and future uses.

Despite the aforementioned road network which bounds the site there are residential neighbours in relatively close proximity to the site which would be potentially affected by the development. There is a level of tree cover between the site and the nearest neighbouring residents which should ensure that neighbouring properties would not experience a detrimental overbearing impact from the associated built form. The maximum height of the built form would be approximately 8.5m which would not be particularly unusual in a residential context. The distance between the PFS and the nearest property would be around 50m.

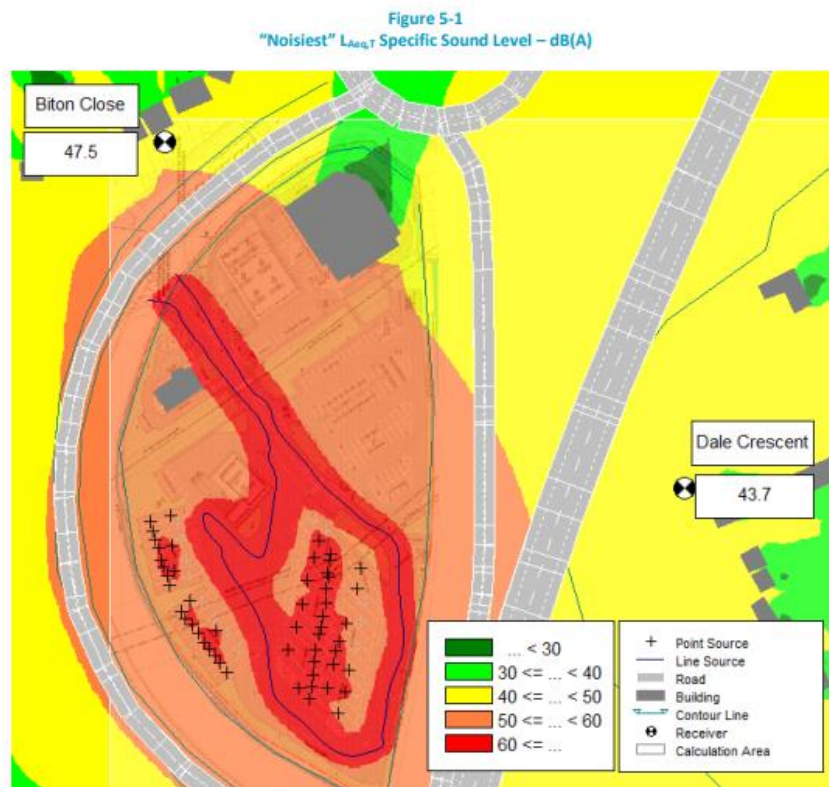
As detailed above, the submitted LVA has taken account in the nearby residential properties in terms of being visual receptors to the landscape impacts of the development. The viewpoints selected identify that upper windows of some properties may have views of the site which would

be less filtered during the winter months. It is considered that most of the residents in the area will experience no change or minimal change in their view and are already experiencing a similar circumstance. Whilst properties on Bilton Close would be highly sensitive to the development, in the context of the above discussion on heights and distances, the physical form of the development is not considered to amount to amenity harm which would warrant concern.

Notwithstanding the above, the proposal clearly imposes potential amenity impacts through an increase in noise and disturbance as well as impacts from any associated lighting. The application has been accompanied by both comprehensive lighting details and a noise assessment.

The Noise report acknowledges that a number of the uses (including the PFS) would operate on a 24 hour basis. Clearly the functionality of the uses warrants this but it does increase likelihood of adverse neighbor impacts occurring at anti-social hours (especially lorry movements). The lorry park has been positioned at the south of the site which is furthest away from the potential sensitive receptors identified.

Noise monitoring was placed to acknowledge baseline data for the residents of Bilton Close and Dale Crescent. Unsurprisingly, the sound climate at both locations was characterized by road traffic. The graphic below shows the estimated 'noisiest' potential sound level:



The conclusions of the report are that, during the daytime the rating level of HGV movements in the Lorry Park would be well below the background sound level at both Bilton Close and Dale Crescent. In accordance with BS4142:2014+A1:2019 the Lorry Park would be unlikely to have an adverse noise impact during the daytime. At nighttime however, the results showed a rating level above the background sound level between the hours of 02:00 and 03:00. This is detailed as being 1dB(A) above the background sound level at Bilton Close.

As for most of the night-time period the rating level of HGV movements in the Lorry Park would be below the background sound level, the author of the report considers that on balance, and in the context that HGV noise would be similar to that existing on the surrounding road network, the Lorry Park would at worst (between 02:00 and 03:00) have a low night-time noise impact, and at all other times any adverse impact would be unlikely. Reference is also made to the likelihood of the background noise data to change once the already approved SLR is built out in full. No specific mitigation measures are deemed necessary or presented.

The noise report has been assessed by colleagues in Environmental Health. Their original comments raised a number of issues including in respect of night time noises associated with the lorries accessing and leaving the site. Ultimately the comments required further information which has been passed on to the applicant during the life of the application.

A response has been received by the applicants consultants which includes further details of the likely plant to be used (and indeed its positioning). The response also contends that the noise from HGVs entering and existing the site has already been included in the submitted noise assessment and that the access will be designed without an excessive gradient (in line with highways guidance) such that it will not lead to excessive engine revving. The consultant has also addressed likely nighttime noises concluding that inside a room with a partially open window, at a distance of approximately 45m the noise modelling shows a level of 36.9dB(A) which would meet the World Health Organization restrictions.

The EHO has assessed the latest document ultimately concluding no objection in principle. The comments then go on to suggest a number of conditions which have been carefully considered by Officers. The first, in relation to the charging pedestals for refrigerated goods is reasonable although Officers have amended the wording slightly in case an alternative product is ultimately selected. It is considered that this would also cover the second concern given that the charging points mean the engines do not need to run overnight. The majority of the rest of the concerns can be amalgamated into a Construction Management Plan condition and a separate condition seeking the details of plant prior to installation. With these measures in place, it is not considered that the development would create unreasonable noise impacts.

Given the 24 hour nature of the site, the impacts of the associated lighting strategy require careful consideration to ensure that glare from the proposed lighting does not conflict with existing residential properties. Although the lighting strategy is written in the context of the impact on the wider strategic road network (in line with Highway England discussions) Officers consider it also relevant to neighbouring amenity. Notably, it is stated that the lighting design has given particular attention to the onsite traffic routes to reduce night time artificial light contrast in an attempt to remove the risk related to vehicle headlights creating glare beyond the site boundary. The light lux plan shows that the glare from the proposed lights would be largely contained within the site boundary.





Again, the technical details of the lighting documents have been assessed by colleagues in Environmental Health and found to be acceptable. The lighting details could be added to the list of approved plans and therefore there is no requirement for further information.

Concern has been raised during the consultation process regarding the impacts of pollution arising from the development. An Air Quality Assessment has been submitted during the life of the application which acknowledges that the site is in a location where air quality is mainly influenced by road traffic emissions. The proposed development at its operational stage is expected, according to the assessment, to result in an overall negligible impact on nearby receptor and the residual effects are not considered to be significant. Environmental Health colleagues have reviewed this document and agreed with the conclusions albeit have confirmed that suitable mitigation as suggested by the report should be employed during the construction process.

#### Impact on Flood Risk

The application site is within Flood Zone 1 according to the Environment Agency maps and therefore there is no requirement to apply the Sequential Test for the development.

Given that the proposal forms major development, it has been accompanied by a Flood Risk Assessment and Drainage Appraisal. Specific details have also been provided regarding the diversion of the existing Lowfield Drain within the site. Other constraints which affect the site are a Severn Trent pipeline. The majority of the site is considered as being at a low risk of surface water flooding with the exception of a site specific risk posed by the potential blockage of Lowfield Drain.

As is detailed by the submitted FRA, surface water drainage is proposed to be divided into two drainage catchments separated by the CLH oil pipeline. Discharge from each catchment will be discharged into Lowfield Drain at or below equivalent greenfield rates. Excess flows will be held back on the site within below ground crated storage systems which have been size to accommodate flows for all event up to the 1 in 100 annual probability storm with a 40% uplift to account for potential change in flood severity associated with client change. Foul drainage from the site will be managed via a package treatment works which will provide treatment prior to discharge to Lowfield Drain (subject to agreement through the Environmental Permit discussed further below).

The presence of the Lowfield Drain is referenced by the submitted Design and Access Statement and acknowledged as transversing the northern section of the site and flows from east to west although is largely overgrown and is not visually prominent. The drain requires diversion around the northern boundary of the site to facilitate the development.

The application has been considered by relevant consultees as detailed in the consultation section above. Neither the Environment Agency nor NCC as the Lead Local Flood Authority have raised any concerns from a flooding / drainage perspective. Both parties have suggested conditions which require further details of foul drainage and surface water drainage schemes. These are considered reasonable and could be attached to any forthcoming permission.

#### Land Constraints and Ground Conditions

Paragraph 178 of the NPPF 2019 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

The submitted geo-environmental assessment did identify some ground gas as discussed in the comments of Environmental Health (contaminated land). The comments do not object to the development but rather suggest a bespoke condition should be imposed to further monitor the gas regime. This has been agreed in principle by the applicant. **Since the October meeting, the applicant has provided, by letter dated October 2020, an updated position in relation to gas monitoring. The applicant now wishes to electively install gas protection in lieu of further monitoring. This is agreed in principle by colleagues in Environmental Health subject to a bespoke condition requiring compliance with the methodology outlined and the subsequent provision of a verification report.**

As is discussed above, the site is subject to constraints including a fuel pipe from west to east in a diagonal direct which has an associated 6m easement. The easement means that no structures, hard standing, planting or development is permitted within the easement (other than the pre-agreed vehicular, pedestrian and services crossing points which have been designed to a minimum).

Owing to the presence of the pipeline, Officers have undertaken a PADHI+ assessment using the Health and Safety Executive tools. As is detailed above, the tool identifies that the site does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline therefore no formal consultation with HSE is required.



Consultation has also been undertaken with Fisher German with their response letter confirming the presence of a pipeline crossing the site. The applicant is clearly aware of this constraint and indeed the development has been laid out accordingly to allow for the necessary easements. The letter also confirms that landowners and third parties have a duty of care not to carry out any works that have the potential to damage the apparatus. This would be outside of the planning process and the presence of the pipeline is not considered to be a barrier to development in principle. Further correspondence has suggested that the applicant has been working with Fisher German and made an agreement that they would be satisfied with the removal of permitted development rights on the site to ensure that any further changes were subject to further consultations. Officers consider that this condition would meet the necessary tests and therefore it is suggested that it should be attached to any forthcoming positive decision.

As is detailed by the comments of Environmental Health, the petrol storage tanks are an industrial activity which would require a permit under the Environmental Permitting (England and Wales) Regulations 2016. This is separate to Planning Legislation and does not require further consideration through this assessment. A permit would be required prior to the operation of the site even if planning permission is granted.

### Other Matters

The application has been accompanied by details of boundary treatments and bin storage areas. The bin storage would be fully enclosed within a 2.5m high close boarded fence structure which would assist in the escape of odour and likelihood of pests and vermin. A wash down tap would also be provided to allow regular cleaning and maintenance of the area. An associated Waste Management Plan has also been submitted to an attempt to reduce waste sent to landfill. This document has been assessed by colleagues in Environmental Services and found to be appropriate. The agent has confirmed that the Plan includes details for litter collection in the form of regular emptying of bins on site.

The original comments of the Archeological officer requested the submission of further works during the life of the application. These have been submitted and subsequently reviewed as detailed by the updated comments included above. Essentially it is agreed that no further archeological work is necessary on the site.

Comments received during consultation make reference to the original site notice being removed from the site. As soon as this was brought to Officer's attention the site notice was replaced and thus Officers are confident that the statutory requirements for consultation have taken place. Equally another comment states that the proposal description is not clear the intention is for overnight parking of lorries but Officers consider this is covered through the element 'dedicated parking' and in any case is implicit in the detail of the application.

### Overall Planning Balance and Conclusion

The site is within the land allocated as NAP2A land south of Newark. The comprehensive site allocation did not envisage the nature of the development proposed albeit as explored above does require provision of necessary infrastructure and the provision of new and improved highway infrastructure. The justification submitted to accompany the application demonstrates a robust need for the mixed use site proposed namely due to an existing 'gap' in provision for service stations along this stretch of the A1 but also national requirement for overnight lorry parking. The

development would not prejudice the overall delivery of the land south allocation and therefore can be supported in principle.

The site specific locational requirements of the development render it inappropriate to apply the Sequential test ordinarily required for town centre uses outside of Main Town Centres.

Benefits of the proposal include the aforementioned benefits to lorry parking provision but also the sustainability benefits of a significant level of parking spaces with electric charging points. The proposed development would also create 65 FTE jobs which is welcomed in support of the local economy.

The design is modern and contemporary whilst also being functional to the end commercial uses. All other matters, including landscaping; ecology and amenity impacts could be appropriately mitigated through condition. The constraints of the site are noted (including the presence of pipelines and a drainage ditch) but again the proposal demonstrates the ability to sufficiently mitigate the development against harmful impacts arising through these constraints.

The site is in a sensitive location in respect to the strategic highways network which has been subject to discussion with the relevant consultees. Clearly, the location of the site adjacent to the highways network is fundamental to the commercial success of the proposal. Both NCC Highways and Highways England have accepted that the proposal would be appropriate in highways safety terms.

Overall, subject to the conditions outlined below, no demonstrable harm has been identified which would outweigh the benefits of the development and therefore the recommendation is one of approval.

## **RECOMMENDATION**

**That planning permission is approved subject to the conditions and reasons shown below and a Section 106 agreement securing off-site highways works and the road safety audit required by Highways England:**

### Conditions

01

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

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

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

- Proposed Layout – 160862-PLNG3S;
- Proposed Layout 200 Scale Sheet 1 – 160862-PLNG4P;

- Proposed Layout 200 Scale Sheet 2 – 160862-PLNG5P;
- Proposed Layout 200 Scale Sheet 3 – 160862-PLNG6M;
- Proposed Layout 200 Scale Sheet 4 – 160862-PLNG7J;
- Proposed Site Sections – 160862-PLNG8F;
- Proposed CLH Sections – 160862-PLNG9C;
- Proposed Service Road Sections – 160862-PLNG11A;
- Proposed Petrol Filling Station Building Layout– 160862-PLNG12C;
- Proposed Petrol Filling Station Roof Plan– 160862- PLNG13A;
- Proposed Petrol Filling Station Building Elevations– 160862- PLNG14A;
- Drive Thru' Coffee Shop Elevations, Internal Layout & Roof Plan – 160862-PLNG15B;
- Site Elevations– 160862-PLNG16A;
- Ancillary Details. – 160862-PLNG17B;
- Bin / Delivery Compound Detail – 160862-PLNG18;
- Typical Sub Station Detail – 160862-PLNG19;
- Lighting Specification and Assessment for Proposed Lighting Scheme by GW Lighting Consultancy dated 19/06/20;
  - Proposed Lighting Layout – DM109 Sheets 1 and 2;
  - Site Boundary Lux Levels;

Reason: So as to define this permission.

03

No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out and retained in accordance with the approved details.

Reason: In the interests of visual amenity.

04

Prior to first use of the development hereby approved, full details of any proposed air conditioning equipment, ventilation extraction system or other external plant including fans shall be submitted to and approved in writing by the Local Planning Authority. The approved equipment and plant shall only be installed and maintained strictly in accordance with the approved details.

Reason: In the interests of visual and residential amenity.

05

No part of the development shall be commenced or until works on B6326 including a right turn lane facility have been provided as shown for indicative purposes only on drawing 424.07867.00002.014.H020.1 to the satisfaction of the Local Planning Authority. Should the SLR roundabout construction pre-date the development then the above drawing number should be replaced by 424.07867.00002.014.H021.2.

Reason: In the interests of highway safety.

06

No part of the development hereby permitted shall be brought into use until the parking/turning/servicing areas are provided in accordance with the approved plan. The parking/turning/servicing areas shall not be used for any purpose other than parking/turning/loading and unloading of vehicles.

Reason: To reduce the possibility of on-street parking occurring as a result of the development to the detriment other road users.

07

No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved SLR Flood Risk Assessment (FRA) and Drainage Appraisal SLR Ref: 424.07867.00002(0002), 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 as the Internal Drainage Boards requirements.
- 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.

08

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (and any order revoking, re-enacting or modifying that Order), no development (either temporary or permanent) other than that approved by plan reference Proposed Layout – 160862-PLNG3R shall take place in the area annotated as “CLH PIPE WITH 6M EASEMENT” on plan reference Proposed Layout – 160862-PLNG3R.

Reason: In acknowledgement of the high pressure fuel pipeline which exists on the site and to ensure that any further development is considered in this context.

09

The approved landscaping scheme as shown on plan reference Planting Plan – N0601 (96)001 Rev No. B and supported by the Planting Schedule & Specification – N0601 (96)002 Rev. No B shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is soonest, unless otherwise agreed in writing with the District Planning Authority. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted on written consent of the District Planning Authority.

Reason: In the interests of biodiversity.

10

#### **Part C: Implementation of Approved Remediation Scheme**

**The approved remediation scheme must be carried out in accordance with the terms outlined in the letter from eps dated 16<sup>th</sup> October 2020 re: gas monitoring prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.**

**Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.**

#### **Part D: Reporting of Unexpected Contamination**

**In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.**

**Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.**

**Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.**

11

The development hereby permitted shall not commence until a foul water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved and completed prior to the development being brought into use.

Reason: To ensure that the proposed non-mains drainage system does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework.

12

No development shall take place until a plan for the protection of/mitigation of damage to water vole and its habitat, both during construction works and once the development is complete, has been submitted to and approved in writing by the Local Planning Authority. The water vole protection plan shall be carried out in accordance with a timetable for implementation as approved.

Reason: To protect the water vole and its habitat within the development site and avoid damaging the site's nature conservation value.

13

Vegetation clearance shall take place in accordance with Appendix 4 of the Extended Phase 1 Habitat Survey by CBE Consulting – P2046 / 0620 – 01 V2 dated 04 June 2020. For clarity this includes a requirement for a pre-clearance amphibian check by a suitably qualified ecologist. In addition any vegetation being trimmed or removed during bird nesting season shall be preceded by an inspection by a suitably qualified ecologist. Any nests identified shall be marked and identified so that they can be avoided during works and suffer no significant disturbance until any chicks have fledged and left the nest.

Reason: To protect the ecological value of the site.

14

No external storage shall take place until a plan showing the external storage area and means of demarcation have been submitted to and approved in writing by the Local Planning Authority. No external storage shall thereafter take place outside of any agreed area.

Reason: In the interests of residential and visual amenity.

15

The construction of the development hereby approved shall be carried out in accordance with the Mitigation and Residual Effects Section 6.1 of the document Air Quality Assessment by deltasimons – 20-1381.01 dated August 2020. For clarity this requires site management and monitoring as well as preparing and maintaining the site.

Reason: To protect the amenity of neighbouring land uses.

16

The development hereby approved shall be carried out in accordance with the principles of Section 5 'Construction Waste and Recycling Management' and Section 6 'Operational Waste and Recycling Management' of the document Waste Management Plan dated June 2020. The development shall not be brought into use until the positioning and number of bins (notwithstanding the bin and delivery compound shown on plan reference Proposed Layout – 160862-PLNG3R) have been provided in accordance with design, siting and materials details, which have been first submitted to and approved in writing by the Local Planning Authority. The bin storage facilities shall be provided prior to the development being brought into use in accordance with the approved details and retained thereafter.

Reason: In the interests of appropriate amenity provision.

17

Notwithstanding the details shown at Appendix 3 of the EHO Officer response document received 24<sup>th</sup> September 2020, prior to the development being brought into use, the position; specification and number of electrical HGV charging pedestals to be provided on site shall be submitted and agreed in writing by the Local Planning Authority. The HGV charging points shall be installed prior to the development being brought into use in accordance with the approved details and retained for the lifetime of the development.

Reason: In the interests of residential amenity.

18

No development shall take place until a Construction Methodology and Management Plan (CMMP) has been submitted to and approved in writing by, the Local Planning Authority. The approved CMMP shall be adhered to throughout the construction period. The CMMP shall comprise the following:

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of oils, fuels, chemicals, plant and materials used in constructing the development
- The erection and maintenance of security hoarding, including any decorative displays and facilities for public viewing
- Wheel-wash washing facilities and road-cleaning arrangements
- Measures to control the emission of dust and dirt during construction
- A scheme for recycling/disposing of waste resulting from site preparation and construction works
- Measures for the protection of the natural environment
- Full details of any piling technique to be employed, if relevant
- Location of temporary buildings and associated generators, compounds, structures and enclosures, and
- Routeing of construction traffic.
- Measures to limit noise emissions and vibration levels from the site and from plant machinery

Reason: To protect the amenity of the surrounding area

19

The hours of operation for construction on site shall be limited to Monday to Friday 08:00 to 18.00hrs, 08:00 to 13.00hrs Saturday and no works on site on Sundays/Bank Holidays.

No deliveries shall be received or dispatched from the site outside the hours of Monday to Friday 08:00 to 18.00hrs, Saturday 08.00 to 13.00 hrs nor at any time on Sundays and Bank Holidays.

No piling shall be undertaken or vibrating rollers used on site on Saturdays, Sundays or Bank Holidays. The local Authority shall be notified of any Piling technique to be employed on site in advance for approval in writing. The approved details shall then be implemented.

Reason: In the interests of residential amenity.

**20**

**No part of the development hereby permitted shall commence until a Signing Strategy has been submitted to and approved in writing by the Local Planning Authority in consultation with Highways England. The signs shall thereafter be implemented prior to teh in accordance with the strategy.**

**Reason: To ensure that the A1 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, in the interests of road safety.**

#### Notes to Applicant

01

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

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

02

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



This grant of permission does not convey consent for the display of any advertisement on the application site.

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@nottscc.gov.uk for details.

05

The development surface water will outfall to Lowfield Drain at locations within the site boundary, some of which is adjacent to Highways England land. Lowfield Drain itself is proposed to be redirected from the centre of the site, around the site boundary, from a position close to the outlet of the A1 culvert, to the inlet of a culvert beneath the B6326. This proposal is acceptable to the Highways England Drainage Team however, care should be taken during construction to ensure:

- a. No works are to be undertaken within Highways England's estate – if works are required within Highways England land at the A1 off-slip, prior agreement is required.
- b. The flow within Lowfield Drain shall be sufficiently maintained during construction so as not to impede the highway drainage flow from Highways England (or the Local Authority) outfalls. The proposed works must not pose a flood risk to the A1 during construction.

06

#### Notes on gas monitoring:

~~Gas monitoring data must be collected from appropriate locations and collected on a weekly basis over a minimum period of three months. Gas monitoring must be undertaken for methane, carbon dioxide, oxygen, hydrogen sulphide and hydrogen. Details of the quantities and flow rates for any ground gases detected must be submitted to the Local Planning Authority.~~

~~Monitoring should be targeted to days when the atmospheric pressure is low and falling, as these are the optimum conditions for gas migration. Prior to the commencement of monitoring, the details of the proposed method of monitoring, location and depth for borehole(s) must be submitted to the Local Planning Authority for approval~~

#### BACKGROUND PAPERS

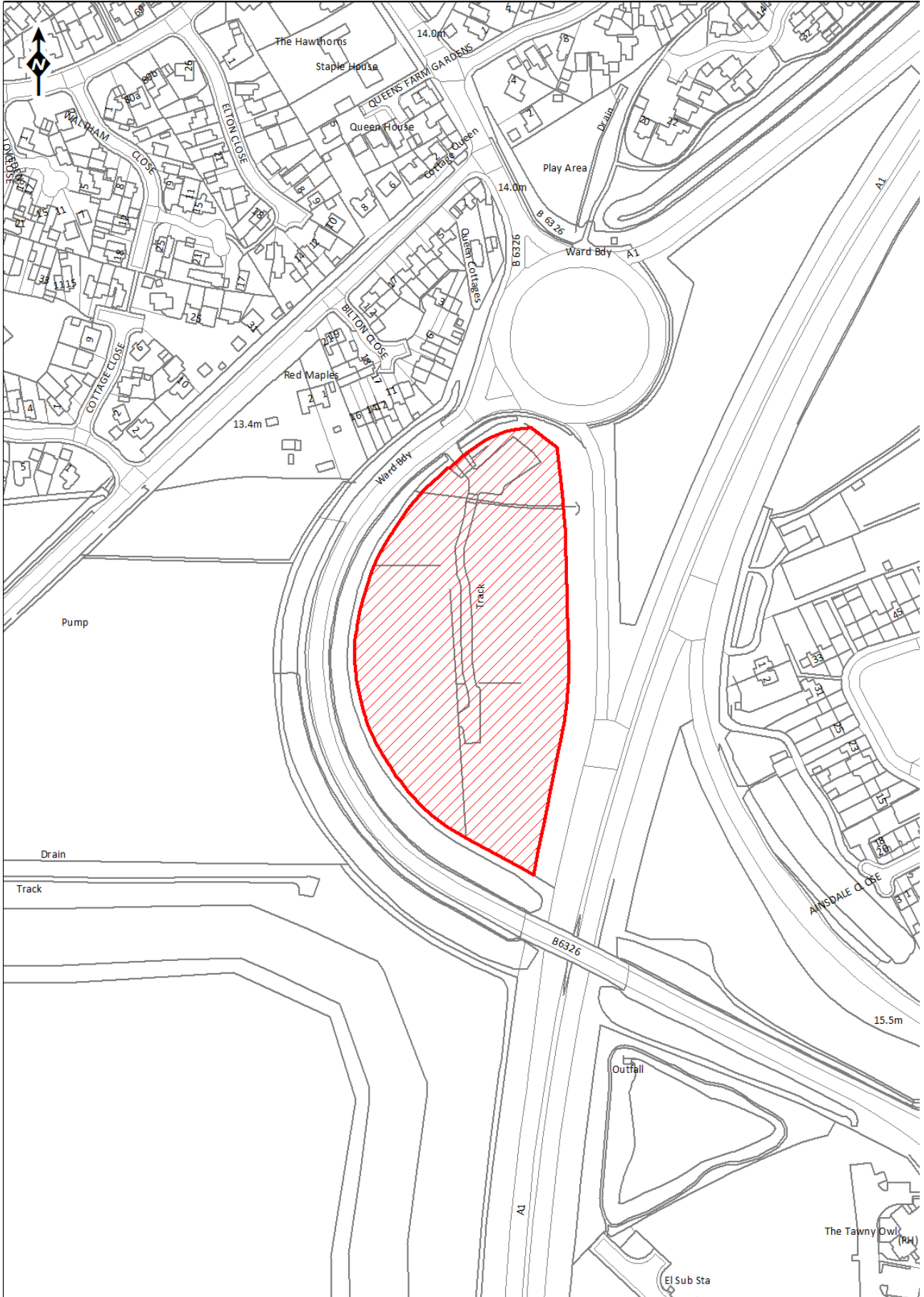
Application case file.

For further information, please contact Laura Gardner on extension 5907.

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

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

Committee Plan - 20/001177/FULM



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## PLANNING COMMITTEE – 03 NOVEMBER 2020

<b>Application No:</b>	<b>20/01720/OUTM (MAJOR)</b>	
<b>Proposal:</b>	<b>Residential development of up to 17 no. new dwellings (following removal of Grove Bungalow and existing outbuildings) (Resubmission of 19/02158/OUTM)</b>	
<b>Location:</b>	<b>Grove Bungalow, Barnby Road, Newark-on-Trent, NG24 2NE</b>	
<b>Applicant:</b>	<b>Richmond and Pritchett</b>	<b>Agent: Grace Machin Planning &amp; Property</b>
<b>Registered:</b>	<b>15 September 2020</b>	<b>Target Date: 09 December 2020</b>
<b>Link to Website:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>	

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Newark Town Council has objected to the application which differs to the professional officer recommendation and given that Members refused a scheme for 19 dwellings on this site at Planning Committee in August 2020.**

### The Site

Located on the southern side of Barnby Road, the site comprises a well-proportioned attractive brick built bungalow set centrally within its long plot. Vehicular access to the site is from the eastern side of the frontage via a gravel/brick track. There are mature attractive trees that front the remainder of the highway. Mature vegetation and hedgerows bound the large front garden area.

To the rear of the bungalow is a lawn area with a number of mature trees which take on the appearance of an orchard. There are a number of low lying outbuildings to the east of the bungalow within its curtilage.

The remainder of the site to the east of the bungalow (outside of its curtilage) and to the rear of the dwellings fronting Barnby Road, is overgrown, vacant and accommodates a number of trees and vegetation.

Compared to surrounding dwellings, the host bungalow is set back within its plot. A detached modern dormer bungalow lies to the north-west whilst to the north-east is a row of historic two storey cottages (Grove Cottages) which sit gable end on with the highway and have windows facing the site. On the other side of the highway (north) are a number of large modern dwellings and beyond that is the east coast railway line.

A Biological SINC (Ballast Pit) lies circa 200m to the west across fields which is recognised as 'a long disused ballast pit supporting open water and carr communities'.

The site lies within the defined built up part of Newark Urban Area.

## Relevant Planning History

- 19/02158/OUTM - Residential development of up to 19 No. new dwellings (following removal of Grove Bungalow and existing outbuildings). This was presented to the Planning Committee in August 2020 with a recommendation for approval (subject to conditions, a section 106 agreement and a resolution to the drainage) however the application was refused for the following (summarized) reasons:
  - 1) *Failure to demonstrate the maximum quantum of development would be in keeping with the character, general grain or density of development in the surrounding area representing an over intensive development of the site, leading to a cramped development compared with surrounding plot sizes and wouldn't minimise the loss of trees/hedgerows with a consequential detrimental impact on the visual amenity of the area; and*
  - 2) *The proposal fails to secure an appropriate drainage scheme/solution for the site as it relies on the crossing of third-party land outside of the red line boundary which has not been secured by way of a S106 Agreement. In addition there was no mechanism at the time of decision making to secure the developer contributions needed to mitigate the harm.*
- 20/000006/TPO – A group Tree Preservation Order has been made June 2020.
- PREAPP/00239/19 – Pre-application advice was sought for a scheme of around 20 dwellings. The advice was positive albeit a lower density was suggested.

There have been 3 notable applications located on land immediately to the south; known as land at Highfields School. In brief these were for:

- 17/00357/FULM – Residential development comprising 95 houses and associated infrastructure including removal of 26 TPO trees, Refused 15.09.2017. Issues related to impacts (visual and crime/disorder) from MUGA and viability having regard to disproportionate development costs and that the development couldn't mitigate the impact it would have upon infrastructure. Appeal Dismissed.
- 16/01134/FULM - Residential development comprising 89 dwellings and associated infrastructure, including the relocation of the school access, car parking area and sports pitches, the provision of a Multi-Use Games Areas (MUGA) and the removal of 8 TPO trees. (Resubmission of 14/01964/FULM). Refused 15/09/2019. Issues related to ecological impacts and viability having regard to dis-proportionate development costs and that the development couldn't mitigate the impact it would have upon infrastructure. Appeal Dismissed.
- 14/01964/FULM - Residential development comprising 91 units and associated infrastructure, including the relocation of the existing school car park and sports pitches, the provision of a MUGA and the removal of 8 TPO trees. Refused 14.07.2015 on grounds that the number of compromises (such as noise from MUGA, privacy, failure to maximise community use, lack of infrastructure including affordable housing) meant it was unsustainable development. Appeal Dismissed.

*Land immediately to the east (of the southern part of the site)*

- 19/01331/FUL - Proposed development consisting of 3 no. detached dwellings together with associated outbuildings and landscaping. (Resubmission of application 18/01609/FUL). This was approved under delegated powers on 1<sup>st</sup> April 2020.

### The Proposal

Outline planning permission with all matters reserved, except for the means of access, is sought for residential development. The quantum of development now sought is for up to a maximum of 17 dwellings.

An indicative block plan has been submitted to demonstrate how this quantum of dwellings might be achieved on site together with limited (4) indicative elevations.

### The Submission

- Existing Elevations of Grove Bungalow
- Extent Plan
- Site Location Plan – drawing no. 1506G/003 (received 16.10.2020)
- Typical Dwelling Elevations – drawing no. 1506/002
- Site Block Plan – 1506G-001 Rev D (received 16.10.2020)
- Topographical Survey – Job No. 3394
- Proposed Preliminary Access Design Sheet 1 of 1 – drawing no. 100334-01-0100-01, Rev B
- Arboricultural Report & Impact Assessment, by AWA Tree Consultants dated January 2020
- Combined Planning and Design & Access Statement, September 2020
- Ecological Appraisal Report by JJH Consulting, November 2019
- Flood Risk Assessment, Rev A by Dice Consulting Engineers Ltd, November 2019
- Supplementary Bat Report, JJH Consulting Ltd, May 2020
- Amphibian Mitigation Strategy, JJH Consulting Ltd
- Proposed Drainage Strategy, Sheet 1 of 1, drawing no. 100334-01-0500-01, received 08.09.2020

### Departure/Public Advertisement Procedure

Occupiers of eleven 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 1 – Affordable Housing Provision  
 Core Policy 3 – Housing Mix, Type and Density  
 Core Policy 9 -Sustainable Design  
 Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure  
NAP1 - Newark Urban Area

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

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM3 – Developer Contributions and Planning Obligations

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance
- Affordable Housing SPD 2013
- Developer Contributions and Planning Obligations SPD 2013

### **Consultations**

**Newark Town Parish Council** – (05.10.2020) Object as follows:

1. The principle of any development on this site is challenged as it represents the last open break between Newark and Balderton;
2. Over intensification of the site;
3. There is no suitable public transport route, it is on a bus route but there is no regular service available;
4. Whilst acknowledging that there is now an Amphibian Strategy, the proposed mitigation measures are insufficient to address the impacts on the local toad population.

**Balderton Parish Council** – (01.10.2020) Object - Members consider that the proposed level of development on the site to be out of character to the surrounding area.

**NCC Highways Authority** – Initial comments (02.10.2020) raised concerns including a substandard width of access. Following the submission of amendments, further comments raise some issues with the internal highway layout (which is not for consideration at this stage) that would need to be remedied at reserved matters stage but they ultimately raise no objections subject to conditions. The conditions would require; 1) details of the internal road layout, including turning facilities, lighting, structures and drainage; 2) provision of an appropriate bound access and 6m radius kerbs, 3) provision of new footway along Barnby Road, 4) provision of pedestrian dropped kerb crossing on Barnby Road and 5) measures to prevent debris from entering the public highway during the construction period.

**NCC Lead Local Flood Authority** – Whilst they have no concerns in principle to the drainage strategy advanced, they are unable to recommend approval as it relies on crossing third party land outside of the application site and recommend that the LPA withhold the permission until an agreement is reached between the applicant and third-party land owner that allows the drainage strategy to be implemented in perpetuity. They also recommend a condition should an agreement be reached and permission is granted.

**Environment Agency** – No objection

**NCC Policy/Developer Contributions** – Make general comments and set out justification for a Transport and Travel Services Contribution of £13,000 for new bus stops on Barnby Road and confirming no education contribution is being sought.

**Cadent (Gas)** – Advice that an assessment has been made and request a note to applicant be included in the event of an approval.

**Network Rail** – No objection in principle but there are requirements that must be met. They go on to request that an informative is added to any approval which is repeated verbatim in the ‘note to applicant’ section of this report.

**NSDC, Tree Consultant** – (16.09.2020) – ‘Proposed revised layout is acceptable with provision of tree/hedge protection and soft landscaping details. Recommended these are conditioned...’ Conditions are then recommended to protect the trees which are captured in the recommendation section below.

**Natural England** – No comments to make. Refer LPA to Standing Advice.

**Nottinghamshire Wildlife Trust** – (15/09/20) Confirm that previous comments still stand, that the reports remain up to date and provided the mitigation and site enhancements are secured and implemented there should be no negative impact upon wildlife species.

**Trent Valley Internal Drainage Board** – The site is outside of the Trent Valley Internal Drainage Board district but within the Board's catchment. There are no Board maintained watercourses in close proximity to the site. Other general observations.

**NSDC Strategic Housing** – Previously recommended the following affordable dwelling mix which remains relevant:

	Affordable Rent	Shared Ownership	Totals
2 bed	3		3
3 bed		2	2
	3	2	5

**NSDC – Parks and Amenities** – Previously advised that a commuted sum towards off-site provision/improvement and maintenance will need to be provided. The nearest appropriate site for such provision is Barnby Road Community Park however this site is c500m away along a fairly busy road.

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

- Development too intense for the area;
- Queries over hedgerows and what will happen to it, loss of habitat for wildlife if lost;
- Concern that hedgerows might not be preserved, important for habitat and privacy;
- Concern about flooding and drainage with no form plan in place to deal with water from the development;



- Concern about impact on privacy and overlooking;
- Concern about traffic noise and pollution;
- Barnby road itself is narrow, in a state of disrepair and large vehicles have to mount the footpaths or verges;
- Concern about the extra traffic;
- Plan doesn't show hedge along northern boundary;
- Trees are subject to a preservation order;
- Concerned at impact on wildlife observed on the site boundaries including grass snakes, weasels, bats, toads, frogs and birds;
- Concern at impact on local toad population, mitigation not enough;
- More cars means more toad fatalities.

### Comments of the Business Manager

#### Preliminary Matter

As this scheme is almost identical to the scheme considered earlier in the year, save for the reduction in the number of proposed dwellings from 19 to 17 units, Members will note that the assessment undertaken below remains largely as previously presented.

#### The Principle

The Council is able to robustly demonstrate a 5 year housing land supply and the Development Plan is up to date for decision making. In accordance with DM12 and the NPPF, the starting point for decision making is with the statutory Development Plan.

Spatial Policies 1, 2 and NAP1 of the adopted Amended Core Strategy, identify Newark as a Sub Regional Centre where the focus, as a sustainable settlement, is for housing and employment growth.

The site is located within the defined main built up area of Newark as identified on Map 2 of the Allocations and Development Management DPD. In principle therefore, housing development could be appropriate subject to other considerations which I shall discuss below.

The proposal also seeks to demolish the existing bungalow. This was present on site in 1965 according to historic maps and is an attractive bungalow. However I do not consider this to be of such architectural or historical merit that its loss could reasonably be resisted. The principle of its demolition is therefore accepted.

#### Appropriateness of the Development, including Character, Density and Housing Need & Mix

As all matters except for the means of access are reserved for subsequent approval, consideration is confined to whether in the view of Members, the scheme at this reduced quantum is capable of being developed without detrimental impacts. To aide with this assessment the applicant has provided an indicative layout plan to demonstrate how 17 units could successfully be accommodated on the site.

### Indicative Layout for 19 dwellings (Refused)



### Proposed Indicative Layout for 17 dwellings



The site is located on Barnby Road with part of the site fronting the highway and the remainder falling behind existing ribbon development that is a main characteristic of the area/suburb. Development in the vicinity is generally low density interspersed with areas of open green space giving it a semi-rural feel and visual appearance.

I am aware that planning permission has been granted (our reference 19/01331/FUL) on land to the east for residential development comprising 3 detached dwellings. I am also aware that 3 applications have been submitted relating to land immediately to the south (land rear of Highfields School) which have been refused and subsequently dismissed on appeal. More detail is contained within the site history section of this report. None of the reasons for refusal related to an 'in principle' concern or one relating to the character and/or appearance of the backland type of development.

As indicatively shown, Plot 1 would be broadly aligned with the neighbouring dwellings fronting Barnby Road which I consider would help retain the ribbon development character and grain, with the other units tucked back into the site. Whilst developing the site would introduce a new type of development character, this need not be fatal and I remain of the view that a carefully designed scheme could be successfully assimilated into the area. The retention of the mature frontage trees helps to retain this rural open feel to the street-scene and on the revised indicative layout more space has been shown around the retained trees.

The quantum of development would now be a maximum of 17 dwellings in an attempt to demonstrate to Members that the scheme is an appropriate quantum for the site. Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. It goes on to say that development densities below this will need to be justified, taking into account individual site circumstances. At c0.65 hectares in area, the density proposed is lower than the 30 dph advocated by the Development Plan. However given the low density of development in the area and its suburban area and character I consider that this level is acceptable for the context.

The latest drainage strategy now indicates the need for a foul pumping station to the site frontage, behind the trees which are to be retained. No details as to what this would look like have been provided, however I am satisfied that a scheme could be designed to be sensitive to its prominent

position within the site which could include additional landscaping to soften its impact. This would be a matter to resolve at reserved matters stage.

In terms of the housing need in Newark, the requirement is for mainly 3 bedroom dwellings (40.2%) followed by 2 bedrooms (33.7%) followed by 4 bedroom dwellings (14.4%) then 5 bedroom dwellings (8%) with 3.7% of the need being for 1 bedroom units. This outline application is not considering the mix per se, but it is important that an appropriate layout and mix to meet local need could be accommodated. I note the plan for 17 units indicates a mix to comprise 2 beds x 4 (23.52%), 3 beds x 7 (41.17%), 4 beds x 5 (29.41%) and 5 beds x 1 (5.88%). Whilst this indicative layout does not align fully with the housing need, nevertheless I am satisfied a similar layout could be capable of achieving a satisfactory mix to meet the local housing need.

Taking all of this into account, I am satisfied that development could be undertaken sensitively with an appropriate mix to meet the housing need in such a way that the character and appearance of the area is not unacceptably affected in line with the requirements of CP3, CP9 and DM5.

### Residential Amenity

Safeguarding the residential amenity for both existing and any new dwellings will be paramount in order to comply with policies CP9 and DM5 of the Development Plan. Given that the layout and appearance are reserved, this is a matter best considered in detail at reserved matters stage.

Grove Cottages to the east have windows facing the application site at first floor level and are located relatively close to the boundary. Any development to the west of these would need to be carefully designed in order to safeguard against loss of privacy and overlooking issues. The indicative layout does however suggest that a scheme is capable of being achieved that would avoid unacceptable impacts on these dwellings. Given the distance between the remainder of the site and the existing dwellings on Barnby Road, which have generous sized gardens, I am satisfied that a scheme could be achieved that adequately respects the living conditions and privacy of existing dwellings.

Given the proximity of the railway line, consideration would need to be given to managing noise levels. As such I would expect a reserved matters application to be accompanied by a noise assessment and mitigation scheme. I would expect this would likely comprise any identified mitigation by way of the types of glazing to be used in windows for plots nearest to the railway line. This can be controlled by condition.

### Highway Impacts

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

Part of Barnby Road has an 'advisory' 20mph limit due to its proximity of Barnby Road Primary School, however, these are not legally enforceable. This section of Barnby Road is restricted to 30mph. The proposal seeks to take access from the eastern side of the frontage and would provide access and egress for all 17 units. Appropriate visibility splays at the access point have now been demonstrated such that vehicles emerging could do so safely.

NCC Highways Authority in their response have raised some issues with the internal road layout in that vehicle tracking information would need to be submitted as well as internal footways. As the layout is not for formal consideration however, these are matters that can be resolved at reserved matters stage. NCC Highways raise no objections to the proposed new access to the site subject to conditions which are included within the recommendation section albeit some have been amended for clarity and to ensure they pass the tests of the NPPF.

Parking is a matter best considered at reserved matters stage but it is anticipated that the off-street parking quantum is capable of being met on site without risk of leading to on-street parking elsewhere.

The comments by residents of the proximity to bus stops and indeed the requirement of SP7 to minimise the need to travel and to enhance local services and facilities are noted. In order to serve the development hereby proposed (and indeed better the provision for the wider community) NCC previously requested a developer contribution towards bus stop infrastructure on Barnby Road. The requested £13,000 would go towards provision of new bus stops for both Newark and Lincoln bound routes. I consider this request to be reasonable and it would assist with compliance with SP7 in terms of mitigation and in terms of sustainability.

There are no reasons to resist the application on highway safety grounds.

#### Flooding and Drainage

Core Policy 9 requires developments to be pro-actively manage surface water and Policy DM5 builds upon this requiring developments to include, where possible, appropriate surface water treatments in highway designs and Sustainable Drainage Systems.

The site lies within Flood Zone 1 (at lowest risk of flooding) according to the EA Flood Maps albeit is in an area identified as being prone to surface water flooding.

The application has been accompanied by Flood Risk Assessment and Drainage Strategy to show how both surface water would be managed and foul sewage would be disposed of given the lack of public sewers along Barnby Road and the failure of infiltration testing to sufficiently drain surface water away.

The strategy proposes a foul pumping station to the site frontage (indicatively located behind the existing frontage trees (which are to be retained and are now protected) which would pump waste south to a public sewer on London Road in Balderton via the Highfields School site referred to in the site history section of this report.

The surface water drainage strategy comprises a system of surface water sewers (tanks are indicatively shown under the gardens of plots to the west of the site) that will collect run off from the developable area, drain into an existing pond to the west as well as permeable paving below parking areas and some of the un-adopted private driveways. The scheme has been designed so as not to increase flood risk elsewhere.

Members may note that as on the previous scheme NCC LLFA have raised concern that there is currently no viable means of draining surface water from the site. This is because the drainage strategy relies on land not within the application site nor within land currently within the

applicant's control. Officers have been advised by the LLFR that if this were resolved, there would be no reason to object to the drainage strategy otherwise.

The applicant is currently in negotiations with the relevant third party land owners to secure this drainage route and there appears to be an informal agreement in principle/progress on this matter. This is a matter that can be dealt with through an appropriate legal agreement which the third party land owners would need to enter into requiring the drainage strategy to be undertaken before any development takes place on site. This would need to be in place before any planning permission is granted.

If the relevant land owners/parties do not join in to the agreement within a reasonable timeframe (I would suggest a long stop date of four months from the date of committee is generous) the application should be refused on the grounds that the scheme is unable to provide satisfactory surface water drainage scheme. This is included within the recommendation to you, set out below.

It is worthwhile noting that the drainage route across the third party land would require an easement over which no built development could take place. However no planning permission currently exists on this land (see the site history section of this report - planning permission has been refused and dismissed on appeal for major housing schemes on land at Highfields School) and the land owners are aware of this so as not to blight any future plans for the site.

The drainage strategy would require its ongoing maintenance to be put into the control of an appropriate management company which can be secured by s106 agreement. Subject to a reserved matters approval being developed in accordance with the strategy, which can be secured by the s106 agreement, I am satisfied that the proposal would accord with the policy requirements. It should also be noted that the Environment Agency raise no objection to the proposal.

#### Impacts on Trees and Landscaping

The starting point for development is that trees and features such as hedgerows should be retained where possible as set out in CP12 and DM5.

There are a number of trees within the site. As such an Arboricultural Report and Impact Assessment has been submitted in support of the application. This identifies 40 trees and 8 groups of trees and hedges as being present on site. The majority of these trees are graded as C quality (low to average), 2 are U graded (poor trees) and 9 are B graded (good quality and life expectancy). The most significant trees are two early mature Cherry trees (T4 and T5) located at the site frontage which are B graded. These are shown to be retained on the indicative layout plan which is welcomed albeit remain of the view that slightly more space around these trees for growing room would be appropriate given their age, a matter which could easily be achieved at reserved matters stage. The other good quality trees are all located around the periphery of the site and are indicated as being retained.

A number of trees (C and U graded) mainly to the rear of the existing outbuildings would likely need to be removed to facilitate the development shown. It is possible that a less intense development could see more of the trees retained albeit some of the C graded trees will ultimately not be worthy of on-going protection. For now, a blanket Tree Preservation Order has been made covering all trees on site to give protection in the first instance until the Council's tree consultant is able to make a detailed assessment on site (once covid-19 safe) regarding which

specific trees are worthy of protection such that the order can be amended to the best quality specimens.

The Council's tree consultant has raised no objection subject to conditions.

Having considered the outline nature of the scheme and the indicative layout, notwithstanding that some of the retained B graded trees would benefit from additional space to grow, I consider that a layout similar to that presented would be acceptable in terms of the impact on trees. It would be necessary to require mitigation and compensation for lost trees with replacement planting which could be secured via a condition at reserved matters stage.

### Ecological Impacts

The site itself has the potential to provide habitat for wildlife and as such the application was supported by an Ecological Appraisal and further surveys and strategies have been provided upon request.

CP12 (Biodiversity and Green Infrastructure) seeks to conserve and enhance biodiversity whilst Policy DM7 specifies that: "On sites of regional or local importance, including previously developed land of biodiversity value, sites supporting priority habitats or contributing to ecological networks, or sites supporting priority species, planning permission will only be granted where it can be demonstrated that the need for the development outweighs the need to safeguard the nature conservation value of the site. All development proposals affecting the above sites should be supported by an up-to date ecological assessment, involving a habitat survey and a survey for protected species and priority species listed in the UKBAP."

The scheme has been assessed against Natural England's Standing Advice.

### *Amphibians*

Common toads are recognised as being of principal importance for consideration and biodiversity under the relevant legislation and are listed as a priority species in the UK Biodiversity Action Plan, which is material for planning decisions.

A common toad migratory route and toad patrol access is located c400m to the north-west of the site. A further migratory route to Balderton Lake is located 900m to the south-west. Therefore upon request, an amphibian mitigation strategy has been submitted which seeks to mitigate any impacts upon local populations of amphibians.

The submitted mitigation strategy sets out that ground clearance would need to be undertaken at a suitable time of the year (either early spring/late autumn or during winter) to decrease the likelihood of amphibians being present on site. If clearance is undertaken in active season, this would be undertaken east to west to direct toads towards suitable habitat. A number of precautions are also recommended. The mitigation strategy is acceptable (NWT have raised no objection to this) and provided the development proceeded in accordance with it, I am satisfied that adequate mitigation would have been employed. This can be subject of a condition.

### *Bats*

The ecological appraisal undertaken in 2019 identified potential for bats to utilise the site and a need for further surveys during the bat season. This has resulted in a delay to the consideration of this application in order that the appropriate surveys be carried out.

Nocturnal bat surveys have been undertaken in May 2020 and no bats were observed entering or leaving the existing building on site and bat activity within the vicinity of the site was low, with two bats observed foraging in an adjacent garden during the emergence survey and only one bat noted as being in the vicinity during the dawn survey. The findings therefore suggest that bats should not be a constraint to the development. However demolition would need to proceed with caution and any delays of longer than 12 months would require a repeat survey given the transient nature of bats. I am satisfied that this could be controlled and suitably mitigated with an appropriately worded condition. Other mitigation in the form of retaining trees along the periphery of the site is recommended and low level lighting should be employed to prevent any unnecessary light spill on adjacent habitats.

#### *Badgers and Reptiles*

No evidence of badgers or reptiles on the site was found and there is a lack of suitable areas and habitat for badger sett creation or habitat suitable for reptiles in the area. No mitigation is therefore necessary.

#### Breeding Birds

Existing hedgerows, trees and scrub on site offer resources for breeding birds which would have a minor negative impact but mitigation in the form of avoiding clearance during breeding season would afford some protection.

#### Great Crested Newts

Some habitat suitable for GCN was noted within the site albeit no breeding ponds are present and its isolation from potential breeding sites by roads were considered a barrier to movement. The ballast pit 200m from the site is unlikely to be suitable for GCN and no mitigation is considered necessary.

#### *Ecological Enhancements*

In line with the requirements of the Development Plan and the NPPF, consideration of how the scheme would contribute towards habitat creation and improvement has been considered.

The ecologist recommends that grassland areas within the development should be seeded using a species rich meadow or neutral grassland seed mix in preference to a species poor amenity grassland seed.

Existing unmanaged hedgerows could be managed and enhanced by being gapped up using native species that provide fruit and nectar sources for birds, small mammals and insects. Suggested species include holly, hazel *Corylus avellana*, field maple *Acer campestre* and elder. This planting will improve the diversity and structure of the hedgerow. In addition, the hedgerow could be extended along the rest of the southern site boundary and along the western boundary both of which are currently delineated by a wire fence. This would improve the wildlife corridor across the

site and buffer the site from the grassland to the south and west. Other recommendations were also suggested are best considered at reserved matters stage.

It is noted that NWT raise no objection to the scheme now that the additional mitigation strategy for amphibians has been received. Subject to a number of conditions to safeguard the ecological interest of the site and to secure enhancements, I consider that the scheme is acceptable and complies with the Development Plan.

### Developer Contributions

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

Contributions required by this development are set out below. For the avoidance of doubt the applicant has agreed to these being secured through a section 106 agreement.

### *Affordable Housing*

Core Policy 1 provides that for schemes of 11 or more dwellings, on-site affordable housing should be provided with a tenure mix of 60% social rented and 40% intermediate housing. This is reaffirmed within the Council's SPD on Developer Contributions. A scheme for 17 dwellings would require 5 affordable houses on-site to meet the 30%. The mix recommended by the Council's strategic housing officer is for 3 x 2 bed affordable rent (very popular) and 2 x 3 bed units for shared ownership which would fit with the indicative mix. This mix would be secured via the s106 agreement.

### *Public Open Space (Provision for children and young people)*

This application would ordinarily need to make provision for public open space at 18m<sup>2</sup> per dwelling as set out in the Developer Contributions SPD. I would not expect this to be provided on site given its relative modest size and instead would expect that a financial contribution should be provided in lieu of this which would be spent to upgrade the existing parks in the area. This is based on £927.26 per dwelling based on 2016 indexation (which would need to be uplifted).

### *Community Facilities*

Community facilities are defined as including Community Halls, Village Halls, Indoor areas for sport, physical activity, leisure and cultural activity and Halls related to places of worship. The Council's SPD provides where existing infrastructure exists or where small scale developments do not warrant new infrastructure, a contribution may be appropriate to support the existing infrastructure such as a village or community hall or other community asset. It goes on to say that 'it is further recognised that some community facilities are not fulfilling their potential to meet the needs of residents and thus may appear to be underused. In such circumstances qualitative improvements to such facilities would increase their ability to make a positive contribution to meeting the needs of the community.'



The site itself is too small to provide community facilities on it and therefore any additional pressure upon community facilities that this scheme would place upon the community should be met off-site by way of a financial contribution. A financial contribution toward community facilities which is based on £1,384.07 (figure from SPD but indexed at 2016) per dwelling is therefore sought.

### *Primary Education*

The Developer Contributions and Planning Obligations SPD indicates that development which generates a need for additional primary school places will be secured via a legal agreement. The number of primary places required is based on a formula of no. of dwellings x 0.21 to establish the number of child places required. The Local Education Authority previously indicated as there is existing capacity available to accommodate occupiers of the dwellings, no education contribution would be sought and no further comments have been received since, despite public consultation, and the assumption therefore remains that no primary education mitigation is necessary. In terms of secondary education, the development would be covered under CIL regulations.

### Planning Balance and Conclusions

The site lies within the defined built up part of Newark, where the principle of residential development is acceptable in accordance with the spatial strategy.

I have concluded that the quantum of up to 17 dwellings could be accommodated on site without unacceptable harm to the character, appearance or density of the area and that this could be achieved whilst retaining the best quality trees. The ecological value of the site, with appropriate mitigation strategies in place secured by conditions, would be safeguarded and enhanced overall.

The applicant has demonstrated there is a safe means of vehicular access from Barnby Road with appropriate visibility splays and subject to relevant parties entering into a s106 agreement an acceptable means of draining the site for both surface water and foul sewage can be achieved.

I am also satisfied that an appropriate housing mix could be secured including 30% on site provision for affordable housing and that the pressure on infrastructure (such as bus services, community facilities etc) from the development could be mitigated by developer contributions to enhance existing local facilities. The living conditions of existing residents could be safeguarded with a carefully designed scheme advanced at reserved matters stage.

### **RECOMMENDATION**

**That outline planning permission is approved subject to**

- a) the conditions and reasons shown below; and**
- b) the signing and sealing of a section 106 legal agreement to secure the matters summarised below within 4 months of the date of this Planning Committee (failure to do so would result in a refusal on the grounds that the scheme fails to secure an appropriate drainage scheme and developer contributions) unless otherwise agreed with the Chair, Vice Chair and Business Manager for Planning Development:**

<b>Summary of Matters to be secured via a s.106 Agreement</b>	
Affordable Housing	30% on site (5 units in total; 3 x 2 bed affordable rent and 2 x 3 bed shared ownership)
Bus Stop Infrastructure	£13,000 for 2 new bus stops on Barnby Road
Community Facilities	£1,384.07 per dwelling (£23,529.19)
Children's Play Space	£927.26 per dwelling (£15,763.42)
SUDS/drainage features	To be maintained for the lifetime of the development and that drainage strategy be implemented on third party land (with relevant land owners joining in) prior to any other development being carried out on the site
Monitoring contributions for all contributions will also be sought along with appropriate standard triggers for all	As per SPD

### Conditions

01

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

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

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

02

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

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

03

No development shall be commenced until a scheme for archaeological mitigation has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out by a qualified archaeologist or archaeological body approved by the local planning authority. Unless otherwise agreed in writing by the local planning authority, within 3 months of completion of the excavation works, a summary report shall be submitted to the local planning authority and the results of the 'Watching Brief' shall also be made available for inclusion in the archive of information of Nottinghamshire County Council's 'Sites and Monuments Record'.

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

04

Any reserved matters application pursuant to this outline consent shall either be accompanied by a new Arboricultural Impact Assessment or be made in accordance with the Arboricultural Impact Assessment by AWA Tree Consultants (dated November 2019) and in either case shall be accompanied by an Arboricultural Method Statement (AMS) which shall include:

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

All works/development shall be thereafter be carried out in full accordance with the approved AMS.

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

05

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

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

h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

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

06

No site clearance, hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

07

The development shall proceed in full accordance with the Amphibian Mitigation Strategy dated May 2020 by JJH Consulting Ltd unless otherwise agreed by the Local Planning Authority.

Reason: In order to afford adequate protection to amphibians.

08

Unless the bungalow is demolished before 18<sup>th</sup> May 2021, no demolition shall take place until repeat bat surveys are undertaken by a suitably qualified ecologist or organization and details of the findings and any required mitigation strategy have been submitted to and approved in writing by the Local Planning Authority. The demolition shall thereafter be undertaken in line with the agreed mitigation scheme.

Reason: In line with the recommendations of the Supplementary Bat Report undertaken by JJH Consulting Ltd in the interests of protecting bats that could be present on site.

09

Prior to first occupation of any dwelling hereby approved, a Habitat Creation and Enhancement Scheme (HCES) shall be submitted to and approved in writing by the Local Planning Authority. This scheme should build upon the ecological and arboricultural reports submitted with the outline permission and shall contain details of long term management plus a timetable for implementation. The approved HCES shall be implemented on site in accordance with an agreed timetable and retained for the lifetime of the development.

Reason: In the interests of maintaining and enhancing biodiversity.

010

Prior to first occupation of any dwelling hereby approved, details of any external lighting shall be submitted to and approved in writing by the local planning authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution for nocturnal wildlife and amenity such as low level lighting. The

approved external lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual and residential amenity and nocturnal wildlife such as bats.

011

Prior to commencement of any development, the formal written approval of the Local Planning Authority is required with regard to road layout, parking and turning facilities, street lighting, structures, and drainage (hereinafter referred to as reserved matters). All details submitted to the Local Planning Authority for approval shall comply with the County Council's current Highway Design and Parking Guides and shall be implemented as approved.

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

012

No part of the development hereby permitted shall be brought into use until the access to the site show on drawing no. 1506G/001 rev. D, titled: Site Block Plan, dated November 2019 has been completed and surfaced in a bound material for a minimum distance of 5 meters behind the highway boundary with 6.0m radius kerbs on both sides of the access.

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.

013

No part of the development hereby permitted shall be brought into use until the new footway fronting the site along Barnby Road has been designed and installed along the whole width of the site's frontage, to the width of the area from the back of the carriageway to the site's boundary, with no planting permitted in this area in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In the interest of pedestrian and general highway safety.

014

No part of the development hereby permitted shall be brought into use until a new pedestrian dropped kerb crossing has been provided on Barnby Road, as shown for indicative purpose only on drawing no. 1506G/001 rev. D, titled: Site Block Plan, dated November 2019, in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of pedestrian safety and to promote sustainable travel.

015

No development shall be commenced until details of measures to prevent the deposit of debris upon the adjacent public highway during the construction phase of the development have been

submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented on site during the construction phase of the development and in line with the approved details.

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

016

No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Dice Flood Risk Assessment (FRA) ref 100334/LD/November-19/01 Rev A and Drainage Strategy dwg. Ref 100334\_01\_0500\_01, 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. (note at present the proposals do not demonstrate this requirement)
- 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.
- 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.
- 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.

017

The submission of any reserved matters application pursuant to this outline consent shall be accompanied by an up to date Noise Assessment to be undertaken by a suitably qualified person or company. This shall include background noise modelling data where appropriate and where necessary, a Noise Mitigation Scheme shall be submitted to and approved in writing by the Local Planning Authority which considers noise arising from the railway in close proximity to the site and how this can be mitigated for the proposed occupiers of the dwellings hereby approved. The approved scheme shall be implemented on site prior to first occupation of any dwelling subject of the reserved matters application.

Reason: To ensure that noise levels, specifically from the railway line and level crossing are appropriately mitigated and that the mitigation measures are implemented in a timely manner in the interests of residential amenity.

### Notes to Applicant

01

This application should be read in conjunction with the section 106 legal agreement which secures a range of contributions to mitigate the impacts of the development.

02

Network Rail advice of the following:

#### *Barnby Level Crossing*

The site entrance will be in proximity to Barnby Level Crossing which has in excess of 250 trains a day crossing through, many at high speed (125mph). The Signaller at the location from where the crossing is controlled has an obligation to initiate the Barrier Lowering Sequence in sufficient time (at least three minutes) ahead of the arrival of a train at the crossing without compromising its punctuality at maximum operating line speed.

The safety of railway level crossings and of all crossing users is of paramount importance to us. We would ask that level crossing safety leaflets are included in information/welcome packs provided to the new homeowners at the site. These can be provided by ourselves upon request from the developer. Alternatively, information is available online at <http://lxresource.co.uk/campaigns/distraction-campaign>.

#### *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. In particular, during construction work, the crossing must remain clear and unobstructed at all times to ensure crossing users can enter and leave the crossing area safely. Vehicles associated with works must not be parked in a way that obstructs the crossing approaches or warning signage/lights at any time.

03

Cadent Gas advise the following in relation to Low and Medium Pressure Assets. You may be contacted separately by our engineers regarding High/Intermediate Pressure Pipelines.

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance. If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays. If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection

measures are required. All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.  
Email: plantprotection@cadentgas.com Tel: 0800 688 588

04

The applicant is reminded that bats are protected species and this means a criminal offence would be committed if anyone:

- Deliberately takes, injure or kill a wild bat
- Intentionally or recklessly disturbs a bat in its roost or deliberately disturb a group of bats.
- Damages or destroys a place used by bats for breeding or resting (roosts) (even if bats are not occupying the roost at the time)
- Possesses or advertises/sells/exchanges a bat of a species found in the wild in the EU (dead or alive) or any part of a bat.
- Intentionally or recklessly obstructs access to a bat roost.

05

Nottinghamshire County Council Highways Authority wish to make the applicant aware of the following:

#### Reference to other documents

Reference in any condition contained in this permission to any Statute, Statutory Instrument, Order, Regulation, Design Guide or other document shall be taken to include any amendment, replacement consolidation or variation that shall from time to time be in force and any reference to anybody or organisation (public or private) shall be taken to include any successor-body or organisation exercising relevant functions in place of or alongside the body named.

#### Works in the highway / Section 278 Agreement (Highways Act 1980)

In order to carry out the off-site works required the applicant 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 the applicant has no control. In order to undertake the works the applicant will need to enter into an agreement under Section 278 or obtain appropriate licence to carry out any works in the highway. Please call 0300 500 8080 to enquire about installation/amendments to vehicular access.

#### Building Works shall not project over the highway

No part of the proposed building/wall or its foundations, fixtures and fittings shall project forward of the highway boundary.

#### Prevention of Mud on the Highway

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such the applicant should undertake every effort to prevent it occurring.

#### Network Co-Ordination

The applicant must contact Nottinghamshire County Council as the Highway Authority on 0300 500 8080 for road space approval prior to any works commencing.

#### Private street information



As a private street, the Advance Payments Code (APC) under the Highways Act 1980 will apply unless an exemption is made. To be exempt the following conditions should be met:

- The deposit of a map with the Highway Authority under Section 31 (6) of the Highways Act 1980 identifying the roads which are to remain private.
- The erection and maintenance of a road sign(s) indicating that the road is private.
- The provision of evidence that potential purchasers of the dwellings have been/will be made aware of the unadopted status of the road and what this will mean to them in practice;
- The provision of evidence that future maintenance of the road has been secured. For example, a unilateral undertaking under Section 106 of the Town and Country Planning Act to set up a maintenance company; the boundary between the private road and the publicly-maintained highway should be clearly marked by a concrete edging, boundary posts or similar.

Please seek further information in Nottinghamshire Highway Design Guide available online on <https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide> - For the APC procedure, please see Part: Adopting new roads and the advance payment code section. - For Section 278 works, please see Part 6: Working on existing highways – Section 278 and Section 184 procedures. - For the highway design, please see Part 3: Design Guidance.

06

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).

07

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

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

#### BACKGROUND PAPERS

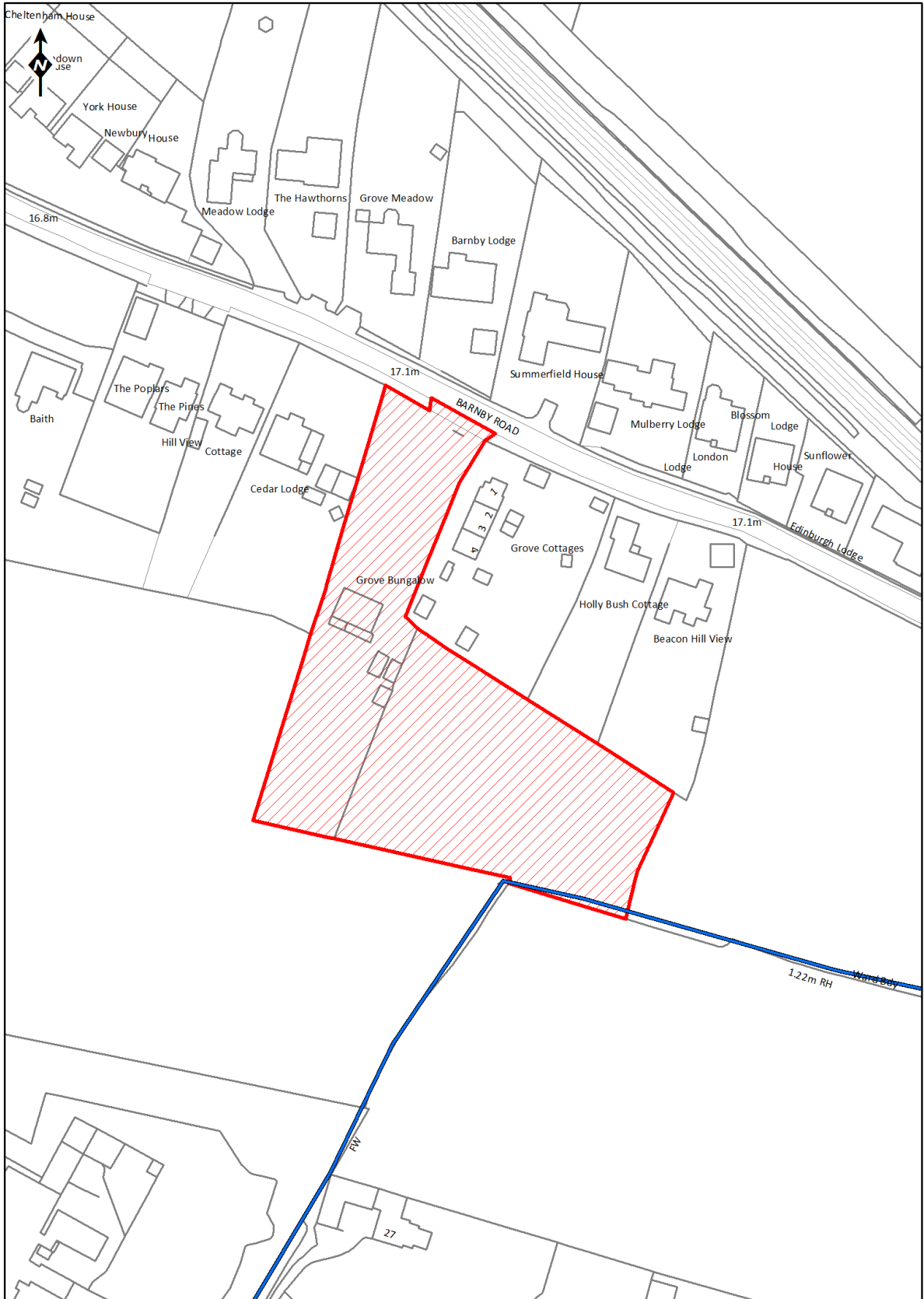
Application case file.

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

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

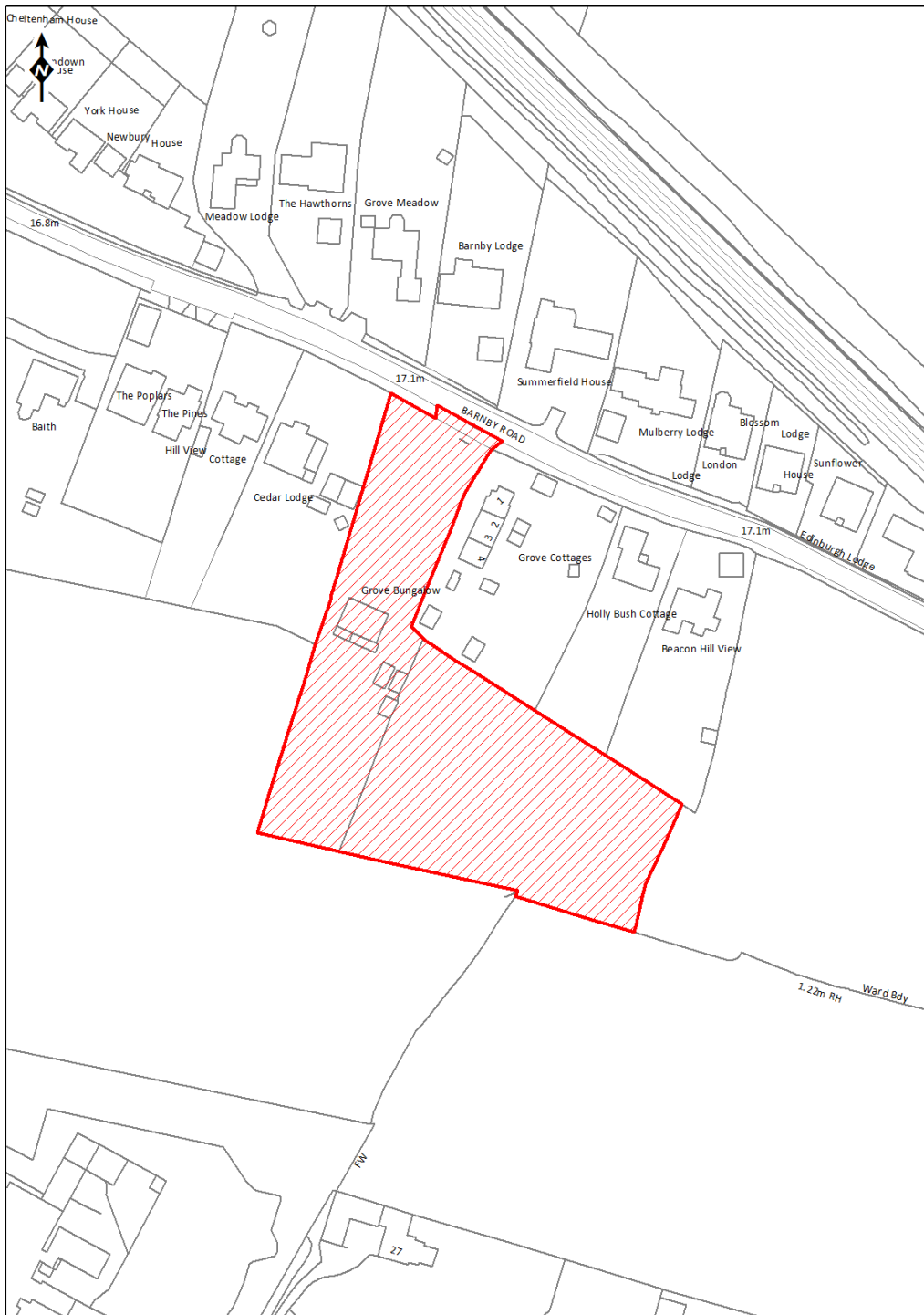
**Lisa Hughes**  
**Business Manager – Planning Development**

Committee Plan - 19/02158/OUTM



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Committee Plan - 20/01720/OUTM



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## COMMITTEE REPORT – 3<sup>rd</sup> NOVEMBER 2020

<b>Application No:</b>	<b>20/00873/FULM</b>	
<b>Proposal:</b>	<b>Residential development of 103 dwellings and associated access and infrastructure</b>	
<b>Location:</b>	<b>Field Reference Number 7108, Eakring Road, Bilsthorpe</b>	
<b>Applicant:</b>	<b>Keepmoat Homes - Miss Elizabeth Woodhouse</b>	
<b>Agent:</b>	<b>Geoff Perry Associates Ltd - Mrs Sinead Rose</b>	
<b>Registered:</b>	<b>10.06.2020</b>	<b>Target Date: 09.09.2020</b>
	<b>Extension of Time Agreed Until 04.11.2020</b>	
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QB1R8DLBHIG00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QB1R8DLBHIG00</a>	

**The application is being referred to committee as the Officer recommendation is contrary to the objection from the Parish Council.**

### The Site

The application site relates to a broadly rectangular plot of land approximately 3.8 hectares in extent to the east of Eakring Road. The site falls within the defined village envelope for Bilsthorpe at the very north eastern extent.

The site lies adjacent to the former Bilsthorpe Colliery, which closed in 1997. An old railway line (which has been dismantled) lies to the north of the site, and now appears to be informally used as a footpath/track.

There are existing residential curtilages on the opposite side of Eakring Road. Land to the north east is identified as being a site of interest in nature conservation owing to being recognised as an important site for breeding waders. Land to the south is currently in commercial use whilst land immediately to the north and the east is open in nature with woodland screening along the east elevation.

### Relevant Planning History

**17/01139/OUTM** - Residential development up to 85 dwellings (Class C3), up to 3,000 sqft (280 sqm) retail development (Class A1), and associated access works including details of a new access junction into the site from Eakring Road.

*The application was approved at the Planning Committee on 3<sup>rd</sup> April 2018 albeit the decision was not issued until 1<sup>st</sup> June 2018 owing to the required Section 106 completion. A condition was imposed requiring submission of reserved matters within three years and therefore the outline consent remains extant until 1<sup>st</sup> June 2021.*

## The Proposal

The proposal seeks full planning permission for the erection of 103 dwellings, 93 for the market sector and 10 as affordable provision. The development would be delivered through 11 different house types ranging from 2 to 4 beds and 2 to 2½ storeys. It is proposed that there would be an area of public open space broadly centrally within the site and an attenuation pond would feature at the south western corner of the site.

The application has been considered on the basis of the following plans and documents:

- Planning Layout – P-01 Rev. P;
- Massing Plan – A 871 Drg No. 002 Rev. C;
- Occupancy Plan – A 871 DRg No. 003 Rev. C;
- Tenure Plan – A 871 Drg No. 004 Rev. C;
- Enclosures Plan – A 871 Drg No. 005 Rev. C;
- Parking Plan – A 871 Drg No. 006 Rev. C;
- Site Location Plan – A 871 Drg No. 08;
- External Finishes Plan – A 871 Drg No. 009 Rev. C;
- Material Plan – A 871 Drg No. 010 Rev. C;
- Street Scenes – A 871 Drg No. 11 Rev. B;
- Drainage Strategy – Option 5 (with additional plots) – 19017 Drawing No. 8 Rev. B;
- House Type Booklet received 28<sup>th</sup> May 2020;
- Exploratory Hole Location Plan – 19017 Drawing No. GE01 Rev. B dated 06.06.19;
- Analytical Report Number : 19-66188 dated October 2019;
- Arboricultural Assessment by fpcr dated May 2020;
- Archeological Desk based assessment by prospect archeology – Report No.: KEE01-01v4 dated November 2019;
- Design and Access Statement by Keepmoat Homes dated November 2019;
- Ecological Appraisal by fpcr dated May 2020;
- Environmental Noise Survey by noise.co.uk Ltd Report No 20482-1 – R1 dated 27<sup>th</sup> May 2020;
- Flood Risk Assessment and Drainage Strategy by travis barker – 19017 Rev. C dated 26<sup>th</sup> May 2020;
- Flood Risk Assessment and Drainage Strategy Addendum Report by travis barker – 19017 dated 9<sup>th</sup> July 2020;
- Geo-Environmental Assessment Report by Travis Barker – 19017 – Rev. R01;
- Itemised list of Plots / house types – A871\_16;
- Landscape and Visual Appraisal by fpcr dated May 2020;
- Landscape Proposals Sheet 1 of 3 – c-1704-05 Revision A;
- Landscape Proposals Sheet 2 of 3 – c-1704-06 Revision A;
- Landscape Proposals Sheet 3 of 3 – c-1704-05 Revision A;
- Transport Assessment (and associated drawings) by travis barker – T19017/TA/01 Rev, B dated 27<sup>th</sup> May 2020;
- Viability Assessment by Atlas Development solutions by letter dated 22<sup>nd</sup> June 2020 with associated appendices;
- Residential Travel Plan by travis baker – T19017/RTP/01;
- Letter from fpcr dated 2<sup>nd</sup> July 2020 – Ref: 9264E / NJL;
- Parking Dimensions – A 871 drg no. 17 Rev. A;

- Written Scheme of Investigation – Archaeological Evaluation by prospect archaeology KEE01-02 dated July 2020;
- Environmental Noise Assessment by noise.co.uk ltd prepared 25<sup>th</sup> August 2020 – 21122-1;
- Email dated 1<sup>st</sup> July re: commitment to retail scheme and proposed site layout plan;
- Market Research Report received by email dated 19<sup>th</sup> August 2020;
- Bilsthorpe local area information received by email dated 19<sup>th</sup> August 2020;
- Archaeological Evaluation Report: Trial Trenching on Land off Eaking Road, Bilsthorpe by Allen Archeology Ltd. Report No. ALL 2020099 dated September 2020;
- S278 Existing Bus Stop Improvements – M200-TBC-XX-M2-C-S278\_992 Rev A;
- S278 Pedestrian Crossing Facility – M020-TBC-XX-M2-C-S278\_991 Rev A;
- Pedestrian Crossing Assessment by travis barker – T19017/PA/01;

#### Departure/Public Advertisement Procedure

Occupiers of 63 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 5 – Delivering the Strategy  
 Spatial Policy 6 – Infrastructure for Growth  
 Spatial Policy 7 - Sustainable Transport  
 Core Policy 1 – Affordable Housing Provision  
 Core Policy 3 – Housing Mix, Type and Density  
 Core Policy 9 -Sustainable Design  
 Core Policy 10 – Climate Change  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 Core Policy 13 – Landscape Character

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

DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
 DM2 – Development on Allocated Sites  
 DM3 – Developer Contributions and Planning Obligations  
 DM4 – Renewable and Low Carbon Energy Generation  
 DM5 – Design  
 DM7 – Biodiversity and Green Infrastructure  
 DM12 – Presumption in Favour of Sustainable Development

##### Other Material Planning Considerations

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

- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Draft Residential Cycle and Car Parking Standards & Design Guide Supplementary Planning Document ('SPD') 2020

### Consultations

**Bilsthorpe Parish Council** – Voted to object to the proposal and would like the below to be taken into consideration

- The parish council in 2018 voted to object to the planning application on the reason attached in the email when it was 85 houses
- Councilors' felt that the objection was still valid with additional concerns of the increase in house numbers, increased traffic and road users, lack of greenery on the development, concerns on the position of the pedestrian access to the commercial unit, lack of safe pedestrian crossing on Eakring Road and although we may have missed this where is the onsite children's play area provision or equivalent 106 contribution?
- The parish council would also like to ask that if the application is approved by the planning committee what guarantees will be in place that the commercial premises (shop) will be built

**NSDC Community, Arts and Sports Manager** – request a community facilities contribution in accordance with the current SPD.

**NSDC Parks and Amenities** – Verbal discussed referenced in appraisal below.

**NSDC Archaeological Advisor** – Confirmation that the Written Scheme of Investigation (Ref: KEE01-02) prepared by Prospect Archaeology is acceptable.

**NSDC Environmental Health (contaminated land)** – No objection subject to use of contamination condition.

**NSDC Environmental Health (noise)** – Original comments requiring additional noise modelling but latest comments confirmed no objections subject to conditions relating to construction phase.

**NSDC Tree Officer** – Suggestion that areas such as the POS and attenuation pond have a more diverse tree mix that takes advantage of the space available for the addition of larger species. Other conditions recommended for the protection of trees.

**NSDC Strategic Housing** – Note the evidence supplied and also the reference to demand for larger properties. Concur with the evidence in the main, there is still a demonstrable demand for smaller properties i.e. most of the searches for property in this area is for lower value dwellings.

**NCC Planning Policy** – Reference to proximity to several waste management facilities and potential visual intrusion. Contributions sought towards bus provision (£15,500); Libraries (£3,631); No primary education but Secondary education (£382,000).

**NCC Flood Team** – Original comments objected due to insufficient surface water drainage information but this has been provided during the life of the application and the latest comments confirm no objection subject to condition.

**NCC Highways Authority** – Original comments raising issues regarding a pedestrian crossing facility; provision of a footway and improved internal pedestrian movements. Comments also made regarding detail of the Travel Plan albeit agreeing could be amended through condition.

Latest comments accept development would not justify a pedestrian crossing and confirming that bus stop contribution should be £18,500 (rather than the £15,500 referred to by NCC Policy above).

No objections subject to conditions.

**NCC Ecology** – No comments received.

**NCC Rights of Way Officer** - No public rights of way recorded over the proposed development site.

**Natural England** – Natural England has no comments to make on this application.

**Nottinghamshire Wildlife Trust** – Original comments suggested further works prior to the commencement of development but latest comments confirm no objection subject to conditions.

**Trent Valley Internal Drainage Board** – No comments received.

**Severn Trent Water** – No comments received.

**NHS CCG Nottingham and Nottinghamshire** - Request for £101,146 towards Bilsthorpe Surgery; Farnsfield Surgery and Major Oak Surgery.

**One letter of representation has been received forming an objection to the proposal for the following summarized reasons:**

- The development has increased from 75 in 2018 then 85 in 2019 and now 103 but the site is no bigger;
- Money is more important than the size and type of dwellings that are needed by people in Bilsthorpe;
- Less than 10% are affordable dwellings;
- Bilsthorpe needs more 2 bed dwellings;
- There will be drainage problems to plots 90-95 as that areas of the site welcomes waterlogged after rain;
- There are already problems with the doctor's appointments and the primary school capacity;
- The bus service is limited so vehicles will be required;
- The areas marked for parking are too small for vehicles so will cause parking problems;
- When there is an accident on the A614 Eakring Road becomes the diversion;
- The entrance to the site is where pupils wait for the secondary school bus;
- The development will lead to an increase in noise;
- The site is used as a landing site for the air ambulance when it needs to come to the village;
- There is a homeless person who lives in a tent of the site and will be displaced;

Comments of 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* (emphasis added) material considerations indicate otherwise.

The principle of developing the site for residential purposes has already been accepted by both the site allocation within the Development Plan but also the extant outline permission which relates to the site. However, the current application is materially different to the extant permission and the development envisaged by the site allocation in that the quantum of residential dwellings is greater and the development no longer proposes a retail element (albeit discounts this element of the site).

The site allocation envisages a mixed use development providing around 75 dwellings and retail development. Specific requirements of Policy Bi/MU/1 are for the consideration of an appropriate design which addresses the site's gateway location as well appropriate phasing of retail and residential uses and pre-determination archaeological investigations.

Whilst the current proposal seeks for 103 units, this is not necessarily fatal in principle. The main aim of the allocations process was to deliver the minimum number of dwellings to satisfy the requirements of the Core Strategy and thus a greater delivery of housing is not necessarily resisted in principle subject to the proposal being able to satisfy the relevant policy requirements.

The current application has been submitted by a house builder and therefore does not seek permission for the retail element of the site allocation (which was included in the extant outline permission). The outline application was conditioned on the basis of a phasing plan which ensures that the retail development comes forward before 'Phase 2' of the residential development is delivered (i.e. there would have been some dwellings; then the retail unit; then the rest of the dwellings).

The site location plan for this application does not cover the whole of the site allocation leaving a small plot of land along the eastern boundary towards the south of the site which could cater for retail provision. However, the applicant is clearly not seeking permission for any retail proposal, nor can they guarantee that such a proposal will come forward separately. Email exchanges have been received during the life of the application regarding the submission of an application from a third party for the retail element and it is understood that legal contracts are in place to purchase the site subject to planning. An application for a retail unit has now been validated albeit is at the early consultation stages (reference 20/01965/FUL).

Notwithstanding the assurances provided during the life of the application, the delivery of the retail unit (if approved) is clearly beyond the control of this applicant.

The lack of retail provision was raised as an issue during pre-application discussions. Retail studies have highlighted the very limited convenience retail offer in the village and as a result the village performs poorly when compared to similarly sized settlements elsewhere in the District. The inclusion of the retail use in the site allocation is intended to help resolve this under provision and in doing so boost the sustainability of the settlement (and ultimately support the additional housing allocations). The development plan, in allocating for a mixed use site, has made a strategic

intervention and the rationale behind this intervention has not gone away. However, it is relevant that the most recent retail studies (from 2016) do not explicitly reference this site allocation or indeed advance to suggest that if no delivery of the retail element came forward, serious planning harm would arise.

The case being made by the applicant is that the policy allocation is not explicit in respect to a defined order of delivery and that the residential scheme needs to come forward first to facilitate the delivery of the initial infrastructure required to assist in the delivery of the retail unit. However, this argument is considered flawed given that a retail provider has already come forward with an application without the residential permission being in place.

The issue at hand is a matter of phasing. This has been subject to lengthy discussions during the life of the application with Officers warning that it could form a reason to resist the application. The applicant subsequently submitted a Counsel opinion and Officers have therein sought advice from legal colleagues.

Officers concede that the policy allocation is not prescriptive and indeed does not require the residential and retail parts of the allocation to come forward by the same developer. The difficulty is that the severance of parties leaves the LPA with no control over when the uses will come forward. A Section 106 agreement would not be appropriate given that the retail delivery is outside of the control of the applicant.

There is no doubt a comprehensive scheme would have been favourable to align with the policy allocation. However, in the context of the pending retail application (which received favourable pre-application advice) it is difficult to envisage how the LPA could defend a refusal purely on the separation of the land uses. The commitment of the retail provider to submit an application and indeed the legal contract with the land owner to purchase the site due to planning, provides some level of assurance of market delivery.

Whilst Officers still remain concerned that there are risks in approving a solely residential scheme, after careful consideration of all matters, it is not considered that the failure to satisfy the phasing requirements (which is not prescriptive) of Policy Bi/MU/1 would be a reason to refuse the application and one that could not be held up at appeal.

#### Housing Mix, Type and Density

Core Strategy Core Policy 3 indicates that housing developments should be no lower than an average 30 dwellings per hectare and that sites should provide an appropriate mix of housing types to reflect local housing need. The housing mix, type and density will be influenced by the Council's relevant development plan policies at the time and the housing market at the time of delivery.

The proposed development seeks 103 residential units which is significantly higher (around 37%) than the site allocation of 75 units. Based on a site area of 3.8 hectares, the development would deliver circa 27 units per hectare albeit once the non-developable area is discounted (i.e. the attenuation pond and the area of public open space) the density of development would be around 31 dwellings per hectare. This is considered acceptable in the context of the aspirations of Core Policy 3.

The proposed development seeks permission for the following mix, all of which between 2 and 2.5 storeys in height:

<b>Number of Beds</b>	<b>Affordable Units</b>	<b>Market Units</b>
1-bed	0	0
2-bed	10	0
3-bed	0	58
4-bed	0	35
<b>Total</b>	<b>10</b>	<b>93</b>

The District Council have commissioned a Housing Market and Needs Assessment (HMNA) in 2014 dividing the District into survey areas. Bilsthorpe is within the Sherwood sub-area where the greatest need in the market sector is for three bed dwellings. The greatest need in the affordable sector is for 2 beds and therefore this element of the proposal is supported (notwithstanding the number of units of affordable housing which is discussed in the Developer Contributions section below).

The following table outlines a comparison of the market sector demand by bed size against the proposed development as presented (and subsequently excluding the affordable housing units):

<b>Number of beds</b>	<b>% preference of market demand according to HMNA 2014</b>	<b>% of beds in market delivery of proposal as submitted (as a % of 93 units)</b>
1-bed	0	0
2-bed	36.1	0
3-bed	50.5	62.4
4-bed	13.4	37.6
<b>Total</b>	<b>100</b>	<b>100</b>

The delivery of a majority 3-bed units is supported in principle. However, the total lack of 2 bed units in the market provision is not reflective of the 2014 survey results. Clearly the 2014 survey is now some 6 years old and may not be truly reflective of the current position (the survey is in the process of being updated).

Notwithstanding the results of the survey, the scheme would benefit from some form of mix for the affordable provision and a greater mix (i.e. not just 3 and 4 beds) for the market provision. It has been suggested to the agent during the life of the application that some of the 3 bed units are given over to the affordable provision swapping some of the 2 bed units to market.

The scheme has not been amended as suggested but the applicant has responded by email dated 19<sup>th</sup> August 2020 which includes a justification statement and associated sales statement and market research report for the proposed housing mix.

The Sales Statement includes local area information which is not disputed and indeed the LPA agree that Bilsthorpe is a sustainable and desirable settlement. Of more specific relevance to this application is the statement that there has been an influx in demand for 3 and 4 bed properties due to the shift in priority to be working from home which requires flexibility in space. The report

then goes on to discuss Keepmoat Homes house types and makes reference to other sites where such house types have sold out.

There is no dispute that the 3 and 4 bed homes may be desirable (indeed they do form part of the housing needs mix outlined above). The issue at hand in this application is that there are no 2 bed properties presented for the market sector. The point regarding greater working from home is understood to relate to the Covid-19 pandemic but clearly it is too early to conclusively understand whether this will have long term impacts on housing need.

Officers have also considered the submitted Market Research Report which concludes that the demand in this location will be from families looking for predominantly 3 and 4 bedroom homes.

Clearly these reports have been commissioned by the applicant to support the current scheme under methodology not previously agreed with the LPA. Officers have therefore taken the opportunity to discuss the documents with the LPA Housing Strategic Officer to ascertain whether they should hold material weight in the decision noting the age of the 2014 HNS. The following comments have been offered:

*I note the evidence you have supplied and also the reference to demand for larger properties. Whilst I concur with the evidence in the main, there is still a demonstrable demand for smaller properties i.e. most of the searches for property in this area is for lower value dwellings. Evidence of the average income is provided at just over £30,000 per annum. This would indicate that properties in the region of £120,000 would be desirable for first time buyers.*

*I acknowledge the demand for larger properties that you are seeking, however a scheme that aligns with the housing need for a wider range of 1, 2, 3 and 4 beds in the market sector would be supported by Strategic Housing. The current proposal as it stands for 3 and 4 bedrooms does not provide for the wider community and their range of incomes.*

Notwithstanding the above, Core Policy 3 refers to the potential for mix to be dependent on the viability of the development. As is explored further below, the applicant has presented a viability case which has been accepted by the Council's appointed Independent Consultant. The applicant's case is that the inclusion of 2 bed units in the market sector would be inconsistent with the marginal viability position presented and that the local evidence provided during the life of the application confirms a strong demand for the applicant's target market of first time buyers and affordable family homes.

Planning policy relating to housing mix seeks to deliver balanced communities as part of sustainable development. The skew towards larger units in the market sector is a cause for concern in achieving this balance. However, noting that the majority 3 bed units would align with the local housing needs but moreover attaching significant weight to the viability case presented, Officers do not consider that there would be a strong enough case to resist the application solely on housing mix.

#### Impact on Landscape Character

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive. Core Policy 9 states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments.

The landscaping impacts of the proposal were clearly considered at site allocation stage with Policy Bi/MU/1 explicitly requiring development proposals to address the sites gateway location in order to manage the transition into the main built up area. The site allocation itself implicitly accepts that the site characteristics will fundamentally change.

Unlike the indicative scheme presented at outline stage (which was purely indicative and was not formally assessed in respect of layout), the plans for the current application seek to present principal elevations to the northern boundary of the site which forms the edge of the village envelope. Of concern is that the layout presents the driveways and turning heads in front of these elevations such that the edge of the development would be primarily areas of hardstanding with little space for landscaping to soften this impact. This arrangement was raised as a cause of concern to the applicant at pre-application stage.

The submitted Design and Access Statement includes a Character Assessment of the surrounding area but this is presented in the context of the choice of house types rather than the resultant landscape impacts of the proposal. There is seemingly no acknowledgement of the policy requirement to integrate the development into the open countryside.

This has been addressed partly during the life of the application through a revised layout plan which now includes some small areas of landscaping at the northern boundary. To clarify this is not along the entire length and there would still be a vehicular turning head abutting the site boundary.

Core Policy 13 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 within the Mid-Nottinghamshire Estates Farmlands with Plantations specifically Policy Zone MN24 Rufford Park Estate Farmlands with Plantations. The landscape condition within this PZ is defined by the guidance as poor. It has an incoherent pattern composed of industrial and agricultural elements which give an overall visually interrupted area. The landscape sensitivity is defined as very low.

Again unlike the outline application, the current application was not originally accompanied by a Landscape and Visual Impact Assessment. Clearly in the context of a full application, this will have even more benefit as it the actual development proposed which could be imposed on the landscape through visuals from certain viewpoints.

Having visited the site, there is an acknowledgement that the topographical changes in the area mean that the site is not readily visible on approach from the north until the observer is relatively close to the site boundary. However, the original submission lacked the technical assessment to fully assess the landscape implications of the proposal. This has been raised as an issue with the

applicant during the life of the application and a Landscape and Visual Impact Assessment has now been received as well as associated detailed landscape proposals.

The submitted LVIA concludes that for the larger scale character areas, the landscape effects are generally negligible due to the proportionately small scale of the site in comparison to the extensive character areas, and the lack of inter-visibility due to the enclosed nature of the site. A conclusion of negligible effects is continued to a regional and District level due to the aforementioned visual enclosure. For the site itself, the impacts are deemed minor adverse once the associated green infrastructure has been able to establish and *'allows the development to settle into the existing village edge context'*.

Visual effects are also assessed with the acknowledgement that nearby residential properties are likely to suffer a moderate / minor adverse visual effect acknowledging the change from open landscape to residential development.

The methodology employed in preparing an LVA requires a level of technical expertise. Therefore in the interests of robust decision making, Officers have sought an independent review of the submitted document during the life of the application.

The appointed consultant, Via East Midlands, confirms the initial Officer assessment above regarding the site being visually contained and therefore concur with the applicant that the landscape impacts will not extend a great distance from the site. Ultimately Via East Midlands are in agreement with the conclusions of the submitted LVIA and have identified no fundamental landscape issues arising from the proposal. Their comments do make reference to the need for detailed landscape proposals and tree protection measures, both of which could be secured by condition if permission were to be otherwise forthcoming.

#### Impact of Dwelling Design

Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

The properties represent 11 different house types ranging from 2 bed to 4 beds.

The Government has published 'Technical housing standards – nationally described space standard' in March 2015. This document deals with internal space within new dwellings and is suitable for application across all tenures. However the National Planning Policy Guidance (online tool) is clear in stating that if an LPA *"wishes to require an internal space standard, they should only do so by reference in their Local Plan to the Nationally Described Space Standard."* Provision in a local plan can also be predicated on evidence, as the NPPG goes on to describe. In the case of NSDC we have not adopted the national space standards and thus the guidance is that one should not *require* (emphasis added) them for decision making. The standards however do exist and must be material in some way.

The following table is lifted from the March 2015 document:

**Table 1 - Minimum gross internal floor areas and storage (m<sup>2</sup>)**

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	
4b	5p	90	97	103	3.0
	6p	99	106	112	
	7p	108	115	121	
	8p	117	124	130	
5b	6p	103	110	116	3.5
	7p	112	119	125	
	8p	121	128	134	
6b	7p	116	123	129	4.0
	8p	125	132	138	

**Table 2 – Assessment of submitted development**

House Type	No. of beds	Floor space (m <sup>2</sup> )	Space standard requirement (m <sup>2</sup> )	Compliance against (m)
Halstead	2 (4P)	60.5	79	-18.5
Danbury	3 (5P)	77.3	93	-15.7
Caddington	3 (5P)	79.0	93	-14.0
Wentworth	3 (5P)	78.2	93	-14.8
Warwick	3 (5P)	79.7	93	-13.3
Windsor	3 (5P)	80.7	93	-12.3
Stratten	3 (5P)	98.6	99	-0.4
Stavelly	3 (5P)	95.8	93	+2.8
Rothway	4 (6P)	95.5	106	+10.5
Eaton	4 (6P)	118.8	106	+12.8
Burton	4 (7P)	120.5	106	+14.5

The standards do not define a 2.5 storey dwelling but given that the accommodation would be delivered across 3 storeys, for the relevant house type (Stratten) a 3 storey figure has been used. As is shown above, whilst the 4 bed units would comfortably exceed the national space standards, the vast majority (all but one) of the 3 bed house types and the 2 bed house type would fall notably short. The largest discrepancy being the 2 bed unit at 23% short. On average the 3 bed units delivered across 2 storeys would be 12% short of the standards.

The Design and Access Statement presents Keepmoat Homes as a ‘top 10 homes builder’ (albeit does not qualify the source for this statement). It is therefore highly disappointing to note that the majority of the smaller units presented by the application would not achieve what the government consider (again to clarify not adopted by NSDC) to be a minimum space requirement. The agent has been asked to comment on this point during the life of the application.

The applicant has responded essentially detailing that the range of house types presented is based on their target market and popularity and sales success of said house types:

*“Ultimately, the mix and house-types put forward have been informed by a very considered evidence base approach and we are accordingly confident that the proposal will be very well received by the local housing market. We consider that the Keepmoat product is perfect for the site location and Bilsthorpe as an area in general and we look forward delivering a scheme that will benefit the area whilst making an important contribution to the wider District housing need.”*

Without evidence outlining a specific required space standard for the District or indeed any evidence to the contrary in respect to product sales, it would be extremely difficult to resist the applications solely on this basis. The applicant would have a case to make that any proposed occupiers would be well aware of the size of the units prior to purchase and this must be weighted in the overall planning balance. This unfortunately appears to be a position the LPA are having to accept on numerous occasions in recent decision making.

The overall aspirational character of the site appears to be modern in nature with a varied use of materials. The use of 11 different house types adds visual interest both in individual plots and for the site as a whole. The varying house types are dispersed around the site with both semi-detached and detached units. The application has been accompanied by a materials plan which details facing brickwork in a majority red mixture but interspersed with a natural grey stone. The visual impact of this is perhaps best demonstrated by the submitted street scene plans:



The contrast of materials is welcomed and responds well to the character evaluations in the Design and Access Statement. Overall the visual appearance of the proposed house types are considered acceptable in the context of Policy DM5.

The application has been accompanied by an enclosures plan, which demonstrates that rear gardens would be bounded by 1.8m close boarded fences which are considered appropriate in terms of achieving privacy for residents. It is welcomed that the attenuation pond at the south of the site would be enclosed by a modest post and rail fence. It is also welcomed that, where plots bound the highways network, their boundaries would be formed of 1.8m high stone walls which are considered to be a more attractive arrangement than a timber fence against a highway. The compliance with the submitted enclosures plan could be conditioned to any forthcoming permission negating the need to submit further details at a later date.

There are other design principles of the scheme which have not been explicitly referenced above but are noted and deemed to represent good design. Namely, the area of open space proposed broadly centrally within the site (and to some extent the drainage basin at the south of the site) would be well overlooked by principal elevations. This would give a sense of ownership to the areas and create an attractive and safe living environment and legibility of the space.



## Impact on Highways

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision and seeks to ensure no detrimental impact upon highway safety.

The application has been accompanied by a parking plan which helpfully annotates which spaces would be allocated to which plots and identifies internal and detached garages (both of a sufficient size to contribute towards the overall parking allocation). As a general principle, the majority of the parking provision is demonstrated to the side of plots which is welcomed in terms of reducing the visual impact of hardstanding. In terms of quantum of parking, each 2 and 3 bed dwelling is allocated at least two parking spaces and each 4 bed allocated at least 3. In the main, the spaces are positioned immediately adjacent to the dwelling such that they would be a convenient solution to off street parking requirements. There are a couple of cases, e.g. the affordable 2 bed plots no. 96 and 98 where one space would be on the opposite side of the turning head. However, given this is an exception rather than a rule and given that these are 2 bed units, there may not be requirement to use both spaces in any case.

The greatest concern in respect to the proposed parking arrangements is that a significant proportion of the four bed plots have their 3 spaces delivered in tandem. The issue with this is that the use of the furthest back space becomes undesirable given the number of manoeuvres it takes to move the vehicle with two others parking in front of it. This has been raised with the agent during the life of the application but the revised plan continues to show this to be an issue on 19 of the 35 four bed plots. This level of tandem parking on a scheme of this size is not considered to be a desirable design approach and must weigh negatively in the overall planning balance (the LPA is currently out to consultation on a parking standards SPD which specifically seeks to avoid such arrangements). However, due to the stage that this is at, in accordance with paragraph 48 of the NPPF, very little weight can be attributed to this document.

The internal road network has been assessed by Nottinghamshire County Council through their role as the Highways Authority. The comments refer to the wider road network in the village, namely the junction improvements which are needed for the A614/Mickledale junction, but as is clarified by the comments, these works are on the Council's CIL 123 list and therefore cannot be attributed to a single developer to deliver.

The original comments request that the development is mitigated through a pedestrian crossing; footway and improvement to bus stop infrastructure noting the additional pedestrian crossing movements which will occur due to all the local facilities lying on the opposite side of Eaking Road. Pedestrian accessibility within the site itself was also considered inadequate requiring a footway link on the border of the public open space. The latest site layout plan shows that the public open space would include a footpath link and the footpath on the eastern side of Eaking Road has also been included. Additional information has been submitted during the life of the application disputing the need for the pedestrian crossing and the latest comments from NCC Highways accept that the residential development alone will not generate sufficient pedestrian movements to justify a formal pedestrian crossing facility. The comments continue to promote the need for bus stop improvements and a dropped kerb facility between the site access and Mickledale Lane.

The original comments of the Highways Authority also raised concern with the proposed size of some of the allocated car parking spaces (which is noted through the consultation responses from a neighbouring party). To address this point, the applicant has submitted a dimensions plan of the proposed parking spaces which has been reviewed by NCC Highways. Overall, NCC Highways raise no objection to the development subject to a suite of conditions which could be included / included within an associated legal agreement if permission were to be forthcoming. Some of the requested conditions (i.e. footpath on Eakring Road) would need to be included into the S106 instead as they are outside of the red line.

The application has also been accompanied by a Residential Travel Plan. This details measures such as an annual travel survey which will seek to identify travel behaviour and periodic traffic counts. In addition a Travel Guide will promote walking and cycling. NCC comments make reference for the required revisions to the Travel Plan but an updated version could be conditioned should permission be forthcoming.

### Impact on Amenity

Policy DM5 seeks to protect the amenity for both existing neighbouring residents but also to provide appropriate levels of amenity provision for proposed occupiers.

Being at the edge of the village envelope, the site has the advantage that the majority of the shared boundaries are with the open countryside and therefore the amenity relationship with existing properties would be limited. The closest amenity relationship with existing properties in the village would be to the west of the site on the opposite side of Eakring Road. Given the presence of the highway, distances of at least 27m between principal elevations would be achieved. These distances are considered sufficient to avoid any undue impacts of direct overlooking or loss of privacy.

There would of course be a risk of increased noise and disturbance through the introduction of 103 additional residential units. However, this would not be an uncommon scenario in a built up settlement and in any case, as is detailed by the submitted noise survey, existing residents closest to the site, on the opposite side of Eakring Road, would already be susceptible to the noises associated with vehicular traffic of this main route through the village in any case. The residential development of the site is not considered to materially affect existing neighbouring amenity to a degree which would warrant resistance of the proposal. The impact of the development would also have been a consideration when the site was allocated for development.

As identified above, the application has been accompanied by a Noise Survey to determine the required façade sound insulation to meet relevant guidance. Essentially the survey expects that the properties fronting Eakring Road will be susceptible to a medium risk of adverse noise impacts from Eakring Road and therefore requires an acoustic design process to mitigate these impacts (namely specific glazing installation). The document has been assessed by colleagues in Environmental Health. The comments make reference to the need for a noise assessment for any retail element albeit clearly there is no retail development proposed with this application and therefore those specific comments are not relevant to the current determination.

Notwithstanding this, the comments do request that noise levels are modelled across the site to provide a definitive answer as to whether external sound pressure levels meet the guideline values. The applicant has responded on the basis that the main noise source is Eakring Road making the noise model relatively simple. An updated Environmental Noise Assessment has been

received dated 25<sup>th</sup> August 2020. This document concludes that no additional mitigation is deemed necessary to mitigate and minimize the sound from industrial / commercial sources.

The document has been reviewed by colleagues in Environmental Health with a subsequent request for calibration certificates. These have now been received and Environmental Health have confirmed that they have no issues with the application as proposed.

Nottinghamshire County Council comments have referred to nearby waste management sites and the approved Bilsthorpe Energy Centre (extant until 2021 and therefore material to this application determination). However, their comments are more in relation to the visual intrusion that these neighbouring land uses may cause. As is already discussed above, landscaping around the site boundaries is minimal. Nevertheless, as acknowledged by NCC, the presence of the woodland would offer some screening/buffering from potential visual impacts and in any case the actual perceived effects would be limited to a modest proportion of the proposed properties.

Moving then to assess amenity relationships within the site itself, the proposal has been designed with several 'blocks' of development creating a number of back to back relationships. This is with the exception of the eastern boundary of the site which in the main would back onto the open countryside.

Officers identified some very tight arrangements on the original scheme within the site itself including back to back distances of under 20m (between plots 102 and 97 for example) and rear to side gable relationships of just 11m (e.g. between plots 2 and 20). However, again these are the exception rather than the rule and on the whole, the scheme represents suitable distances between plots such that direct overlooking would not be an issue in principle. The aforementioned examples have been queried with the agent in the interests of completeness and have been amended on the revised plan such that the distances now presented would be marginally increased.

Each plot is allocated an area of outdoor amenity space which, whilst varying in size, would be broadly commensurate with the sizes of the plots proposed.

### Impact on Trees and 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. Policy DM7 states that new development should protect, promote and enhance green infrastructure to deliver multi-functional benefits and contribute to the ecological network.

The NPPF incorporates measures to conserve and enhance the natural and local environment and requires outlines a number of principles towards the contribution and enhancements of the natural and local environment within Chapter 15.

The application has been accompanied by an Arboricultural Assessment including details of a Tree Survey undertaken in October 2019. A total of 6 individual trees; five groups of trees and one hedgerow were surveyed. With the exception of group G5 (considered to be Category B moderate value), the remainder of the specimens on site were considered to be Category C of low quality. Group G5 is actually situated to the east of the site outside of the application boundary and therefore would not be adversely affected by the development.

The vast majority of the existing trees and hedgerows can be retained and integrated into the development. The only required loss would be a section of the hedgerow along the western boundary to facilitate the access which given its low quality is not an issue in principle. The Arboricultural Assessment goes on to discuss recommendations for additional planting. Detailed landscaping plans have been received during the life of the application (accompanying the LVIA). Comments from the Council's appointed Tree Officer have suggested minor amendments to these, including the inclusion of a more diverse tree mix for the larger areas such as the public open space and the attenuation pond. This could be secured by condition as agreed by the applicant in principle.

The application has also been accompanied by an Ecological Appraisal based on a desk top assessment and an extended Phase 1 habitat survey undertaken in October 2019. As is implied above, the main core of the developable site is laid to improved grassland with the margins of the site forming the dominance of ecological potential.

The report identifies the presence of three local wildlife sites within 1km of the site boundary, the closest being the abandoned Bilsthorpe Colliery to the north east recognized for its importance to breeding waders. However, the report fails to recognise the presence of the site within the 5km buffer zone of the indicative core area for the potential Special Protection Area (pSPA) for a substantial population of nightjar and woodlark in the Sherwood Forest area. This is identified as an issue in the comments from Nottinghamshire Wildlife Trust as identified above:

*"Taking the above pSPA into consideration and as the development will result in a loss of grassland, scrub and tall ruderal habitat (potential breeding bird habitat), we recommend that a breeding bird survey, specifically including nightjar and woodlark, is undertaken in the optimal breeding bird season/s. In this survey, bird species and their behaviour are mapped and an assessment is made of the significance of the species present and an estimate of the number of breeding territories. This information can be used to design works to avoid or reduce adverse impacts on breeding birds and to mitigate for any loss of habitat."*

The applicant has submitted a response to Nottinghamshire Wildlife Trust's comments firstly expressing concern regarding the detail of the comments in the context of the extant outline approval which secured matters of ecology through condition. The letter from fpcr (dated 2<sup>nd</sup> July 2020) goes further to suggest that near identical conditions should be attached to this application. For clarity, this application has been submitted as a standalone full application and in this regard matters of ecology require a full and through assessment.

The rebuttal letter from fpcr suggests that the comments of NWT are misleading and that their comments appear out of context. The response does nevertheless go on to consider the development against the habitat requirements of woodlark and nightjar stating that the site lacks the structure required for these species and therefore surveys would be disproportionate. In terms of the potential increased disturbance from recreation attributed to the development, the letter refers back to a condition which was imposed on the extant outline permission.

Further comments in relation to hedgerow importance and biodiversity net gain are also made but ultimately the letter does not include any additional survey or landscaping works as requested.

NWT have responded to the letter, essentially they accept the response provided and reiterate a number of earlier recommendations which could be secured by condition. These include good

practise measures in terms of lighting; hedgehog holes; a Construction Environmental Management Plan (CEMP); and site enhancements such as bat and bird boxes and landscaping.

Officers have confirmed with NWT that their earlier recommendations for additional surveys prior to determination no longer stands (noting that the ecological work undertaken in October was also outside of the optimal survey period (April to September) for bats). It has been confirmed that the additional response from the applicant during the life of the application addressed their original concerns and therefore no further surveys would be required at this stage.

Officers have considered the requirements of a Habitat Regulations Assessment (HRA) under Regulation 61 & 62 of the Conservation of Habitats and Species Regulations 2017. Habitats Regulations Assessment (HRA) is the process that competent authorities must undertake to consider whether a proposed development plan or programme is likely to have significant effects on a European site designated for its nature conservation interest. HRA is often referred to as 'Appropriate Assessment' (AA) although the requirement for AA is first determined by an initial 'Screening' stage undertaken as part of the full HRA.

As part of the plan making process, the LPA were required to undertake appropriate habitat assessments (including consideration of cumulative impacts) which would have included consideration of this site. There is no requirement to proceed to take an AA (under the HRA regulations) for this specific application.

Subject to the imposition of conditions as discussed above, Officers have identified no specific harm in relation to matters of ecology.

#### Impact on Flooding and Drainage

The site is within Flood Zone 1 and therefore at low risk of flooding from rivers. Parts of the site are however at risk of surface water flooding as identified by the constraints work within the submitted Design and Access Statement. The submitted Flood Risk and Drainage Assessment confirms that as existing, surface water runoff is at greenfield rates. The proposed drainage strategy includes an on-site attenuation pond towards the south west corner of the site. The proposals have been reviewed by Nottinghamshire County Council as the Lead Local Flood Authority. The original comments objected to the application on the basis that the submission fails to consider alternative methods of surface water disposal including discharge to adjacent watercourses or to a nearby surface water sewer.

The applicant has addressed these concerns during the life of the application with the latest comments of NCC Flood confirming no objections subject to a condition seeking the details of the surface water drainage scheme.

#### Impact on Archaeology

The site is outside of the designated Conservation Area and there are no designated assets within the site itself. The policy allocation does however make reference to a need for further archaeological works prior to any development within the site. The application has been supported by an Archaeological Desk Based Assessment. The report confirms that the site has been agricultural land since the medieval period albeit the presence of prehistoric and Roman material, as well as cropmark sites, in the vicinity suggests that the potential of the site to contain remains of these dates should not be discounted. Specifically the Roman road is aligned on or

close to the site. Work done in support of the earlier outline application in 2017 found evidence of medieval ridge and furrow cultivation.

The study has been considered by the Council's appointed Archaeological Advisor with the comments acknowledging that the site is within an area of known pre-historic and Roman activity. The comments suggest that the limited evidence of activity in the immediate vicinity of the site is more likely due to the lack of archaeological investigation rather than a lack of archaeology itself. The comments ultimately disagree with the conclusions of the submitted desk based assessment and suggest that further works are required including targeted trial trench evaluation. A number of conditions are suggested to secure these works however the agent has worked with the County Archeologist during the life of the application in an attempt to avoid these conditions. A Written Scheme of Investigation has been submitted dated July 2020 setting out the intended process of further works. The Archeological Officer has reviewed the additional document and confirmed that it would be appropriate for the work to proceed as set out by that report.

### Developer Contributions

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

### *Affordable Housing*

The District Council sets a threshold of 30% on site affordable housing delivery. For a scheme of 103 dwellings this would amount to a requirement of 31 dwellings. However, the proposed development includes just 10 affordable dwellings representing just 10%.

### *Community Facilities*

The SPD outlines that for a development of this size, a contribution towards community facilities would be expected. Community Facilities can include numerous types of development including village halls; areas for sport and activity; buildings for worship or buildings for leisure and cultural activity.

The SPD sets out a formula which equates to a contribution of £1,384.07 per dwelling plus indexation. This would amount to circa £142,559 for a scheme of this size.

### *Education*

The Developer Contributions and Planning Obligations SPD indicates that development which generates a need for additional primary school places will be secured via a legal agreement. NCC as the education authority have assessed the capacity of the existing primary schools to facilitate the demand from the development. It is concluded that the existing primary schools could accommodate the development and therefore no education contribution is requested. The comments of NCC do make reference to a request towards secondary education but this would be covered by the CIL 123 list and is therefore not reasonable to impose on specific applications.

### *Open Space*

As a development of 103 dwellings this application would need to make provision for public open space. The layout demonstrates an area of 1,854m<sup>2</sup> broadly centrally positioned on the site. The application submission was not clear whether this area is envisaged to include play equipment for children and young people which has been clarified during the life of the application. The applicant is not presenting to include play equipment on the site due to the linear shape of the open space which in their submission makes the incorporation of equipment unfeasible. There are also areas of green space around the boundaries of the site which the agent has been requested to quantify.

As a numerical calculation the level of onsite central open space appears to have been specifically designed to meet the required 18m<sup>2</sup> per dwelling for children and young people provision (i.e. 18 x 103 = 1,854). However the applicant has confirmed that due to the linear nature of the area, there is not an intention to include play equipment which is against the principle of the SPD.

The remaining areas of green space would meet the requirements of the SPF for amenity green space at 14.4m<sup>2</sup> per dwelling (therefore a requirement of 1,483.2m<sup>2</sup>), including the land around the drainage basin.

There is however notably no provision for outdoor sports facilities which would be required for a scheme of this size.

#### *Health*

The Developer Contributions SPD details that, for a scheme of this size, a contribution to the health authority should be made. This has been requested to the sum of £101,146 by NHS Nottingham and Nottinghamshire CCG. The monies are envisaged to be spent towards facilities at Bilsthorpe; Farnsfield and Major Oak surgeries.

#### *Libraries*

The SPD details that library contributions can be attributed towards the costs of building / extending a library building or the costs of providing additional stock for existing facilities. NCC have commented on the need for the development to contribute £3,631 towards library provisions in their comments above.

#### *Transport*

A site specific request has been made from Notts. County Council for £18,500 towards the improvements to bus stops in the locality specifically the bus stop denoted as NS0908 Eaking Road and shall include installation of real time bus stop pole & displays including associated electrical connections, polycarbonate bus shelter, solar lighting and raised boarding kerbs.

The conditions requested by NCC Highways regarding the footway on Eaking Road would need to be incorporated into a Section 106 given that it is outside of the red line site boundary.

#### *Viability Case*

The applicant has presented a viability case during the life of the application. The basis of the case is outlined by a letter from atlas development solutions dated 22<sup>nd</sup> June 2020. The assessment focuses on the fact that the extant outline approval secured an affordable housing rate of just 10% and therefore three appraisals have been prepared:

1. 10% Affordable Housing plus full S106 contributions;
2. 4% Affordable Housing plus full S106 contributions;
3. 4% Affordable Housing plus reduced S106 contributions.

The appraisal acts as an updated version of the 2017 Viability Assessment Report prepared by White Land Strategies for the outline application. However, this application is clearly materially different insofar as the development is now for 103 dwellings whereas the extant application was for 85.

The original letter accompanying the viability assessment presents that the major difference is the inclusion of a significant number of abnormal costs, which have been understood through the benefit of detailed technical reports.

The letter submitted to support the viability case refers to an offer just 4% affordable housing. However, Officers have discussed this with the applicant noting that this would contradict the submitted plans but also given that paragraph 64 of the NPPF states that where major development is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.

The applicant has confirmed by email dated 29<sup>th</sup> September 2020 that the offer presented is 10% affordable housing and a Section 106 securing contributions of £258k for the Council to *'spend as they best see fit, taking into account the overall planning balance considerations for the scheme.'*

The monetary figure would be almost enough to cover all of the figures referred to above albeit would leave nothing remaining for off site contributions towards open space or affordable housing given that the on site provisions would be insufficient.

The National Planning Policy Framework states that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. Officers have commissioned (at the expense of the applicant) an independent viability expert to critically appraise the applicant's submission.

Ultimately the Council's consultant agrees with the applicant's position that the scheme cannot viably deliver a full suite of contributions as required by the developer contributions SPD and the site specific requests made in this instance. The consultant has gone further to state that the offer presented actually exceeds what would be considered a viable appraisal:

*"A 10% affordable housing scheme is unviable with S106 against benchmark viability targets unless the Applicant takes a view on the land value and/or the Open Market profit return."*

On this basis, Officers do not consider that there is further room for negotiation to the offer presented. Whilst the scheme would not be policy compliant, on the basis of the expert advice received from the Council's Independent Consultant, Officers are minded to reluctantly accept the offer presented and do not consider it reasonable to resist the application solely on the basis of a lack of full contributions.

As above, the applicant has confirmed that it would be appropriate for Members to decide where the monetary contributions could be spent towards. Officers understand through discussions with



the Local member that the Parish Council are keen to secure money towards improvements at the village hall and also local play parks.

It is notable that there was a recent approval for 120 dwellings in Bilsthorpe (20/00642/FULM) which has a strong likelihood of coming forward (all conditions have now been discharged). The legal agreement associated with this application secured a number of monetary contributions including towards health (£110,400); libraries (£4,288); children and young people (£111,271.20); and outdoor sports (£35,000). The agreement did not however secure any contributions towards the village hall.

In accepting that the development proposed here would not be able to cover all contributions, it is Officer's submission that the £258k should be attributed to £18,500 for bus stop improvements (given this is a site specific request), 20% of the remainder (£47,900) to play parks in the area and the remaining £191,600 for the improvements to Bilsthorpe Village Hall. These should make a meaningful contribution to the aspirations of the Parish Council improvements and would mean that the village hall works could be largely delivered by this application. Clearly if Members are minded to approve then the exact split of contributions falls to their discretion.

### Other Matters

Officers in Environmental Health have commented specifically on the land contamination risks of the site noting the proximity of the former colliery sludge lagoons off site and infilling of land on site. The assessment has been made on the basis of former supporting documentation for the 2017 application for the residential delivery of the site but no objection is raised to this in principle subject to the imposition of a full phased contamination condition.

### Overall Balance and Conclusion

The proposal relates to the residential delivery of an allocated site in a sustainable settlement. There would therefore be clear benefits of the scheme to the Districts housing delivery.

However, the site allocation envisaged that the residential delivery would come forward in a phased manner which relates to the retail provision to serve the community noting that the existing provision is inadequate for a community of this size. In dividing the site allocation and focusing solely on the residential element of the site allocation, the applicant would have no control over how and when the retail element of the envisaged site allocation came forward. The applicant cannot therefore deliver appropriate phasing of the uses as required by Policy Bi/MU/1.

On careful consideration of other circumstances (namely a pending application for a retail unit by a different provider), Officers do not consider that there is a strong enough case to resist the application for this reason alone. It is also of significant relevance that the policy does not indicate when timing of the phasing should occur.

The detail of the scheme demonstrates design compromises including a housing mix skewed towards larger units but on balance noting the viability position this is not considered fatal in itself.

The applicant has worked with Officers during the life of the application to make minor changes to the scheme such that matters of landscape; ecology and impact on the wider highways network are now considered acceptable. There do however remain issues with the parking provision for a number of the 4 bed units (i.e. 3 spaces in tandem).

The proposal would make a meaningful contribution to the housing delivery on an allocated site. Although it would not be able to provide a full suite of contributions as required for a scheme of this size, the viability case presented has been accepted by the Council's independent consultant and therefore is not a matter at dispute.

In attaching significant weight to housing delivery in a sustainable settlement, Officers are satisfied that the balance is tipped towards approval subject to the conditions outlined below and an associated Section 106 agreement.

## **RECOMMENDATION**

**Approve full planning permission subject to;**

- 1) the conditions outlined below and**
- 2) the completion of a signed Section 106 agreement securing off site contributions of £258,000 attributed to:**
  - a. £18,500 towards bus stop infrastructure;**
  - b. £47,900 towards play parks in the vicinity of the site;**
  - c. £191,600 towards Village Hall improvements;**
  - d. 10% affordable housing on site;**
  - e. Highways improvements to dropped kerbs and pedestrian footways outside of the site.**

### Conditions

01

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

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

02

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

- Planning Layout – P-01 Rev. P;
- Tenure Plan – A 871 Drg No. 004 Rev. C;
- Enclosures Plan – A 871 Drg No. 005 Rev. C;
- Site Location Plan – A 871 Drg No. 08;
- External Finishes Plan – A 871 Drg No. 009 Rev. C;
- Material Plan – A 871 Drg No. 010 Rev. C;
- House Type Booklet received 28<sup>th</sup> May 2020;

Reason: So as to define this permission.

03

No part of the development, other than site clearance hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Travis Baker Flood Risk Assessment (FRA) and Drainage Strategy Addendum Report 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.

04

No part of the development hereby permitted shall be brought into use until the visibility splays are provided in accordance with drawing SK01-B. The area within the visibility splays referred to in this condition shall thereafter be kept free of obstruction, structures or erections exceeding 0.6m in height.

Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.

05

No dwelling forming part of the development hereby permitted shall be occupied until its associated drive/parking area is surfaced in a hard-bound material (not loose gravel) for a minimum of 5 metres behind the Highway boundary. The surfaced drive/parking area shall then be maintained in such hard-bound material for the life of the development.

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

06

Any garage doors shall be set back from the highway boundary a minimum distance of 5.5 metres.

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

07

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.

08

No part of the development hereby permitted shall be occupied until an updated Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes 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.

Reason: To promote sustainable travel.

09

No development shall take place, other than site clearance until a Construction Methodology and Management Plan (CMMP) has been submitted to and approved in writing by, the Local Planning Authority. The approved CMMP shall be adhered to throughout the construction period. The CMMP shall comprise the following:

- The details of temporary fencing to be erected and retained during the construction period;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- any measures to control the emission of noise, dust and dirt during construction;
- hours/days of proposed construction.

Reason: To protect the amenity of the surrounding area.

10

Prior to any occupation of the dwellings hereby approved, the boundary treatments applicable to each of those dwelling's plots shown on the approved plan: Enclosures Plan – A 871 Drg No. 005 Rev. B shall be implemented on site unless otherwise agreed in writing by the local planning authority through a non material amendment application. The boundary treatments within plots shall be retained for a minimum period of five years.

Reason: In the interests of residential and visual amenity.

11

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

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

All works/development shall be carried out in full accordance with the approved arboricultural method statement and tree/hedgerow protection scheme.

Reason: To protect the existing trees/hedgerows to be retained.

12

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

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

- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

Reason: To protect the existing trees/hedgerows to be retained.

13

Prior to the development being first brought into use, full details of 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;

Reason: Insufficient details have been provided and the condition is necessary in the interests of visual amenity and biodiversity, in order to fulfil the policy objectives contained within Core Policies 12 and 13 of the Amended Core Strategy.

14

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.

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

15

The development hereby permitted shall be carried out in accordance with the required façade sound insulation details at Table 11 (Section 10.1.2.) of the document Environmental Noise Assessment by noise.co.uk ltd prepared 25<sup>th</sup> August 2020 – 21122-1.

Reason: To protect the amenity of proposed occupiers.

16

Unless otherwise agreed by the Local Planning Authority, development other than that required for site clearance and / or to be carried out as part of an approved scheme of remediation must

not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

#### Part A: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems;
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

#### Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the

remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17

The development hereby approved shall be carried out in accordance with the ecological mitigation measures detailed within the document Ecological Appraisal by fpcr dated May 2020, specifically:

- Recommendations made by the ecologist in paragraph 4.26-4.30 (page 18), in particular the good practice measures with regards to lighting.
- Hedgehog holes (13cm by 13cm) should be made in garden fences to allow for hedgehog passage shown on Figure 5;
- Any areas seen as suitable for breeding birds such as scrub, hedgerows, mature trees, and ground vegetation should be removed outside of the bird breeding season (March to August inclusive);
- The installation of bat and bird boxes at the locations shown on Figure 5.

Where the measures relate to physical interventions such as the hedgehog holes and the bat and bird boxes, these shall be in place prior to the occupation of each of the dwellings the measures relate to.

Reason: To preserve the ecological value of the site.

#### Notes to Applicant

01

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



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

02

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

03

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

04

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@nottscc.gov.uk](mailto:david.albans@nottscc.gov.uk) for details.

#### BACKGROUND PAPERS

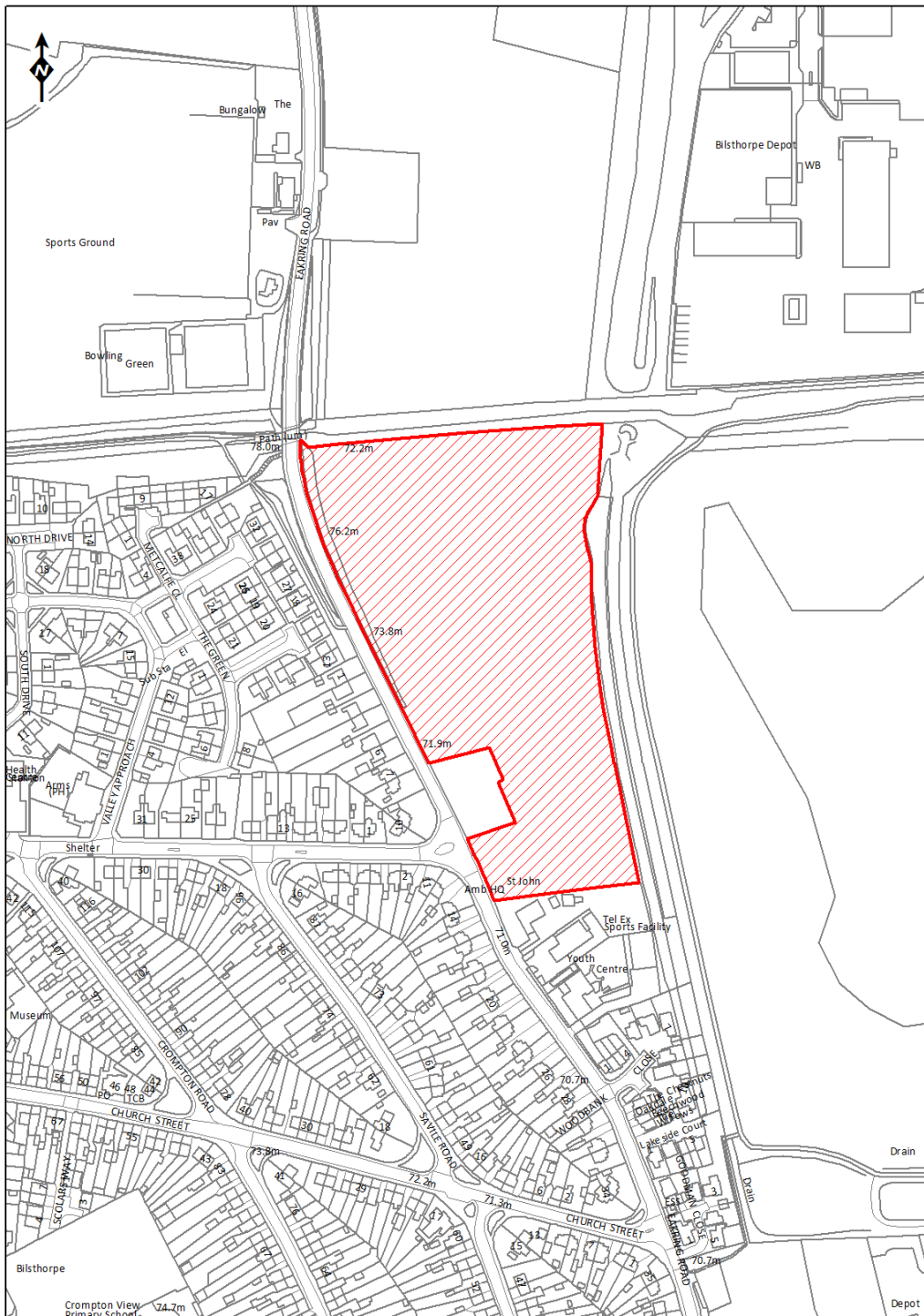
Application case file.

For further information, please contact Laura Gardner on extension 5907.

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

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

Committee Plan - 20/00873/FULM



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## COMMITTEE REPORT - 3 November 2020

<b>Application No:</b>	<b>20/01405/FUL</b>	
<b>Proposal:</b>	<b>Material change of use of land for stationing of caravans for residential occupation with associated development (new access, hard standing, utility block) – part retrospective</b>	
<b>Location:</b>	<b>Land off Main Street, Balderton</b>	
<b>Applicant:</b>	<b>Mr Patrick Doherty</b>	
<b>Agent:</b>	<b>Heine Planning Consultancy – Mrs Alison Heine</b>	
<b>Registered:</b>	<b>3 August 2020</b>	<b>Target Date: 28 September 2020</b>
	<b>Extension of time agreed until 5 November 2020</b>	
<b>Website link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>	

**This application is being reported to the Planning Committee as it has been referred by the Local Member, Councillor Betty Brooks in line with the Council’s Scheme of Delegation.**

### The Site

The application site lies to the east of the junction of Main Street with Hollowdyke Lane in Balderton. The site backs onto the A1 trunk road to the south-east boundary which is elevated above the ground level of the site, and to the East Coast Mainline railway to the north-east boundary which is set below the ground level of the site within a cutting. Hollowdyke Lane progresses under a bridge supporting the A1 to the east while Main Street passes over the railway initially and then continues under the A1 before heading north-east towards Coddington village.

The 0.08 hectare site is roughly rectangular in shape (approx. 40m by 20m) and is bounded by Main Street (to the north-west), Hollowdyke Lane (to the south-west), the A1 (to the south-east) and the railway line (to the north-east). Until July 2020 the site was a grass paddock with small stable building largely enclosed by post and rail fencing with no formal access point although there was a gate in the south-west corner (see photo below). The land slopes slightly from its highest point in the north east (to accommodate the bridge over the railway line) to its lower level along the southern boundary and there is a steep but small embankment from the level of the site down to the lower ground level of Hollowdyke Lane. The ground level of the site is therefore higher than the existing houses on Main Street to the south-west, which makes the site prominent, particularly when viewed from the south-west along Main Street.

To the north-west of the site on the opposite side of Main Street, 13 two-storey houses in a small terrace have more recently been built, with limited set back, with their ground levels cut down below the slope of the road and bridge over the railway line. To the south-west of the site on the other side of Hollowdyke Lane are two storey detached dwelling in larger plots. Beyond the

railway line to the north and the A1 to the east are agricultural fields and open countryside.

The application site is situated within and on the edge of the defined Newark Urban Area as defined by the Allocations and Development Management DPD. The site is located within Flood Zone 1 of the Environment Agency Flood Maps but is susceptible to surface water flooding. Approximately 30m to the north-west of the application site is a 'Site of Nature Conservation' (local wildlife area) known as Balderton Ballast Pit.

### Relevant Site History

79/551 – Outline planning permission for one dwelling was refused and dismissed at appeal in 1980 on the grounds of the site then being beyond the present development limits of the village, on the basis that it would represent a prominent visual stop to the view eastwards which would detract materially from the street-scene at the boundary between developed land and open countryside and thirdly that whilst it may be possible to design a dwelling with an acceptable degree of amenity internally, there would be a very low level of amenity outside the building due mainly to noise but also to overlooking.

17/00643/FUL - Planning permission was refused by the Local Planning Authority for 6 No. new residential units in the form of flats in October 2017 for the following reason:-

*"The application site is constrained by topography and proximity to the railway and A1, constraints which need to be mitigated as part of any development proposals. In the opinion of the Local Planning Authority the amount of development, and the layout required will result in a compromised and confused proposal that is detrimental to the character and appearance of the area and represents poor overall design. This is reflected in the poor legibility of the scheme relative to site frontages and the entrances to the individual units and the proposed parking areas. The proposal is therefore contrary to Policy CP9 of the Core Strategy and DM5 of the Allocations and Development Management DPD together with the National Planning Policy Framework (March 2012). There are no other material planning considerations that would outweigh the identified harm."*

However, the scheme was approved at appeal in a decision dated 21 June 2018 and remains extant until 21 June 2021. A copy of this decision is attached to the end of this report.

In July 2020 the site was cleared of vegetation, levelled and laid with hard standing (crushed granite or limestone) and enclosed by approx. 2m - 1.8m high close boarded timber fencing around three boundaries of the site, with the southwestern boundary fronting Hollowdyke Lane left open and an informal access created in the south-west corner of the site close to the junction between Main Street and Hollowdyke Lane (see photo below). At the beginning of August 2020, this planning application was submitted to the Local Planning Authority.



Photo taken 21.08.2020

During September 2020 it became apparent that caravans and other vehicles were moved onto the site for a brief limited period, however, more recently, the site has remained vacant and unoccupied.

### The Proposal

Full planning permission is sought on a permanent basis for the material change of use of the land for the stationing of two caravans (1 static and 1 tourer) for residential occupation to provide a single pitch Gypsy-Traveller site and the construction of a utility building. The submitted site layout plan shows a new vehicular access in the south-east corner of the site, the static mobile home positioned centrally on the site with the proposed utility building and tourer caravan at the north-eastern end of the site and two parking spaces. An area of amenity space is shown between the static mobile home and the boundary with Main Street. The vehicular access from Hollowdyke Lane is to be graded into the existing embankment and tarmacked up to the entrance gates which are recessed by 12m into the site. The submitted plan shows new fencing along the rest of the boundary with Hollowdyke Lane and new vegetation planting within the site along the Main Street and Hollowdyke Lane boundaries.

No precise details of either caravan has been submitted as they cannot be prescribed as they are often traded second hand but the tourer/camper van provides additional bedroom space required by the family. The utility building (providing bathroom, wc and laundry/dayroom area) measures 5m by 4m in footprint with a pitched roof measuring 3.56m to the ridge. It is to be constructed in brickwork, roof tiles and timber joinery with precise materials to reflect the locally and approved at a later date via condition. The agent has confirmed that the development is to be connected to main sewers. Electricity and water supplies have been installed on the site as well as three 10ft high street lights (one in 3 corners of the site). The accompanying submitted Planning Statement states that the crushed stone surface allows water to freely drain as a permeable sub-base, as recommended for use with SUDS (sustainable urban drainage systems) and confirms to the Ministry of Transport Specification Clause SHW 805. This is to provide low maintenance of the site as the occupiers will be absent for periods of time when they go travelling, as set out within the Planning Statement. It also states a concrete base will be laid for the mobile home and utility block and run off from these structures will be collected in large water butts for re-use on site (e.g. watering plants, cleaning vehicles and caravans).

There is off road parking and maneuvering space for at least 2 vehicles and room for the storage of

refuse bins within the site, next to the site entrance.

According to the submitted Statement, the site would be enclosed with **1m** high timber fencing panels along the two road frontages (and not the 2m high fencing that currently exists at present), although there is no indication of when this change would occur. It states that this would then allow for the additional landscaping proposed within the site along these boundaries to be seen from the public realm. The 2m high fencing to the A1 and railway line boundaries would be retained for security purposes with entrance gates 2m high (no details have been submitted), recessed and opening inwards.

The supporting Statement states that no commercial use is proposed and the site would be occupied by persons who comply with the definition of Gypsy Traveller set out in the Planning Policy for Travellers Sites 2015. The applicant, Mr Doherty, is married with four children ranging from 3 to 15 years in age with another baby due before the end of the year. The applicant does landscaping work and in 2019 travelled to Sandy/Biggleswade, Stevenage, London, Rochester and Canterbury for work, stopping mostly on the roadside but also with relatives in London and Canterbury. The Statement goes on to state *“The family have been doubling up on an unauthorized site down Tolney Lane owned by Billy Bowers where they have lived for the last 7 months. With the serious flooding issues on Tolney Lane they do not wish to remain in this location. Prior to this they stopped with family on a Traveller site owned by Mr Doherty’s parents at Radcliffe on Trent in Rushcliffe. The site was overcrowded as it was shared with the extended family.”* In addition, one of the children has serious health issues. The Statement concludes that the family have need of a settled base with access to proper facilities to ensure their well being and to provide social distancing from others, which has not been possible on shared/unauthorized sites.

The submission relies on the noise survey conducted for the 2017 appeal decision as, according to the Planning Statement, it is not possible to carry out any more up-to-date studies at present due to the effect of Covid 19 lockdown on traffic levels on main roads. It states there is no reason to believe the conditions will be any different than in 2017. In response to concerns regarding noise levels on the site, the agent states that the applicant has purchased the site in full knowledge of the background noise levels and it does not trouble them. The applicant lived on site for 2 months during the summer and report no difficulty sleeping. The agent reports the applicants have lived most of their lives in noisy environments and with generator noise and that their homeless situation is a far more pressing concern.

The agent has also made comment on the Council’s recently published Gypsy and Traveller Accommodation Assessment (GTAA), which has confirmed that there is a significant immediate and unmet need for more pitches up to 2033 but more importantly the need identified is front loaded and immediate with a need for 77 pitches between 2019 and 2024. The agent states that this is a huge figure for any single local authority in England and this level of need must weigh very strongly in support of any application for new sites and reflects a clear policy failure to address this issue. The GTAA has not been examined and the agent concludes that the study is very likely to underestimate need in this district and should be treated as a minimum figure.

### The Submission

- Application Form;
- Location Plan – Drawing No: Plan 1
- Proposed Site Layout – Drawing No: Plan 2 Rev A;

- Proposed Utility Block;
- Planning Statement – Letter dated 28.07.2020 from Agent;
- Photograph of street light;
- Agent letter dated 20.10.2020.

### Departure/Public Advertisement Procedure

Occupiers of nine properties have been individually notified by letter and a site notice has also been displayed near to the site.

### Planning Policy Framework

#### The Development Plan

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

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 2 – Spatial Distribution of Growth

Spatial Policy 7 - Sustainable Transport

Core Policy 4 – New Pitch Provision

Core Policy 5 – Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople

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 DM1 – Development within Settlements central to delivering the Spatial Strategy

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Policy DM12 – Presumption in Favour of Sustainable Development

### Other Material Planning Considerations

- National Planning Policy Framework (NPPF) - March 2019
- Planning Practice Guidance, on-line facility
- GTAA, Feb 2020
- The Equality Act 2010
- Human Rights Act 1998
- The Written Ministerial Statement of December 2015 relating to intentional unauthorised development
- Planning Policy for Traveller Sites (PPTS) – 2015

When determining planning applications for traveller sites, this policy states that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community.

Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies within the NPPF and this document (Planning Policy for Traveller Sites).

This document states that the following issues should be considered, amongst other relevant matters:

- Existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;
- Other personal circumstances of the applicant;
- Locally specific criteria used to guide allocation of sites in plans should be used to assess applications that come forward on unallocated sites;
- Applications should be determined for sites from any travellers and not just those with local connections.

Weight should also be attached to:

- a) Effective use of previously developed (Brownfield), untidy or derelict land;
- b) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
- d) Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

If a LPA cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. There is no presumption that a temporary grant of planning permission should be granted permanently.

Annex 1 provides a definition of “gypsies and travellers.”

### Consultations

**Balderton Parish Council** – Members object to the application on highway grounds. The entrance to the site is very hazardous with little room to run into Hollowdyke Lane when travelling from an easterly direction. Main Street is effectively a single track road in that vicinity owing to the parked vehicles form adjacent dwellings. Their comments also provide a list of queries and questions relating to the details of the scheme.

**Barnby in the Willows Parish Council** – object to the proposals for the following reasons:

- 1) Location – the site is a dangerous location with poor visibility and issues with speeding giving the potential for accidents due to increased activity and lack of visitor parking;
- 2) Traffic flow – increase use of village for cut through to A17, speeding issue and fly tipping;
- 3) Character – not in keeping with the character or the surrounding area and traffic will increase;
- 4) Process – works should not have been started prior to permission being granted and many residents have not been consulted;
- 5) Details – concern about no caravans and no of residents that would occupy site; and
- 6) Drainage – connection to mains sewer yet a septic tank appears to have been installed.



**NCC – Highway Authority** – “The principle of residential development on this piece of land was established by the appeal decision. This proposal is less intense than the previous approval and offers a vehicular access in the same position as the one approved. The site has no footway link, to make it safe and encourage pedestrian activity to/from the site, a 2m wide footway should be provided along the site frontage to the west of the access (approx. 12m), a further 2m footway should be provided on the other side of Hollowdyke Lane to link up with the footway on Main Street. Should these matters be resolved there would be no reason to offer a highway objection, subject to the following conditions:- 1) details of access width, position, radii and construction to be submitted and approved; 2) access to be surfaced in a bound material; 3) parking/turning to be provided and retained; 4) scheme to provide two new footways either side of Hollowdyke Lane; 5) scheme to prevent surface water discharging onto public highway

**Highways England** – No objection, the proposal will have no detrimental effect on the nearby Strategic Road Network (SRN), namely the A1.

**Network Rail** – No objection in principle to the development, but sets out requirements which must be met, especially with the close proximity to the development of an electrified railway. They advise that in particular that drainage and method statements should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. All other matters can be dealt with through informatives attached to the decision notice.

**NSDC, Policy** – No objection in principle, within the urban boundary in a sustainable location and not at risk from flooding and needs to be assessed against the criteria of Core Policy 5. In line with the requirements of Core Policy 4 in the Amended Core Strategy, a new Gypsy and Traveller Accommodation Assessment (GTAA) has been prepared, whilst currently untested, it is considered to be robust and identifies a requirement of some 118 pitches up to 2033, which will be met as part of the Amended Allocations and Development Management DPD and the granting of consent for appropriate development. Presently however the Council is unable to demonstrate a five year land supply, as required through national policy.

Where proposals will contribute towards the meeting of that need, and assist in establishing a five year land supply then those factors should weigh heavily in favour of the granting of consent. Through the information provided in support of the application there is no reason to question the status of the intended occupants, in terms of the definition for planning purposes. Notwithstanding this the pitch requirements identified through the new GTAA are driven by locally identifiable need. Consequently proposals to satisfy accommodation requirements which have resulted from in-migration, post the August 2019 baseline for the assessment, should be seen as reflecting windfall need. The assessment is clear in recommending that this additional need should not be assessed against the levels of need identified in the GTAA, or contribute towards supply to meet this need. Based on the information provided, the intended occupants do not form a component of the need identified through the GTAA. The proposal should therefore be treated as windfall and assessed on its merits.

**NSDC, Environmental Health – Comments received 07.09.2020** – Taking into account the noise levels within the report, the lack of additional acoustic controls due to the raised height of the A1 and the multiple impacts, such as sleep disturbance effects, cardiovascular and psychophysiological effects and mental health effects associated with such high levels identified by the World Health Organisation, it may be difficult to support the application.

**Representations have been received from 57 local residents/third parties which are summarized below, (in addition 10 anonymous letters have been received):-**

#### Highway safety

- On a dangerous corner, with blind spot;
- New fence obstructs visibility even more;
- There have been several accidents;
- Will result in increase traffic congestion;
- Will increase parking on roads and on street parking on Main Street already reduces the width of road to single carriageway, causing danger;
- Cars exceed the 30mph speed limit when coming over railway bridge on Main Street;
- Opposite Hollowdyke Lane is a staggered junction that is also dangerous;
- Access into and out of site is very steep and access will be more difficult with large vehicles pulling large caravans;
- No parking for visitors provided - insufficient size of site for all the vehicles;
- Cyclists and walkers use Hollowdyke Lane (which has no footpaths) who will all be at greater risk from the increased traffic from the use;
- Once new residential development at Fernwood and south of Newark and the closure of Barnby Road level crossing to vehicle traffic will significantly increase traffic in the area;
- The site is not safe for caravans being so close but at a lower level than the adjacent A1;
- Any accident on the A1 has the potential to leave the carriageway and enter the caravan site from above;
- The access on the site has moved to the corner and is not in accordance with the submitted plan;
- There are no pedestrian footpaths on Main Street, which is dangerous;
- Children and animals playing on the site with balls etc. could end up on the A1 or railway line causing danger;
- Totally unsuitable use next to the A1 and the railway line.

#### Visual Amenities

- A caravan site is unsightly in this location and out of place;
- The character of the area would be ruined along with the historic village and Conservation Area;
- It is squeezed onto a very tight site;
- Concerns regarding increased litter;
- The 'stockade' type fencing is an eyesore.

#### Residential Amenities

- The proposed use is too close to existing dwellings and will result in increased noise, loss of privacy, light pollution and poor outlook onto the site and its boundary treatment;
- No front elevation of the site has been provided – which is needed to assess the aesthetics of the site;
- The site is opposite a sheltered housing unit that assists independent living to residents with learning difficulties;
- High noise and pollution from A1 and railway line for residents on the site;
- Triple glazing cannot be used successfully within caravans;
- Concern that site will be used to run businesses.

#### Other matters

- Retrospective application shows disregard for planning regulations;
- Expecting to see approved flats to be built out on the site, which would be more suitable and provide much needed affordable housing;
- Concerns that grassed areas on the other side of the A1 will be used in a similar way without permission;
- There is no need for another traveller site there are plenty on Tolney Lane and the new site at Newark Road, Ollerton;
- The proposal will put a strain on local facilities, such as schools and doctors, that are already stretched;
- NSDC should compulsory purchase the site and give it over to a recreation area or car park for terrace of properties opposite the site to reduce on street parking to make Main Street safe;
- Ground levels have been raised;
- If a septic tank has been installed, it will be a health hazard and how is it going to be emptied with restricted access?
- The submitted plans are poor with a lack of measurements and scale;
- There has been a lack of notification of the application;
- The application will adversely affect the value of properties;
- Concern over the use of LPG and health and safety;
- Has the Council already made up its mind on this proposal?

### Comments of the Business Manager

#### Principle of Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 state that planning applications shall be determined in accordance with the development plan unless material considerations indicate otherwise, this is consistent with Paragraph 14 of the NPPF.

The District Council, as Local Planning Authority, has a duty to provide sites on which Gypsy and Travellers can live. In line with the requirements of Core Policy 4 in the Amended Core Strategy, a new Gypsy and Traveller Accommodation Assessment (GTAA) has been prepared which seeks to quantify the level of need within the District. Whilst this is yet to be tested at examination, the assessment is based on survey derived information and corresponds with current best practice. Accordingly it is considered that this provides a robust understanding of gypsy and traveller need over the plan period. Requirements for those who meet the gypsy and traveller definition for planning purposes (as set out in Annex 1 of the Planning Policy for Traveller Sites) equates to some 118 pitches, up to 2033. This represents a significant unmet need. Provision to meet this need will be made as part of the production of the Amended Allocations & Development Management DPD, which is currently underway which will seek the allocation of specific sites, as well as through the granting of consent for appropriate development. Presently however the Council is unable to identify any other sites that are currently available or deliverable for Gypsy and Travellers and in addition is unable to demonstrate a five year land supply, as required through national policy (PPTS).

Where proposals will contribute towards the meeting of that need, and assist in establishing a five year land supply then those factors should weigh heavily in favour of the granting of consent. However, that is not the case in this particular instance. Through the information provided in

support of the application there is no reason to question the gypsy and traveller status of the applicants for this site, in terms of the definition for planning purposes. Notwithstanding this, the pitch requirements identified through the new GTAA are driven by locally identifiable need. Consequently proposals to satisfy accommodation requirements which have resulted from immigration, post the August 2019 baseline for the assessment, should be seen as reflecting windfall need. The assessment is clear in recommending that this additional need should not be assessed against the levels of need identified in the GTAA, or contribute towards supply to meet this need. Based on the information provided, the intended occupants do not form a component of the need identified through the GTAA (as they were not local to Newark and Sherwood when the surveys were being undertaken and so were not included within the quantum of local need identified at that time). The proposal should therefore be treated as windfall and assessed on its merits. However, the PPTS states in paragraph 27 that if a Local Planning Authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a **significant** [my emphasis] material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.

The application site is located within the defined Urban Boundary for the Newark Urban Area as set out in the Allocations and Development Management DPD, where the principle of development is acceptable – bearing in mind the approach provided by Policy DM12 for a presumption in favour of sustainable development. In addition to this, Core Policy 4 states that future pitch provision will be provided in line with the Council’s Spatial Strategy with the focus of the Council’s efforts to seek to secure additional provision in and around Newark Urban Area.

Beyond this, Core Policy 5 sets out a range of criteria, which proposals reflecting unexpected demand, such as this, would need to satisfy. The overall aims of this policy are identified as reducing the need for long distance travelling and possible environmental damage caused by unauthorized encampments and the contribution that live/work mixed use sites make to achieving sustainable development. Given its highly sustainable location within the Newark Urban Area, this site leaves the proposal well-placed to satisfy these overarching aims as well as the second criteria of CP5 that requires consideration of reasonable access to essential services (mains water, electricity, drainage and sanitation) and basic everyday community services and facilities – including education, health, shopping and transport.

In summary, whilst the District has a significant unmet need for Gypsy and Traveller pitches, this application would not be counted in meeting any of this locally identified need, as the applicants have moved into the area and would not have been counted within the GTAA survey work. However, this identified need does not represent a maximum figure and it must be recognized that there will always be the need to consider the merits of proposals for additional pitches beyond this, such as this proposal. So whilst less positive weighting can be given in this case to meeting the significant unmet need, it is also acknowledged that the District cannot provide a 5 year supply of deliverable sites and this is a material consideration that needs to be afforded significant weight in the consideration of granting a temporary permission, in accordance with the policy guidance within the PPTS.

The principle of this use in this location is therefore considered to be acceptable and the remainder of the criteria set out within Core Policy 5, which are more site specific, are set out and considered below.

#### Impact on the character and appearance of the area, heritage assets and ecology

The first criteria of Core Policy 5 states that the site would not lead to the unacceptable loss, or significant adverse impact on the landscape character and value, important heritage assets and

their settings, nature conservation and biodiversity sites. The fifth criteria of CP5 seeks that the site is capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity.

Prior to the recent works being carried out, the site was a small, overgrown, grassed paddock. Although it was open, green surfaced and more rural in character, it was very enclosed and cut off from the open countryside beyond by the significant transport infrastructure features of the A1, the railway line and the railway line bridge on Main Street. As such, although prominent in the streetscene being somewhat elevated and located on a sweeping road junction, it contributed little positive impact on the area and had limited landscape character and value in its previous form. Furthermore in considering the impact on the loss of the paddock, significant weight must also be afforded to the fact that there is an extant permission on the site for a development of 6 flats, which would also result in the loss of this open, green character and introduce a substantial level of built development in the form of a two-storey building comprising 6 no. 1-bed affordable apartments served by substantial hard surfaced parking areas.

In terms of designated heritage assets, the nearest one to the application site is the boundary of Balderton Conservation Area which is located approx. 260m to the west along Main Street. It is clear from the comments received from third parties that the historic environment within the Conservation Area is valued and of great worth to local residents and concerns have been raised that the appearance of the proposed site would be out of keeping and detrimental to the character of the area. Whilst the concerns raised have been taken into account, it is considered that the distance between the application site and the boundary of the Conservation Area, would be sufficient to adequately protect the setting of the Conservation Area from harm.

It is very disappointing that this application has been submitted part retrospectively because it now makes it impossible to be able to assess any biodiversity impacts. It is fortunate however, that a Phase I Habitat Survey was submitted with the previous planning application on the site in 2017 which although now strictly out of date, does provide information from 3 years ago before the current works were undertaken. The report identified that the only favourable biodiversity feature on the site was the hedgerow on the eastern and southern boundaries of the site which offered potential opportunities for foraging bats and nesting and foraging birds. As such it recommended most of this hedgerow be retained but where some had to be removed to provide access, that it be compensated for by new hedgerow planting in a native species. Unfortunately all of this hedgerow has been removed from the site. The previous scheme sought biodiversity enhancements by conditioning that additional bird and bat boxes be provided on the site. Whilst it is highly disappointing that unauthorised works have occurred on the site with complete disregard for ecology, in order to find a pragmatic way forward, should planning permission be granted, it is considered reasonable to impose the same condition to require what were originally considered as enhancements; but now represent mitigation to harm that has already occurred on the site. The proposed development does include new hedgerow planting around the two most prominent boundaries of the site, and whilst it would take a while to establish itself, it would provide the opportunity for some mitigation. This new planting would also provide a softening to the reduced height timber fencing that whilst not ideal would represent a natural feature and allow greater visual permeability perhaps between the site and the public realm as opposed to the existing high solid and fortified appearance.

Overall, the current scheme represents a single storey scaled development of two caravans and one utility building, as opposed to the extant two storey building measuring 29m long by 7.8m high. No information has been submitted regarding the materials to be used for the proposed

utility building so if any permission were to be granted, this would need to be controlled through condition. The proposed access gate would be a 2m high close boarded timber fence, which because it would be set back into the site in a less prominent location, is considered to be acceptable subject to its appearance and finish, which could be conditioned. The general impact on the visual amenities of the area and streetscene is found on balance to be acceptable but this is predicated on the confirmation within the application submission that the current 1.8m high fencing along the Main Street and Hollowdyke Lane frontages would be reduced down to a max of 1m height and new hedgerow planting would be planted along the inside of the fence to soften the appearance of the site. Should the application be viewed favourably, in order to protect the visual amenities of the area it would be important to condition that this physical alteration would be carried out within a limited timescale.

To conclude, whilst some harm has been identified to biodiversity from the unauthorized commencement of development on the site, it is considered that mitigation could be provided and for the reason outlined, it is not considered that any harm would extend to the setting of Balderton Conservation Area and it would be difficult to sustain unacceptable detriment to the landscape character and value of the area or the general streetscene, subject to the imposition of appropriate conditions. This criteria of CP5 is therefore considered to be met.

#### Impact on residential amenity

The fourth criteria of Core Policy 5 states that the site would offer a suitable level of residential amenity to any proposed occupiers, including consideration of public health, and not have an unacceptable adverse impact on the amenity of nearby residents particularly in rural and semi-rural settings where development is restricted overall.

Paragraph 127(f) of the Framework states that planning decisions should create places that promote health and well-being with a high standard of amenity for existing and future users.

The NPPF goes on in paragraph 170 "Planning policies and decisions should contribute to and enhance the natural and local environment by:...e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability".

Paragraph 180 of the Framework states that "Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life..."

The CP5 also goes on to advise on general guidelines for pitch sizes. A pitch that is a permanent site and self-contained, the policy advises the pitch should be approx. 550 sq m. (The application states that no business use would operate at the site and this has been taken in good faith). This site is 800 sq m, so as such, it is considered that the proposed site provides an adequate pitch size to serve the applicant and his family.

Noise is an important planning consideration in the assessment of this application. No acoustic report has been presented within this submission. Instead there is a reliance on the Noise

Assessment, dated June 2017, produced in support of the previous application approved for 6 flats on the site.

The Council’s Environmental Health officer is satisfied that there is no reason to believe the noise conditions would be different now compared to back in 2017.

The noise study in 2017 noted that there are constant high levels of both light (cars and vans) and heavy (lorries and buses) road traffic using the A1, low levels of road traffic including some agricultural vehicles using Hollowdyke Land and Main Street. In addition, there are high volumes of fast moving mainline trains using the railway. The dominant noise source likely to affect the site is road and rail traffic.

Average Noise Levels Measured on Site

	Daytime 16hr (07:00 – 23:00)	Night time 8hr (23.00 – 07:00)
North East Corner	65.1dB LAeq	61.9dB LAeq
South West Corner	64dB LAeq	61dB LAeq

BS8233:2014 ‘Guidance on Sound Insulation and Noise Reduction for Buildings’ recommendations

Daytime internal noise levels <35dB	External Noise Levels between 50 and 55dB
Night time internal noise levels <30dB	Previous BS stated Night time L <sub>Amax</sub> 45dB

The guidelines suggest in outdoor living areas of moderate annoyance, daytime and evening of **50dB** and serious annoyance, daytime and evening is likely above a LAeq of **55dB**. As a consequence, it will be noisy outside at all times.

The results demonstrate a consistent level of noise across the 24 hour period indicative of constant traffic noise from the A1 Trunk Road. Ambient night time levels are lower but are still in excess of 60dB. Noise levels on the road frontage were marginally lower than levels next to the road embankment. In relation to L<sub>Amax</sub> (frequency of events) during the night-time range from **70dB to 85dB** at the site which is likely to lead to sleep disturbance and window open (outdoor values) of **60dB**. Effects of sleep disturbance have been observed at individual L<sub>Amax</sub> exposures of **45 dB** or less.

The agent states that BS8233:2014 does indicate that a compromise may be required in noisier environments such as transport corridors, taking account of the convenience of living in such locations and making the best use of land. As the 2018 flats appeal decision has confirmed, this is an area where development already exists and would be expected or indeed encouraged by planning policy.

In addition in support of the proposal, the agent claims the solid timber fence proposed along the railway cutting will help reduce the intermittent noise of passing trains, many of which are slowing down for Newark. It is not possible to mitigate the A1 Trunk Road noise levels as the road is elevated 2-3m above the site. However, the mobile home could be oriented to ensure the main

living areas are facing Main Street and the utility block could be fitted with triple glazed units, which could be conditioned. Residential mobile homes are required to be built to a standard specification (BS 3632:2005) to provide sound insulation levels of 35dB which is not dissimilar to that for a normal dwelling.

Further comments from the Council's Environmental Health officer has stated that they are not able to access the stated British Standard to check this claim or clarify whether this means a reduction of 35 dB. Nevertheless, the CEO concludes that if the windows of any caravan are open there would be a realistic reduction of 10 dB from the outside noise levels. As a result the indoor levels with windows open would be above World Health Organisation guideline values for community noise in specific environments, dwelling indoors/inside bedrooms of 35 dB and 30 dB respectively, which is likely to lead to speech intelligibility and moderate annoyance, daytime and evening as well as sleep disturbance at night time. Whilst it may be possible to design a mobile home with attenuation in mind, it is likely that occupants will wish to have windows open in warmer weather.

The agent contends that noise impacts need to be seen in the context of sustainable development and must be considered alongside other relevant issues, taking into account any wider benefits of the development. The applicant is fully aware that the site is affected by background noise. This is not considered a problem. The serious risk of flooding down Tolney Lane and problems associated with sharing an unauthorized site with others, without access to proper facilities, is a far greater concern to the Applicant and his family, the agent puts forward. The poor health and educational attainment suffered by the Traveller population is well documented and to a large degree can be attributed to the lack of available permanent sites for them to settle on. The alternative for many is a roadside existence where they run a much greater risk to their health and are often subject to noise from road traffic. It is often argued that Travellers are more tolerant to higher noise levels as they are more used to living in noisy environments than many in the settlement community. The Applicant is used to living on a crowded site with others, and with the accompanying background noise of generators. The stance taken by the applicant in relation to noise is that that they purchased the site in the full knowledge of the proximity of the site to the elevated A1 trunk road and the lower level east mainline railway and the consequent noise levels that would be experienced on the site. The agent claims that these factors should reduce the weight to be given to the harm to the living conditions as a result of noise levels on this site. However, officers are of the view that whilst it may be the case that noise from nearby sources may not bother the applicant at present, longer term exposure to consistently high noise levels is likely to have greater effect and there cannot be certainty that residents would remain content into the future if planning permission was granted on a permanent basis.

Having regard to the Noise Exposure Hierarchy Table within para 005 of the Noise section of Planning Practice Guidance, noise from nearby sources that are present and disruptive have the potential for sleep disturbance and other measures such as keeping windows closed for long periods of time, resulting in a diminished quality of life. That amounts to a Significant Observed Adverse Effect which could not be adequately mitigated. The PPG states that such conditions should be avoided.

Notwithstanding the comments from the agent, the Council's EHO concludes that taking into account the noise levels within the report, the lack of additional acoustic controls due to the raised height of the A1 and the multiple impacts associated with such high levels it may be difficult to support the application.



All of the above leads to the conclusion that the noise environment of this site is unsuited to the residential occupation of caravans. The significant concerns raised in relation to the levels of noise that would be experienced by occupiers on the site that could not be acceptably mitigated in any way, weighs heavily against the scheme.

Turning now to existing residents who would live close to the site, the proposed mobile home would be positioned approx. 21m from facing habitable rooms of houses on the opposite side of Main Street, which would be the nearest affected receptors of the proposed development. This distance would be an acceptable back-to-back relationship between dwellings within an urban environment and boundaries treatments would exist between, including Main Street. The utility building can be oriented so that the side elevation faces Main Street, which has no openings. On balance, it is considered that these relationships would not result in any unacceptable loss of privacy, light or create over-bearing impacts. There is a property to the south-west of the site that is also adjacent to the site, however, high and deep boundary treatments provide a substantial physical buffer to any direct relationship with the application site. There are three external lighting columns (that have the appearance of street lights) approx. 3m high in three corners of the site. The lights have upper cowls that direct light downwards onto the site and it appears that they are unlikely to result in any glare or light nuisance to adjacent residents, however, this will be properly assessed by the EHO over the next few days and it will be reported to Members on the Late Items Schedule. With conditions to restrict the occupation of the site to a maximum of two caravans (being one tourer and one static) and preventing any commercial use of the site, this should also adequately protect the amenity of neighbouring properties. On this basis, it is concluded that the proposal would not result in any unacceptable impacts on the residential amenities of existing surrounding dwellings.

#### Impact on Highway Safety

The third criteria of Core Policy 5 states that the site has safe and convenient access to the highway network.

Highways England has confirmed no objection to the proposal and its relative impact on the A1 trunk road. Notts County Council as Highway Authority has raised no objection subject to a number of conditions relating to 1) details of access width, position, radii and construction to be submitted and approved; 2) access to be surfaced in a bound material; 3) parking/turning to be provided and retained; 4) scheme to provide two new footways either side of Hollowdyke Lane; and 5) scheme to prevent surface water discharging onto public highway. Highway safety has been the most significant concern of local residents that have commented on the scheme. However, in reaching their view, the Highway Authority have had to have regard to that fact that the existing extant permission for the flat development allowed a new access road in the same position proposed by this scheme and although the vehicles entering and leaving the site are likely to be of a different nature, the intensity of the use of the access would be much reduced by this less intensive development. As such an objection on highway safety grounds would not be sustainable, subject to the discussion below.

Condition 4 recommended by NCC Highways is required because the site has no footway link and therefore to make it safe and encourage pedestrian activity to/from the site, a 2m wide footway should be provided along the site frontage to the west of the access (for approx. 12m), a further 2m footway should be provided on the other side of Hollowdyke Lane to link up with the existing footway on Main Street. This facility is considered to be essential in highway safety terms otherwise the occupiers of the site if accessing or egressing the site on foot, would likely be forced

to walk in the road, which is dangerous.

The agent has responded to this requirement by stating:-

*"A footway can be provided outside the site to connect to the existing network but I consider your suggestion unreasonable for the scale of development proposed which is a lot less intense than that previously agreed for this site. Whilst your suggestion might have been appropriate for the 6 units of accommodation approved on appeal, for a single Traveller pitch I think a 2m footway to the west of the access as far as Coddington Road (ie for 15m approx) should suffice with a dropped crossing so that occupants can cross to the footway outside dwellings on the west side of Coddington Road/ Main Street. My clients report that they have no difficulty crossing Coddington Road on foot at present. The junction is some 50m from the crest of the railway bridge."*

Having discussed the alternative new footway and crossing point over Main Street suggestion with the Highway Authority, the advice given is that this is not safe and would result in danger to highway users. The only way to ensure the proposal is safe in highway safety terms is to provide the footways in accordance with the Highway Authority's advice. Given that the footway works would be positioned outside the red line of the application site on highway land, the only way to secure their implementation via a condition would be through a "Grampion" style condition which would require these additional works to be implemented prior to the commencement of development on the site. In this case, however, that is not possible as works have already commenced. The only way that these matters could now be secured would be through an appropriate legal agreement between the parties which would legally require the applicant to agree to undertake the footway construction. As the development has already commenced, it is also not possible to secure the details of the access, its width, position, radii and construction and details of a bound material for a distance of 5m into the site to be secured by condition and the provision of these matters would also need to be secured through the legal agreement. This legal agreement would need to be in place before any planning permission is granted.

If the relevant land owners/parties do not enter into the agreement within a reasonable timeframe (it is suggested six months from the date of committee) the application should be refused on the grounds that the scheme is unsafe in highway safety terms. This is included within the recommendation to you, set out below.

Third parties have raised concerns regarding the increased use of Hollowdyke Lane in the future with the delivery of large numbers of new houses at Fernwood and south of Newark. However, as part of the approved planning permission, Hollowdyke Lane will be closed to all traffic apart from buses, so levels of traffic will likely be significantly reduced in the future.

### Flood Risk and Drainage

Criteria 6 seeks that in the case of any development proposal which raises the issue of flood risk, regard will be had to advice contained within the Government's PPTS and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site specific Flood Risk Assessment, applying both the Sequential and Exceptions Tests, as appropriate, to achieve safety for eventual occupiers.

The site is within Flood Zone 1 on the Environment Agency flood maps, which means it is at low risk of fluvial flooding. In relation to the disposal of foul sewage, the agent has confirmed that the site would be connected to the main sewer and surface water would soak through the permeable hardsurface on the site. Network Rail has requested a condition be imposed requiring greater

detail on these matters so that they can ensure that there would be no impact on their adjoining railway land and the Highway Authority have required drainage details to be incorporated into the access road in order to prevent surface water run-off from the site onto the adopted highway. In the event that planning permission is approved, these matters can be satisfactorily covered through the imposition of conditions. Some local residents have raised concerns about a septic tank have been installed on the site, however, the agent has confirmed that the site will be connected to main sewers.

### Personal Circumstances

As already referred to in this report, there is no reason to doubt that the applicant and his family fall within the definition set out within Annex 1 of PPTS.

The applicant's family comprises himself, his wife, his four children under the age of 16 and Mrs Doherty is expecting her fifth child later this year. The personal needs of the family include the health needs of one of the children who requires the family to have a settled base so that they can be registered with doctors. In addition it will ensure all the children can attend school.

Members will need to be aware of the relevant case law regarding the Human Rights of Gypsies and Travellers set out in the Rafferty and Jones V SSCLG and North Somerset Council. A refusal of permission is likely to have significant consequences for the home and family life of the family involved and it is clearly a circumstance where Article 8 Convention Rights are engaged. Article 8 imposes a positive obligation to facilitate the Gypsy way of life and, as a minority group, special consideration should be given to their needs and lifestyle. In that respect, the occupants have a clear preference for living in caravans and the option of living in bricks and mortar accommodation would not facilitate that lifestyle.

In addition, Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of children must be a primary consideration in all actions made by public authorities. The Article 8 rights of the children in that context must be considered. No other consideration can be treated as inherently more important than the best interests of the children.

Significant positive weight needs to be attached to the personal circumstances of the applicants, particularly the benefits associated with healthcare and schooling arrangements for the children that a permanent base would provide for the applicant and his family.

### Other matters

The Written Ministerial Statement of December 2015 relating to intentional unauthorised development is also a material consideration. That statement confirmed that the Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission, with no opportunity to appropriately limit or mitigate the harm that has already taken place. Accordingly, the Government announced that where intentional unauthorised development has occurred, it would be a material consideration counting against development.

The development in this case was clearly intentional and the physical works have been undertaken, in addition to a brief occupation of the site, without seeking planning permission. Those actions did not enable matters such as biodiversity or noise to be considered in advance, or any mitigation in respect of those issues put forward. Consequently, it is a matter that weighs

against the grant of planning permission.

Any impact on house values are not a material planning consideration that can be taken into account in the determination of this application.

### Planning Balance and Conclusion

Whilst the recent GTAA has identified a significant unmet need for gypsy and traveller pitches, this proposal represents a windfall site where the applicants do not form part of that local identified need. The significance of meeting the demand of unmet need is therefore neutral in this particular case. However, the PPTS identifies that where a Local Planning Authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. This weighs heavily in favour of a grant of planning permission and demonstrates the lack of alternative available sites.

The site is in a highly sustainable location close to all the facilities required for day to day living and the requirements of a growing family and tilts towards an approval. No harm has been identified in relation to the character and appearance of the area, heritage assets, residential amenity and flood risk which are therefore neutral in the overall planning balance. However, retrospective harm has been found to ecology although mitigation is offered in the form of new hedgerow planting. In highway safety terms, the applicant would need to comply with the requirement for off-site footway provision in order to make the development safe. This would need to be resolved within 6 months from the Planning Committee meeting through the sealing of a S106 legal agreement to secure this pedestrian feature; otherwise the application should be refused.

An approval would provide a settled base that would facilitate access to education and healthcare and enable the family to continue their gypsy way of life. The human rights of the family means due regard must also be afforded to the protected characteristics of Gypsies and Travellers in relation to the Public Sector Equality Duty (PSED) when applying the duties of section 149 of the Equality Act 2010. All of those factors attract significant weight in favour of the development.

Having regard to the personal circumstances and human rights of the family, including the best interests of the children, the option to occupy the site would undoubtedly be less disruptive than the possible resort to road side living and make access to education and health services much easier.

The fact that the development was intentionally undertaken without planning permission is a matter that weighs against a grant of planning permission, albeit that weight is moderated by the fact that no alternative sites were available for the applicants to occupy.

The list of considerations in favour of the proposal are also tempered by the identified harmful impact from the considerable nearby noise sources of the A1 trunk road and main line railway and the unsuitability of the environment in that regard. Noise levels are in excess of recognised standards and the health implications of living at the site in exposure to consistently high background noise levels is a significant concern.

Weighing all these competing considerations in the overall planning balance, I am lead to the conclusion that in this case, that given the total lack of alternative available sites and in the best interests of the children that a temporary permission for a period of 3 years would be the

appropriate balanced decision and as such the weight attached to the noise impact is reduced due to the fact that the identified harm would only be felt for a limited, temporary period until a more appropriate site becomes available.

A temporary permission would enable the applicants to reside at the site until new sites come forward through the development plan or any associated policy documents. Permission for a limited period of three years is therefore offered to Members.

## **RECOMMENDATION**

**That planning permission is approved for a temporary period of 3 years subject to**

- a) The conditions and reasons shown below; and**
- b) the completion of a section 106 legal agreement within 6 months of the date of this Planning Committee (failure to do so would result in a refusal on the grounds that the scheme fails to secure a safe vehicular and pedestrian access to/from the site) to secure two footways either side of Hollowdyke Lane, to secure details of the width, position, radii and construction of the access and to secure a bound material for the access for a distance of 5m into the site.**

### Conditions

01

The use hereby permitted shall be for a limited period up to 30 November 2023, or the period during which the land is occupied for its permitted use, whichever is the shorter. When the land ceases to be occupied or on 30 November 2023, whichever shall first occur, the use shall cease and all caravans, materials and equipment brought onto the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under Condition 7 hereof.

Reason: The nature of the caravans and their proximity adjacent to major transport routes make it unsuitable for permanent permission.

02

No more than 2 caravans (one static and one tourer), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.

Reason: In order to define the permission and protect the appearance of the wider area in accordance with the aims of Core Policy 5 and 9 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (July 2013).

03

No commercial or industrial activities shall take place on this site, including the storage of materials associated with a business.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policy 5 and 9 of the Newark and

Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (July 2013).

04

No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policy 5 and 9 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (July 2013).

05

Within 3 months of the date of this permission, the solid close boarded fences erected along the boundaries with Main Street and Hollowdyke Lane on the site shall be reduced to a maximum of 1m in height and the resultant debris removed from the site in accordance with the details submitted as part of the application.

Reason: In the interests of improving the visual amenities of the area and improving the cohesion of the development within the area in accordance with the aims of Core Policy 5 and 9 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (July 2013).

06

The approved soft landscaping shall be completed during the first planting season following the date of this permission, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations.

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

07

Within 3 months of the date of this permission, a scheme for the restoration of the site and a timetable for restoration when the use ceases, to its condition before the development took place shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out and completed in accordance with the agreed timetable. At the end of the period for which planning permission is granted for the use or the vacation of the site, whichever is the sooner, the site shall be restored in accordance with the approved scheme and the approved timetable.

Reason: In order to protect the long term appearance of the area in accordance with the aims of Core Policy 9 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (July 2013).

08

Within one month of the date of this permission details shall be submitted to and approved in writing by the Local Planning Authority of the bin storage facilities' design, siting and materials. The bin storage facilities shall be provided within one month of approval in accordance with the approved details and retained for the lifetime of the development.

Reason: To ensure that adequate bin storage is provided for occupiers in the interests of residential and visual amenity.

09

The erection of the amenity block and timber access gates hereby approved shall not take place until

- a) samples of the materials to be used in the construction of the external surfaces and details of the triple glazing to the windows and doors of the building; and
- b) the design/appearance and finish of the gates

have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual and residential amenity.

010

Within one month of the date of this permission, the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than the parking/turning of vehicles.

Reason: To ensure adequate parking provision is made to reduce the possibilities of the proposed development leading to on street parking in the area.

011

Within two months of the date of this permission, the access shall be constructed with provision to prevent the unregulated discharge of surface water from the access to the public highway in accordance with details first submitted to and approved in writing by the Local Planning Authority. 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 danger to highway users.

012

Within one month of the date of this permission, a method statement shall be submitted to and approved in writing by the Local Planning Authority. This shall include an outline of the existing/proposed method of construction, risk assessment in relation to the railway and construction traffic management plan and the use of any vibro-compaction machinery. The construction works shall be implemented in accordance with the agreed details.

Reason: In the interests of railway safety.

013

Within 3 months of the date of this permission drainage plans for the disposal of surface water and foul sewage shall be submitted to and approved by the Local Planning Authority. All disposal shall be diverted away from Network Rail property and there shall be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts. The scheme shall be implemented in accordance with the approved details within 2 months of the date of its written approval.

Reason: To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution in accordance with the requirements of Core Policy 9 and in the interests of safety on Network Rail land.

014

Within 2 months of the date of this permission full details and the precise positioning of 2 bat boxes and 2 bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The approved boxes shall then be installed within 2 months of approval in accordance with the agreed details prior to occupation and retained thereafter for the lifetime of the development.

Reason: In the interests of maintain and enhancing biodiversity.

015

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

- Location Plan – Drawing No: Plan 1
- Proposed Site Layout – Drawing No: Plan 2 Rev A;
- Proposed Utility Block;

Reason: So as to define this permission.

#### Notes to Applicant

01

The applicant is advised that the decision notice should be read in association with the legal agreement made under Section 106 of the Town and Country Planning Act 1990.

02

In order to carry out the offsite works required (new footways), 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@nottsc.gov.uk for details.



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

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

03

The full comments of Network Rail are attached for your information.

04

The occupiers of the caravan site will be required to apply for a caravan site licence.

05

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

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

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

#### BACKGROUND PAPERS

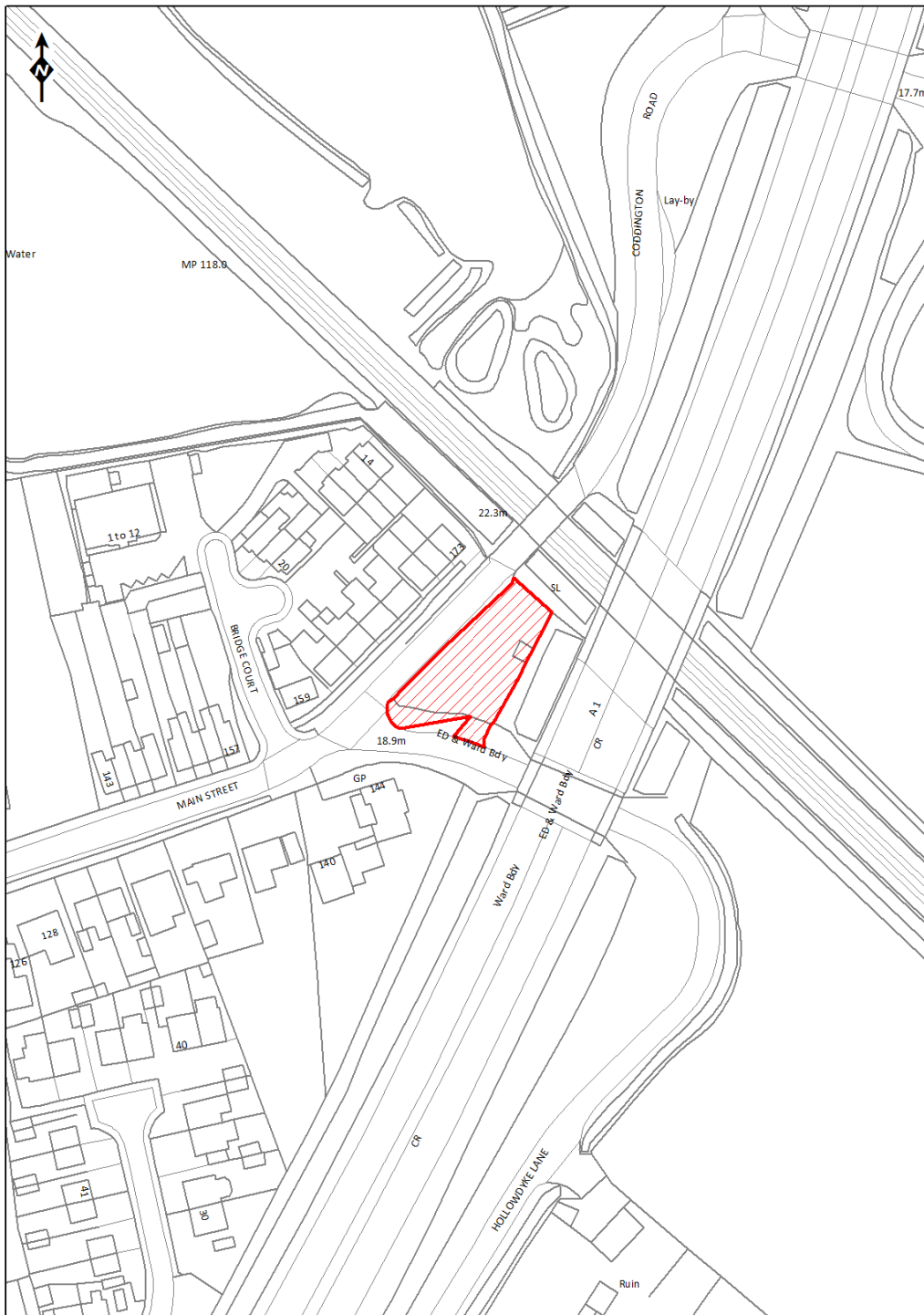
Application case file.

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

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

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

Committee Plan - 20/01405/FUL



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## PLANNING COMMITTEE – 3<sup>rd</sup> NOVEMBER 2020

<b>Application No:</b>	20/01422/FUL	
<b>Proposal:</b>	Erection of 2(no.) 2 storey dwellings (Scheme C)	
<b>Location:</b>	Land At Rear Of 49 & 49A The Ropewalk, Southwell	
<b>Applicant:</b>	Mr D Shaw - Ablehomes Ltd	
<b>Agent:</b>	Mr Mike Sibthorp - Mike Sibthorp Planning	
<b>Registered:</b>	03.08.2020	Target Date: 28.09.2020
	Extension of Time Agreed Until 06.11.2020	
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QEBKQULBIMH00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QEBKQULBIMH00</a>	

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Southwell Town Council has objected to the application which differs to the professional officer recommendation. Under the Scheme of Delegation, Cllr Harris has referred the application to committee in line with the Town Council comments. The review Panel have determined that the application should come before Members given the recent planning history whereby Members previously overturned Officer recommendation.**

### The Site

The site comprises of 0.22 hectares of overgrown land to the north-west of existing properties on The Ropewalk. The site also fronts Nursery End to the west of the site. The site is located within the Southwell settlement boundary as defined within the Allocations and Development Management DPD.

There is an existing vehicular access to the south of no. 49a The Ropewalk which runs along the southern boundary of the application site and serves no. 45 and 47 The Ropewalk which have their principal elevations facing in to the application site. The dwellings facing The Ropewalk and no. 45 and 47 The Ropewalk are two storey in height. Dwellings along Nursery End are mainly single storey bungalows.

The site is located within Flood Zone 1 as defined by the Environment Agency data maps and within land at risk from surface water flooding. Part of the site falls within an area defined within the Southwell Protected Views policy area as shown on the proposals map within the Allocations and Development Management DPD.

### Relevant Planning History

There is extensive planning history related to the site as summarized below.

Members will recall that three applications for different schemes on the site were refused (contrary to Officer recommendation) at the previous meeting on October 6<sup>th</sup> for the following reasons:

**20/01418/FUL** - Erection of 4 No. 2-storey dwellings (Scheme A)

*In the opinion of the Local Planning Authority, by virtue of number of units, the proposal would result in an over intensive layout of development on a part backland plot which is incongruous and detrimental to the character of the area. As such the proposal is deemed contrary to Core Policy 9 of the Amended Core Strategy Development Plan Document and Policy DM5 of the Allocations and Development Management Development Plan Document as well as the National Planning Policy Framework and the design principles of the Neighbourhood Plan which form material planning considerations.*

**20/01421/FUL** - Erection of 3 No. dwellings: 2 x 2-storey and 1 x single storey (Scheme B)

*In the opinion of the Local Planning Authority, by virtue of the scale and massing of the units proposed at Plots 1 and 3, the proposal would result in an over intensive layout of development on a part backland plot which is incongruous and detrimental to the character of the area. As such the proposal is deemed contrary to Core Policy 9 of the Amended Core Strategy Development Plan Document and Policy DM5 of the Allocations and Development Management Development Plan Document as well as the National Planning Policy Framework and the design principles of the Neighbourhood Plan which form material planning considerations.*

**20/01433/FUL** - Erection of 5(no.) single storey dwellings (Scheme D)

*In the opinion of the Local Planning Authority, by virtue of number of units, the proposal would result in an over intensive layout of development on a part backland plot which is incongruous and detrimental to the character of the area. As such the proposal is deemed contrary to Core Policy 9 of the Amended Core Strategy Development Plan Document and Policy DM5 of the Allocations and Development Management Development Plan Document as well as the National Planning Policy Framework and the design principles of the Southwell Neighbourhood Plan which form material planning considerations.*

**19/02064/FUL** – Erection of 5 dwellings. *This application was refused by Members at the 28<sup>th</sup> April 2020 planning committee meeting (contrary to Officer recommendation) for the following reason:*

01

*In the opinion of the Local Planning Authority, by virtue of number of units, the proposal would result in an over intensive layout of development which is incongruous and detrimental to the character of the area. The cramped nature of the development would result in insufficient private amenity space for each of the dwellings with the exception of the bungalow, separation distances for plots within the site but also to neighbouring plots namely no. 49 and 49a The Ropewalk where the massing and scale of the proposed Plot 5 would have an overbearing impact. As such the proposal is deemed contrary to Core Policy 9 of the Amended Core Strategy and Policy DM5 of the Allocations and Development Management DPD as well as the NPPF which forms a material planning consideration.*

**16/01003/NMA** - Application for a non-material amendment to planning application E/56/1410 for Erection of two detached dwellings – Approved 11.07.2016

**14/02172/FUL** - Erection of two detached dwellings – Refused by committee (contrary to officer recommendation) 08.05.2015 *Appeal dismissed*

*Reason for committee refusal*

*The proposed development, by reason of its scale, siting, and design would be incongruous within and detrimental to the character and appearance of the area and the residential amenities of nearby dwellings on The Ropewalk, particularly given the increased expanse of footprint and elevations compared to the extant 1971 permission. The proposal is therefore considered to be contrary to Policies DM5 and DM6 of the Allocations and Development Plan Development Plan Document (DPD) and the NPPF which forms a material consideration. There are no other material planning considerations which outweigh such identified harm.*

*Appeal decision reasoning (extract)*

*The design of the scheme has little relationship with the character of the local surroundings. It is radically different from the well established traditional design of the properties in the surrounding locality to the extent that it would be clearly 'at odds' with the prevailing character of the area and would result in an incongruous form of development.*

*Consequently the existence of the fallback position does not outweigh the harm that I have found in the design of the current scheme.*

*I consider that the proposed scheme would be overbearing and cause a significant and detrimental impact on the outlook from Nos 49a and 49 The Ropewalk. I have not found an unacceptable loss of privacy, there would be a detrimental impact on outlook contrary to policy DM5 of the DPD.*

**E/56/1410** – Erection of two houses and five bungalows.

*Planning permission granted in November 1971, the application is considered extant due to the implementation of the application through the erection of the five bungalows accessed via Nursery End.*

Whilst not the application site itself, it is material that there is an extant permission on neighbouring land to the north of the site (and to the east of no. 11 Nursery End), to the rear of no. 51 The Ropewalk for a new 4 bedroomed dwelling with a vehicular access to the south of no. 51 The Ropewalk. This is extant until 17 November 2022, by virtue of the timeframe when the proposal was granted. The positioning of the approved dwelling has been shown on the submitted block plan which allows a thorough assessment in the amenity section below.

The Proposal

The proposal has been amended during its lifetime owing to concerns raised in relation to the original scheme which sought permission for 2, 2.5 storey dwellings.

The proposal now seeks permission for 2, 2 storey detached dwellings each with 5 bedrooms.

The footprint of each plot would be around 186m<sup>2</sup> excluding the detached double garages. The dwellings would be handed versions of one another in an L-plan form.

The properties would be approximately 7.9m to ridge height and 5.0m to eaves.

The design of the dwellings is modern in nature with large expanses of glazing in some instances served by Juliette balconies. Each dwelling would also be served by a single storey flat roof porch projection on the principle elevation.

The application has been considered on the basis of the following plans and documents:

- Site Location Plan – C 01;
- Scheme C Site Plan – C 02B;
- Scheme C Plots 1 Elevations – C 05B;
- Scheme C Plots 1 and 2 Garages – C 03;
- Scheme C Plot 1 Plans – C 06B;
- Scheme C Plot 2 Elevations – C 07B;
- Scheme C Plot 2 Plans – C 08B;
- Scheme C Cross Section – C 04B;
- Design and Access Statement Planning Statement;
- Ecological Walkover Survey by Arbtech dated November 2019.

#### Departure/Public Advertisement Procedure

Occupiers of 22 properties have been individually notified by letter. A period of re-consultation (which expires prior to the November 3<sup>rd</sup> meeting) has also taken place for the revised plans and any comments received will be reported to Members through the late items schedule.

#### **Planning Policy Framework**

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

##### Southwell Neighbourhood Plan (October 2016)

Policy SD1 Delivering Sustainable Development

Policy DH1 Sense of Place

Policy DH2 Public Realm

Policy TA3 Highways Impact

Policy TA4 Parking Standards

##### **Development Plan**

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

Spatial Policy 1 Settlement Hierarchy

Spatial Policy 2 Spatial Distribution of Growth

Spatial Policy 7 Sustainable Transport

Core Policy 3 Housing Mix, Type and Density

Core Policy 9 Sustainable Design

Core Policy 10A Local Drainage Designations  
Core Policy 12 Biodiversity and Green Infrastructure

*NSDC Allocations and Development Management DPD (July 2013) (ADMDDP)*

So/HN/1 Southwell Housing Need  
So/PV Southwell Protect Views  
DM1 Development within Settlements Central to Delivering the Spatial Strategy  
DM3 Developer Contributions and Planning Obligations  
DM5 Design  
DM7 Biodiversity and Green Infrastructure  
DM12 Presumption in Favour of Sustainable Development

**Other Material Considerations**

National Planning Policy Framework (NPPF) 2019  
Planning Practice Guidance (PPG)

Consultations

**Southwell Council** - object to this application (*based on original plans*).

- it is in contravention of the neighbourhood plan E2 Flood Resilience Design, as there are no flood mitigation measures in the application.

- the height 2.5 storeys dwelling will cause loss of privacy to surrounding residents

**NCC Flood Team** – No objections.

**Severn Trent** – No comments received.

**Southwell Civic Society** – object to this application (*based on original plans*).

- Although there are only two houses their height, at effectively three stories, would dominate the surrounding properties and would result in issues of privacy especially from the Juliet balconies.
- No flood mitigation measures have been put forward in the application contrary to Southwell Neighbourhood Plan Policy E2.

**In respect to the original scheme, representations have been received from 5 local residents/interested parties which can be summarised as follows:**

- Revised proposal is an improvement to previous scheme but still shows no visitor parking;
- The Ropewalk is chaos from badly parked cars when either the Co-op delivery or bus goes by;
- The revised plans seem sensible and a reasonable use of the site;
- The proposal is unacceptable as it is again out of keeping with the surrounding properties and the character of the area;
- The effect of the houses will increase the loss of privacy and overshadowing to 49 and 49a The Ropewalk;

- The safety of The Ropewalk is already of great concern with regard to the safety of elderly residents and school children;
- The 3 storey design is not typical of nearby properties and poses a significant risk to loss of privacy for neighbouring properties;

### Comments of the Business Manager

#### Preliminary Matters

As is referenced above, the application was submitted at the same time as three other planning applications on the site for residential development. As referred to in the description of development, this application forms **Scheme C**.

- Scheme A: 4 dwellings – 20/01418/FUL;
- Scheme B: 3 dwellings – 20/01421/FUL;
- **Scheme C: 2 dwellings – 20/01422/FUL;**
- Scheme D: 5 dwellings – 20/01433/FUL.

The three other applications were all presented to Members at the October 6<sup>th</sup> meeting and all refused for the reasons outlined above. The reason the current application did not come before Members in October was that Officers were working on negotiations for a revised scheme to address concerns in respect to scale and massing.

#### Principle of Development

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

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

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

The amended Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the Sub-regional Centre, Service Centres and Principal Villages, which are well served in terms of infrastructure and services. Spatial Policy 1 (Settlement Hierarchy) of the Council's Amended Core Strategy (ACS) sets out the settlements where the Council will focus growth throughout the District. Southwell is defined within the ACS as a Service Centre where the intention is for it to act as a focus for service provision for a large population, and rural area. The



Southwell Neighbourhood Plan, which also forms part of the Council's Adopted Local Plan seeks for sustainable development that has regard for the town's unique character, historic environment and landscape setting.

Therefore based on the siting of the application site within the defined settlement of Southwell and within an existing residential setting, the siting is considered acceptable. The site is also subject to an extant permission for two dwellings given lawful implementation of a wider site application for residential development through the erection of five bungalows at Nursery End.

Consent was granted in 1971 for the development of Nursery End with 5 bungalows and 2 detached 4 bedroomed houses with attached double garages, of which the two detached dwellings on this site were never constructed. The two dwellings utilised an access from the south of 49a The Ropewalk which serves two further properties, although these were constructed in the 1980s which was after the consent for the 7 dwellings. It has been shown that these two remaining dwellings could be constructed irrespective of the current application noting the extant permission which exists. The outline of the extant dwellings is shown in green on the site plan for this application. For the avoidance of doubt, the extant permission is material to the determination of this application as are the previous decisions of the LPA and the Inspector which relate to the site.

### Housing Need

Policy So/HN/1 of the ADMDPD states that the District Council would seek to secure on allocated and windfall sites, one and two bedroomed units in line with housing need. The Southwell Neighbourhood Plan states in paragraph 2.7 (housing) that the highest demand within Southwell in the market sector (of which this is proposed) for housing is for two bedroomed houses in comparison to the social sector where the requirement is for both one and two bedroomed dwellings. This is reaffirmed by the Newark and Sherwood Housing Needs Survey 2014 which states within the Southwell area the largest market sector demand is for 2 bedroomed properties followed by 4 bedroomed and then 3 bedroomed. This Needs Survey is, accepted, 6 years old and is currently being updated with new surveys having been issued across the District to establish the latest data to produce a new Needs Survey. However this is the latest data we have and until new material is produced this still forms a part of decision making.

The Southwell Neighbourhood Plan (SNP) states the housing mix on site should deliver a high proportion of 1 or 2 bedroomed 'starter homes' under Policy HE1, however this is stated only where schemes come forward for 11 dwellings or more to which this does not qualify. Therefore there is no requirement for the developer to deliver such a mix under this SNP policy.

It is clear that the dwellings presented by the current application would not contribute towards the identified need of smaller units. Both dwellings are of a significant size and scale with 5 bedrooms each. The 2014 Housing Needs Survey report identifies just a 2.7% need for 5 bed units.

Policy So/HN/1 is one of only two policies in the ADMDPD (the other relating to Lowdham) where the District Council has sought to dictate the size of units that come forward at a settlement level (in addition to the Core Strategy requirements to consider the results of housing needs surveys). It is therefore my view that this policy must be given meaningful weight and the lack of adherence to this policy should weigh negatively in the overall planning balance.

Notwithstanding the above, it is relevant to note that the fall back position for two units does not promote smaller dwellings either (both four bed units). There is an argument to say that both the fall back and proposed scheme would represent large family homes which are not necessarily attainable to the market which Policy So/HN/1 is trying to protect.

### Impact on Character

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 mirrors this. Policy DM5 goes on to state that proposals creating backland development will only be approved where they would be in keeping with the general character and density of existing development in the area.

It is not considered necessary to debate the matter of backland development since this has already been accepted by the extant permission and indeed permissions on neighbouring land to the east which would essentially occupy the available development plots. Put simply, the precedent for backland development in this area has already been set and fulfilled by applications.

Notwithstanding these backland plots, the design and character of the area is mainly traditional in that properties face the highway with wide frontage plots in two storey form. Within the cul-de-sac of Nursery End, which was constructed by the extant permission in the 1970's, the character is created by the spacious plots set back from the highway in the traditional 1970s-1980s design standard. The design of the built form within Nursery End are mainly red brick dwellings of neutral character.

The dwellings presented for consideration in this application are modern in their character with features such as flat roof projections and porches and wide rectangular fenestration details. Specific materials have not been specified albeit the Design and Access Statement confirms that the primary materials are likely to be red brick and pantiled profile tiles (although there would be scope for elements of render and cladding).

There are still however elements of more traditional form such as the pitched roofs. This is a significant difference from the previous application on the site for two dwellings (14/02172/FUL) where Members and the Inspector considered a modern form with steeply pitched apex roofs was not appropriate for the context of the site.

The modern design is not something to which the Council are adverse to and indeed the mix of modern/contemporary approach against more traditional red brick and tile design, is a common feature which provides a diverse opportunity to influence and upgrade the character of the area. To create pastiche developments of the same character would result in a stale character and the NPPF states that the "*creation of high quality buildings and places is fundamental to what the planning and development process should achieve*" (para 124, NPPF 2019). In addition it states that decisions should ensure developments are visually attractive and sympathetic to local character....while not preventing or discouraging appropriate innovation or change (para 127).

Although the site is land locked by residential curtilages and therefore not readily visible in the context of the public realm (with the exception of the Nursery End frontage), the originally proposed dwellings with accommodation delivered over three storeys were of a height and scale such that they would have been a dominating feature to the character of the area. In this respect

the appeal decision for a previous scheme (14/02172.FUL) is relevant. In this decision, the Inspector took account of the fall back position but found that the design style and massing of the appeal scheme was greater and ultimately harmful to the character and appearance of the area. Officers therefore raised concern with the originally submitted plans for this application and it is on this basis that the scheme has been revised.

The latest plans for consideration show that the proposed dwellings would be just under the pitch height of the extant scheme. However, as is shown by the site plan, the proposed foot print would be materially larger. The additional footprint would primarily be due to the two storey rear projections. The applicant has worked with Officers to reduce the overall massing of the rear projections with the plans now for consideration showing a dropped ridge height to the rear which assists in breaking up the bulk of the built form.

Officers are mindful of Member's concerns on the recently refused schemes namely in relation to the over intensive development of the site. However, in the case of the current application, the number of dwellings would be the same as that agreed by the extant permission. The plots would be spacious such that the two dwellings, albeit of considerable footprint, would not appear cramped within their plots. Although the footprints would undoubtedly be larger than the majority of plots in the surrounding area, with the reduced height secured through the revisions (including a dropped ridge height at the end of the rear projection), Officers do not consider that the massing itself would be harmful to the character of the area.

#### Impact on Amenity

Policy DM5 of the ADMDPD states *"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 to having regard to the operation of neighbouring land uses and mitigating where necessary.

It is material to the current determination that matters of amenity formed part of the reason for the refusal of the scheme for 5 dwellings (19/02064/FUL) on the site and indeed was a main factor in the Inspector's deliberation on the previous scheme for two dwellings (14/02172/FUL). This was particularly in the context of the impact on no. 49 and 49a The Ropewalk.

The current application is a significantly less intensive scheme and therefore matters of amenity provision for the proposed occupiers is of no concern given that they would both be afforded ample amenity areas.

In line with the Inspector's decision on 14/02172/FUL, the greatest amenity consideration would be the relationship between Plot 2 and no. 49 and 49a The Ropewalk.

*12. The outlook from the rear of Nos 49a and 49 would be towards the side elevation of Plot No 1. Both these properties have relatively short rear gardens of approximately 7.5 metres in length. Whilst there would be windows in the side elevation these would be comparatively small and would be secondary windows to principle rooms. Consequently I do not consider that the development would cause overlooking to an extent that would result in an unacceptable loss of privacy.*

*13. The side elevation of Plot No 1 would be sited within approximately 2 metres of the rear boundary of Nos 49a and 49. The outlook from almost the whole of the rear boundary from No 49a and half of the boundary with No 49 would be towards the proposed side elevation of Plot No 1. This would be positioned within approximately 11 metres of the rear windows of these properties and extend from a single storey mono-pitched garage to two storey side elevation of the proposed dwelling at a height of approximately 7.2 metres. In comparison, the 'fallback' scheme had a substantially reduced gable width and hence resulted in much less built development along the rear boundary of the existing properties. As a consequence of the relatively short rear gardens and the extent of built development, sited in such close proximity to the rear boundary, I consider that the proposed scheme would be overbearing and cause a significant and detrimental impact on the outlook from Nos 49a and 49 The Ropewalk.*

*14. Although I have not found an unacceptable loss of privacy, there would be a detrimental impact on outlook contrary to policy DM5 of the DPD. This policy, amongst other things, seeks to ensure that new development does not result in an unacceptable loss of amenity as a consequence of inadequate separation distances and overbearing impacts.*

In this case the outlook would be towards Plot 2. As with the appeal scheme, the majority of the side elevation would feature small secondary windows at first floor (which could reasonably be conditioned to be obscurely glazed). However, the latest plans show that bedroom 1 of Plot 2 would also be served by a large full height window with Juliette balcony which would be orientated towards the rear of no. 49 The Ropewalk. Although the distance between the window and the rear of no. 49 would be approximately 23.5m, Officers still consider that this relationship would lead to a perception of being overlooked due to the large expanse of glazing and the direct outlook. The applicant has agreed that they would be willing to amend the plans further by replacing the full height window with a more modestly sized window and adding an additional window to the rear elevation. The revisions could be secured by condition if Members were minded to approve.

The site plan for the application has annotated the positioning of the extant dwellings and shows that the proposed Plot 2 would be sited approximately 3m further westwards than the extant scheme giving a total distance of approximately 14.5m between the rear of the neighbouring properties and the side of Plot 2. The detached garage would be closer to the boundary and less than 10m from the rear elevation of no. 49a but it would not be set immediately behind and therefore any outlook to the single storey roof would be at a more oblique line of sight.

As with the Inspector's assessment above, it remains the case that due to the rear projection and detached garage, a significant proportion of the rear outlook for both no. 49 and 49a would be towards built form (the extant scheme would have just been the gable end albeit approximately 3m closer). Owing to the extra distance achieved, it is considered that the scheme as presented would on balance be acceptable in terms of the amenity impacts to no. 49 and 49a.

The submitted site plan has helpfully annotated the positioning of the extant approval to the rear of no. 51 The Ropewalk which forms permission for a two storey dwelling. The closest element of built form would be the rear projection of Plot 1 which notably does not feature any glazing. The distance between the rear projection and the principle elevation of the extant plot would be approximately 19m which in the absence of any windows would be sufficient to ensure neither property suffers direct overlooking. The window to window distance would be around 29m which would be a marginal increase to the extant permission.

As mentioned above, the intention is for the rear projection of Plot 2 to be revised to include first floor glazing which would overlook the end of the rear garden for the existing dwelling at no. 51 The Ropewalk and the access drive for the extant dwelling. The rear projection would still be around 11m from the shared boundary and the points at which the outlook are towards are considered less sensitive in amenity terms. Officers have therefore identified no demonstrable amenity harm to either 51 The Ropewalk or the extant proposal in the rear garden particularly in the context of the extant scheme on the site.

Other properties which surround the site include the bungalows on Nursery End. However, it is not considered that the side gable of Plot 1 (the closest element of built form approximately 28m away) would have a greater impact than the extant scheme.

There are also gradient differences in the area which mean that the proposed dwellings could impact the properties on the opposite side of the Ropewalk access (to the south west). However, the revised plans clearly show that the dwellings would be marginally lower than the extant scheme and therefore the impact on these properties would be similar to what could be built through the existing permission. This would be a principle elevation to principle elevation relationship, and owing to the distance of over 30m does not raise amenity concerns justifiable for a refusal.

Overall, the scheme is considered to comply with the amenity intentions of Policy DM5 and in doing so has overcome the previous refusals on this basis. Given the constraints of the site however, it is considered reasonable and necessary to restrict permitted development rights to allow the LPA control over any future development.

### Impact on Highways

Spatial Policy 7 (Sustainable Transport) of the ACS states development proposals should provide safe, convenient and attractive accesses for all, be appropriate for the highway network in terms of the volume and nature of traffic generated, and ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected. In addition it states to provide appropriate and effective parking provision, avoid highway improvements which harm the area.

Policy DM5 of the ADMDPD states provision should be made for safe and inclusive access and parking provision for vehicles and cycles should be based on the scale and specific location of the development.

Both dwellings would be served from the existing access from The Ropewalk which matches the extant permission. It therefore would not be reasonable to resist the application on the basis of the proposed access.

Comments have been received relating to a lack of visitor parking and how this could potentially affect on street parking and ultimately the efficient operation of traffic along The Ropewalk. However, Officers do not share these concerns. Both properties have been presented with double garages as well as large expanses of turning spaces within the site. Indeed, the set back from The Ropewalk is likely to mean that parking on site is a much more attractive prospect for visitors and occupiers. Even in the context of the size of the dwelling, it is considered that appropriate levels of on site parking provision have been presented. In reaching this judgement Officers are also mindful that the previous Inspector did not raise an issue with matters of highways safety in the appeal decision for 14/02172/FUL.

If permission were to be forthcoming then conditions could be attached to the permission requiring the widening of the access and the use of a hard bound material.

### Flood Risk and Drainage

The site is located within flood zone 1 and therefore at the lowest risk from flooding and does not constitute major development classification of development as stated within the NPPF. It is not necessary for the applicant to submit a flood risk assessment, nor is it necessary to apply the sequential test approach as set out in the NPPF. The Town Council comments refer to Neighbourhood Plan Policy E2. However this relates to development proposals which require a flood risk assessment.

Nonetheless Core Policy 10A of the ACS identifies Lowdham and Southwell as areas of Local Drainage Designations. The assessment of this would take in to account the SNP policies concerning the management of flood risk and specific advice of the Lead Local Flood Authority.

Core Policy 10A states that new development should positively manage surface water run-off through the design and layout, in order that there will be no unacceptable impact from run-off on surrounding areas or the existing drainage regime. The SNP states however that proposals relating to drainage submission would only be required whereby the initial proposal is subject to a flood risk assessment.

The Lead Local Flood Authority have commented and stated they have no objections to the proposal subject to certain matters being achievable which would be attached as a condition on drainage should the scheme be considered otherwise acceptable.

Therefore on the basis of the information submitted the proposal is not considered to result in unacceptable harm to local drainage issues, subject to the imposition of conditions.

### Other Matters

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

It is notable that the current application did not originally address matters of ecology through a specific ecological survey. However, the previous application for 5 dwellings (19/02064/FUL) (submitted by the same applicant) did include a preliminary ecological appraisal which is still 'in date' having been based on site visits from November 2019. The report identified the site as being of low ecological value which allow providing a habitat for foraging did not feature any bat roosting habitats. No evidence of nesting birds were found. Ultimately the report found no ecological harm from developing the site (again relevant to state it could be developed by the extant permission in any case) but did make recommendations for ecological enhancements such as bat and bird boxes. These could be carried forward to this application by condition (the report has now been submitted to accompany this application).

### Overall Balance and Conclusion

The proposal relates to two, large executive family homes within the village envelope of Southwell. Whilst the size of the dwellings does not conform with the intentions of local policy to seek smaller units, it must be taken into account that there remains a fall back position for two four bed units on the site. The above assessment has considered all material planning considerations and found that the proposal is acceptable in character and amenity terms specifically (previous reasons for resistance of development on the site). It would be extremely difficult to defend a refusal on matters of housing need alone when acknowledging the extant permission for two dwellings on the site but also the contribution that the dwellings would make towards the District Council housing stock on what is a windfall site. The recommendation is therefore one of approval subject to the conditions as outlined below.

## **RECOMMENDATION**

**That 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 out except in complete accordance with approved proposed plans reference;

- Scheme C Site Plan – C 02B;
- Scheme C Plots 1 Elevations – C 05B;
- Scheme C Plots 1 and 2 Garages – C 03;
- Scheme C Plot 1 Plans – C 06B;
- Scheme C Plot 2 Elevations – C 07B;
- Scheme C Plot 2 Plans – C 08B;
- Scheme C Cross Section – C 04B;

Reason: So as to define this permission.

03

Notwithstanding the approved plans referred to the previous condition, the first floor full height window and Juliette balcony on the south eastern side elevation of Plot 2 as shown on Scheme C Plot 2 Elevations – C 07B, is not approved. Prior to the occupation of this plot, revised window details shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained for the lifetime of the development. For the avoidance of doubt, any first floor windows on the south eastern side elevation of Plot 2 shall be modest in size and obscurely glazed to level 3 or higher on the Pilkington scale of privacy or equivalent.

Reason: To protect neighbouring amenity.

04

No development above damp proof course/slab level shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

05

No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m at The Ropewalk are provided in accordance with details shown on plan reference Scheme C Site Plan – C 02B. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: In the interests of highway safety.

06

No part of the development hereby permitted shall be brought into use until the access to the site has been completed, with a width of 5.25m, and surfaced in a bound material for a minimum distance of 5m behind the highway boundary (back edge of footway) with a suitable means of surface water disposal in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

07

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;

means of enclosure;

car parking layouts and materials;

hard surfacing materials;



Reason: In the interests of visual amenity and biodiversity.

08

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

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

09

No dwelling on site shall be occupied until details including location of a hedgehog house and a minimum of two bat boxes and two bird nest boxes and/or bricks have been submitted to and approved in writing by the Local Planning Authority. The hedgehog houses/nest boxes/bricks shall then be installed, prior to occupation of the associated dwelling, in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: In the interests of maintain and enhancing biodiversity.

10

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

Reason: In the interests of ecology and biodiversity enhancements.

11

Development shall be carried out in accordance with the submitted Ecological Walkover Survey (dated 12 November 2019) namely Section 4.2 (Evaluation) and the Enhancements section. Details and locations of these enhancements including an implementation and timescale programme shall be submitted to the Local Planning Authority in writing and such measures shall be implemented and retained for the life of the development.

Reason: In the interests of ecology and biodiversity enhancements.

12

Prohibited activities

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

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on the proposal site.
- b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on

the application site,

c. No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.

d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on the application site.

e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on the application site.

f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on the application site.

g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on the application site.

h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

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

13

No development shall be commenced until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. Sustainable Urban Drainage Systems (SUDS) should be considered where feasible and details of maintenance and management should be submitted to the Local Planning Authority. Permeable paving should also be considered to reduce the reliance on mainstream drainage measures and other such water saving measures should be submitted to and approved by the Local Planning Authority. The development shall be carried out thereafter in accordance with the approved details and implemented prior to first occupation of the first unit and retained for the lifetime of the development.

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

14

Any first floor windows on the south eastern side elevation of Plot 2 shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the dwelling is occupied and thereafter be retained for the lifetime of the development.

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

15

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 to any unit approved under this permission 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 E: Buildings etc incidental to the enjoyment of a dwellinghouse.

Reason: To ensure that the Local Planning Authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any amending legislation) and in order to safeguard the amenity of neighbours

16

In the event that the permission hereby approved is implemented, the alternative schemes considered under references 20/01418/FUL; 20/01421/FUL and 20/01433/FUL (subject to approval in an appeal scenario) shall not be implemented.

Reason: To prevent the part implementation of different schemes which could have amenity impacts not formally considered.

#### Notes to Applicant

01

To avoid nuisance complaints the applicant should have regard to the following:

1. Except for emergency works, to protect the amenities of occupiers of other premises in the vicinity, the hours for deliveries or for the construction of the development should be restricted to: Monday to Friday 08:00 to 18.00hrs, Saturday 08:00 to 13.00hrs and no works on site on Sundays/Bank Holidays.
2. Suitable measures must be taken to minimise dust and dirt during the construction and operation of the site using best practice methods.

02

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

03

The development makes it necessary to widen the existing vehicular crossing over the footway of the public highway (The Ropewalk). These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

04

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

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

05

Please note that the District Council no longer provides wheeled bins for residential developments free of charge. Wheeled bins can be purchased from the District Council or any other source provided they conform to appropriate standards and requirements of the Council. Enclosed is a leaflet from the District Council's Waste Management Section entitled 'Guidance for New Development – Waste Storage and Collection' which sets out these standards and requirements. If you wish to purchase wheeled bins or discuss this matter further please contact the Waste Management Officer on 01636 655677 or email: [waste.management@nsdc.info](mailto:waste.management@nsdc.info).

06

The development should not increase flood risk to existing properties or put the development at risk of flooding.

Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.

SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.

Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.

The applicant should consider the use of flood resilient construction techniques and materials where possible.

#### BACKGROUND PAPERS

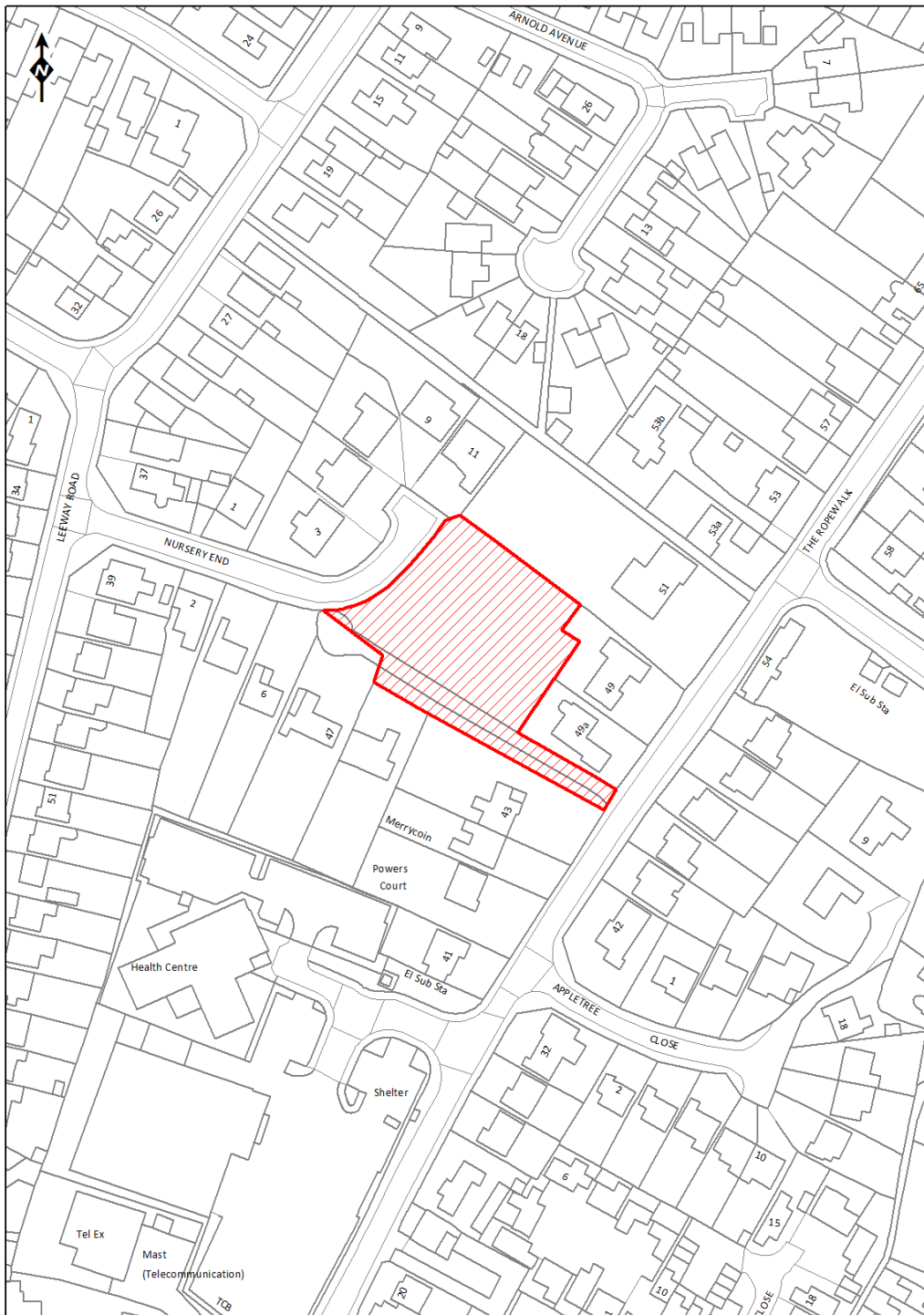
Application case file.

For further information, please contact Laura Gardner on extension 5907.

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

**Lisa Hughes**  
**Business Manager – Growth and Regeneration**

Committee Plan - 20/01422/FUL



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## PLANNING COMMITTEE – 03 NOVEMBER 2020

<b>Application No:</b>	<b>20/01190/OUTM</b>
<b>Proposal:</b>	<b>Outline application for 45 dwellings</b>
<b>Location:</b>	<b>Land rear of The Vineries, Lower Kirklington Road, Southwell</b>
<b>Applicants:</b>	<b>Sir John Starkey, Mr Keith Maxey, Mrs Katherine Maxey, Mr John Judson, Mrs Ann Judson and Mr Richard Mullard</b>
<b>Agent:</b>	<b>Hannah Price of Fisher Germain LLP</b>
<b>Website link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>
<b>Registered:</b>	<b>09.07.2020</b> <b>Target Date: 08.10.2020</b>
	<b>Extension of time agreed in principle</b>

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

### The Site

The application site comprises c2.8ha of land containing a mix of agricultural land, grassland, former allotments and former apple orchard to the east of Kirklington Road and to the south of Lower Kirklington Road. There a number of mature trees and hedgerows within the site. The vast majority of this land is allocated for housing in the Council’s Allocations and Development Management DPD albeit the allotments were not included in the allocation.

There are several components to the site including land north of The Vineries which comprises a ploughed field, a protected Walnut tree and informal grassland with a driveway and hardstanding associated with the existing properties, including The Vineries, to its south. It also includes domestic outbuildings located close to the eastern boundary that serve The Vineries.

The site is bound to the west by Kirklington Road with its boundary being a managed native hedgerow along its length, aside from the gap which forms the current existing vehicular access to the site. Beyond this (to the west) is Norwood Golf course.

The site frontage with Lower Kirklington Road is bound with a managed hedgerow. To the north, adjacent to the highway is a grassed verge which contains several acer trees evenly spaced. Towards the northern end of the site, close to the Lower Kirklington Road boundary, positioned centrally is a walnut tree that is subject to a Tree Preservation Order.

A footpath extends along the southern boundary before projecting southwards to link with Kirklington Road and Springfield Road. A local watercourse is located south of the application site.

Three properties lie to the north of the south-eastern section of the site; 'Benaiah', 'Oak Tree House' and 'Oaklands' which are all substantial two storey dwellings. A fourth dwelling (Plot 3 of approved scheme 19/01615/RMA – see history section below) is expected to be constructed on land rear of Brooklyn which will be adjacent to this site.

The site lies in flood zone 1 according to the Environment Agency maps.

### Relevant Planning History

**PREAPP/00086/20** – Positive advice was given in respect of an enquiry regarding a possible outline application (with all matters reserved) for a residential development of 45 dwellings in May 2020.

**17/00605/OUTM** – This application related to part of the wider allocated site (the western part) and was for outline consent (all matters reserved except for the means of access) for up to 18 dwellings including the provision of 5 affordable houses and to include the provision of off-site Highway works including (but not limited to) the provision of a mini roundabout at the junction of Kirklington Road and Lower Kirklington Road Southwell. This application was refused under delegated powers on 12<sup>th</sup> October 2018 for the following summarised reasons:

- 1) *Failure to demonstrate that developing this part of a wider housing site allocation independently would not prejudice the delivery of the remainder of the site in an appropriate way. Specifically the drainage strategy as advanced is not fit for purpose.*
- 2) *Scheme did not secure appropriate range of developer contributions to mitigate the impact of the development.*

**16/01352/OUT** - Construction of 9 no. 4/5 bedroom detached houses - Phase 1 of the proposed development. (Outline application with matters of access and layout for consideration with all other matters reserved). This application was withdrawn prior to a formal decision being made due to various concerns being raised. This related to the western part of the enquiry site owned by the Maxey's.

**16/00007/TPO** - A Tree Preservation Order (no. N362) was made and confirmed on 19<sup>th</sup> October 2017 in relation to the walnut tree on site.

**13/00823/FUL** – 'Formation of new vehicular access and mini-roundabout with associated highway works.' This was a standalone 3 arm roundabout at the junction of where Lower Kirklington Road meets Kirklington Road which was approved 20th August 2013 under delegated powers and has now time expired without a start on site being made. The applicants were the same as this scheme, Mr & Mrs Maxey.

**19/01615/RMA** – This application related to land at the rear of Brooklyn on Lower Kirklington Road and related to a reserved matters application for erection of 3 no. dwellings seeking approval of appearance, landscaping, layout and scale (Outline 17/00383/OUT which was allowed on appeal). This reserved matters approval was granted in line with the officer recommendation at planning committee in November 2019, following a series of other applications having been refused (including dismissals on appeal).



*Land to north (part of the Allocated So/Ho/5)*

**18/01363/FULM** – Proposed residential development for 80 dwellings which necessitated highway works in the form of traffic lights was refused by committee on (summarized) grounds;

1. That proposed traffic light junction design was an urbanizing feature which together with associated highway paraphernalia represents an intrusive and incongruous form of development harmful to the character and visual amenities of the area.
2. Failure to provide for 20% bungalows as required by Policy HE1;
3. Concern of layout and disposition of the affordable housing from market dwellings harming social cohesion;
4. Generally a poor layout with a number of compromises representing cumulative harm

This was subject to an appeal APP/B3030/W/20/3234051 which was dismissed.

**19/01771/FULM** - Proposed Residential Development for 80 Dwellings, refused 4 December 2019 by Committee as the 4-arm mini roundabout solution proposed was considered unsafe and detrimental to highway safety. Whilst this was subject of an appeal (APP/B3030/W/19/3244627) the applicant amended the highway solution to the traffic lights and the appeal was dismissed for on the grounds of poor design and visual appearance.

### The Proposal

Outline consent is sought for a development of 45 dwellings along with associated infrastructure. All matters are reserved except for the means of access which would be taken from Lower Kirklington Road via a newly formed vehicular access. This development would also require the provision of a mini roundabout at the junction of Lower Kirklington Road with Kirklington Road.

The schedule of house types indicates the provision of 14 affordable dwellings with 31 market dwellings with a combined mix as follows:

- 8 x 1 bedroom apartments (4 affordable/4 market);
- 5 x 1 bedroom bungalows (2 affordable/3 market);
- 12 x 2 bedroom dwellings (6 affordable/6 market);
- 4 x 2 bedroom bungalows (4 market);
- 7 x 3 bedroom dwellings (2 affordable/5 market); and
- 9 x 4+ bedroom dwellings (market).

The scheme involves the provision of a sustainable urban drainage system, the retention of some trees, the provision of children's play space and on-site amenity green space as well as landscape buffers.

### The Submission

- Drawing no. 001 Rev D - Proposed site access layout (received 04.09.2020)
- Drawing no. 002 Rev B – Proposed mini roundabout layout swept path analysis (received 04.09.2020)
- Drawing no. 003 Rev C – Proposed site access layout swept path analysis (received 04.09.2020)
- Drawing no. 1100 - Topographical Survey
- Drawing no. 1184.94 Rev 1 – Tree Constraints Plan
- Drawing no. 1215 001 rev P1 – Existing site plan

- Drawing no. 1215 100 rev P2 – Proposed site plan (received 18.09.2020)
- Drawing no. 1215 000 rev 02 – Site Location Plan
- Arboricultural Survey by Quants Environmental, March 2020
- Preliminary Ecological Appraisal by Quants Environmental, June 2020
- Reptile Survey Report by Quants Environmental, June 2020
- Badger Survey Report by Quants Environmental, June 2020
- Breeding Bird Survey Report by Quants Environmental, June 2020
- Interim Bat Survey Report by Quants Environmental, June 2020
- Bat Survey Report by Quants Environmental, September 2020 (received 18.09.2020)
- Ecological Impact Assessment, by Quants Environmental, September 2020 (received 18.09.2020)
- Hedgerow Regulations Survey, by Quants Environmental, September 2020 (received 18.09.2020)
- Design and Access Statement, p1 by MBA
- Flood Risk Assessment and Sustainable Drainage Strategy, by Lumax Consulting Civil and Environmental Engineers
- Historic Environment Desk Based Assessment by Lanpro Services, June 2020
- Landscape and Visual Impact Assessment, Aspect Landscape Planning, June 2020
- Planning Statement by Fisher German
- Statement of Community Involvement by Fisher German
- Transport Assessment by HUB Transport Planning Ltd, June 2020

#### Departure/Public Advertisement Procedure

Occupiers of 29 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. Further public re-consultation has taken place upon receipt of amended/additional submissions.

#### **Planning Policy Framework**

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

##### **Southwell Neighbourhood Plan (adopted 2016)**

SD1 – Delivery Sustainable Development  
 E1 – Flood Risk Assessments and Mitigation  
 E2 – Flood Resilient Design  
 E3 – Green Infrastructure and Biodiversity  
 E4 – Public Rights of Way and Wildlife Corridors  
 E5 – Green Link  
 E6 – Climate Change and Carbon Emissions  
 DH1 – Sense of Place  
 DH2 - Public Realm  
 TA1 - Cycle and Pedestrian Routes  
 TA2 – Public Transport Connectivity  
 TA3- Highways Impact  
 TA4 – Parking Standards  
 HE1 – Housing Type and Density  
 Policy SS4 – Land east of Kirklington Road (So/Ho/4)

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 5 – Delivering the Strategy  
Spatial Policy 6 – Infrastructure for Growth  
Spatial Policy 7 - Sustainable Transport  
Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities  
Core Policy 1 – Affordable Housing Provision  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 -Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 10A – Local Drainage Designations  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 14 – Historic Environment  
SoAP1 – Role and Setting of Southwell

## **Allocations & Development Management DPD**

So/Ho/4 – Southwell Housing Site 4  
So/HN/1 – Southwell Housing Need  
DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
DM2 – Development on Allocated Sites  
DM3 – Developer Contributions and Planning Obligations  
DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
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
- Affordable Housing SPD 2013
- Developer Contributions and Planning Obligations SPD 2013

## **Consultations**

**Southwell Town Council** – (03.09.2020) Object on the grounds of that the mini roundabout is unnecessary and will cause problems for the allocated site to the north and due to concerns regarding flooding. Previous comments are available to view on the planning file (dated 06.08.20) but also reference concerns relating to habitat loss, lack of bat surveys, query ownership and management of the land on which footpath 55 runs is required as long term maintenance is in question and cycle provision.

**Southwell Civic Society** – (07.08.2020) Object, whilst they welcome the consortium approach ‘there was no pre-application resolution of highway issues and access is one matter for which detailed approval is sought.’

**NCC Highways Authority** – (12.10.2020) following the submission of revised access and junction details they are satisfied that safe access can be achieved and they don't consider the scheme would prejudice the scheme to the north from being delivered, as access could be achieved another way. The proposed mini-roundabout and other 'gateway' highway works on Lower Kirklington Road are considered to be critical to achieving safe access to the site, due to the siting of the new access in close proximity to the Kirklington Road junction. Conditions are requested which are contained within the recommendation section.

**NCC Rights of Way** – Advise that Southwell Public Footpath No. 55 is adjacent to the site edged in red on the site location plan and note that reference has been made to it in the application. No objection but wish applicant's attention to be drawn to the note to applicant.

**NCC Lead Local Flood Authority** – (20.07.2020) No objection subject to condition which is set out in full within the recommendation section of this report.

**NCC Strategic Policy/Developer Contributions** - (29.07.2020) Provide general comments on minerals and waste, suggest a waste audit would be useful, confirm a travel and travel services contribution is necessary of £7,000 to provide improvements to the bus stop NS0188 Norwood Gardens and confirm that no education contribution is to be sought.

**NHS Clinical Commissioning Group** – (13.10.2020) and (01.09.2020) Request health contribution and provide additional justification, on the basis that the development will place additional demand on health infrastructure already at capacity in the locality.

**Nottinghamshire Wildlife Trust** – (23.09.2020) Confirm that having reviewed additional ecological information they have no objections subject to conditions to secure the following;

- T2 and T5 are inspected by endoscope by a suitably qualified ecologist within 24hrs of removal and this should be secured through a suitably worded planning condition.
- Where suitable root protection zones should be created around all trees/hedgerows within the site and should be included within a CEMP (Construction Environmental Management Plan).
- Variety of bat boxes should be installed within the development following the guidance in para 4.3.2 of the report.
- Sensitive lighting scheme.
- To mitigate for loss of 300m of hedgerow, 90m of new hedgerow to be planted to be as diverse as possible and 15 different hedgerow/tree species will be planted and further hedgerows where possible.
- Deadwood log piles should be created within the site using the trees felled within the Site with stem diameters of at least 100 mm.
- No clearance works should be undertaken on the areas of hedgerow/treelines, semi-improved grassland, scrub, and woodland during the key breeding bird period of 1st March to 31st August i.e. to minimise any risk to breeding birds within the Site. Any active nest found should be left undisturbed until the chicks have fledged or the nest is no longer in use.
- We fully support the site enhancements of bat boxes, bee bricks, permeable fences for hedgehogs, SuDS and the provision of good working practices.
- If development has not commenced on the Site by March 2021, it is recommended that an update badger walkover is undertaken prior to the commencement of any groundworks
- Biodiversity net gain

**NSDC Tree Consultant** – (18.09.2020) Indicative layout should be achievable with minimal impact on green infrastructure. Conditions are recommended which are captured within the recommendation section of this report.

**NSDC Parks and Amenities** – The comments provided at pre-application stage remain of relevance which raise no objection to the indicative layout.

**NSDC Environmental Health** – Recommend the use of the standard phased contamination condition given allotments are a potentially contaminative land use.

**NSDC Conservation** – No objections.

**NSDC Archaeological Advisor** – Recommends that the site is subject to archaeological evaluation (which will include but may not be limited to a trial trench) to establish its potential and to develop a mitigation strategy if necessary. This can be secured by condition.

**Trent Valley Internal Drainage Board** – Comment that they support the suggested LLFA condition. They make general observations and advice that a permanent undeveloped strip of sufficient width should be made available adjacent to the bank top of all watercourses to allow future maintenance works. They also states that all drainage routes through the site should be maintained both during the works on site and after completion of the works and that provisions should be made to ensure that upstream and downstream riparian owners and those areas that are presently served by any drainage routes passing through or adjacent to the site are not adversely affected by the development.

**Representations have been received from 12 local residents/interested parties raising concerns which can be summarised as follows:**

*Principle/ Design/Character of Area*

- This project will undoubtedly spoil possibly the best approach to the historic town of Southwell;
- Development of this site and the associated roundabout and other street features would completely urbanise a very attractive and rural approach to this historic town;
- Single storey properties and retaining the mature hedgerows would help preserve the character of this rural gateway site by following this overriding topography pattern;
- Questions why the site should be developed at all and that it should be kept for open space for wildlife and a cleaner and quieter environment. It is right on the edge of Southwell which would encourage most people to only drive into the town.
- Site is close to the SS5 potential development site and together these would create a hugely disproportionate amount of development and increased traffic on one side of the town.

*Lack of Suitable Infrastructure*

- Schools and medical facilities in Southwell are already near capacity and the transport links to nearby shopping centres are extremely inadequate;
- There are not enough affordable homes being built in the development to keep the younger generation in Southwell - suggest that figure should be at least 50%.

*Trees and Habitat*

- Concern at loss of mature trees and vegetation;
- Adversely impact on wildlife (birds, bats, owls, hedgehogs etc) as new trees will take years to establish and regenerate new habitats;

- Ecology surveys do not take into account the surrounding areas of old orchards and parkland which represent high value and increasingly declining habitat;
- Concerned about the long term maintenance of the landscape buffers and ensuring this is done;
- Tree on boundary with 63 Springfield Bungalow needs to have roots protected

#### *Highways/Traffic*

- 3 arm roundabout is inadequate and insufficient for 13m long vehicle
- Development will increase in traffic when Southwell already struggles to cope;
- Development will produce large volume of vehicles, increased pressure on narrow roads and make roads more congested;
- Roundabout would not deter speeding motorists entering/leaving Southwell;
- The development will add more traffic to the 'rat run' along Kirklington road which is already dangerous due to the inadequate width of the road and the constantly collapsing verges;
- Increased traffic on the winding Kirklington Road which culminates in a complex junction involving many parked vehicles, a school and a pedestrian crossing in order to access the town;
- The development of this site would bring light, noise and vehicle pollution to what is a very rural part of the town;
- Given other site allocations this section of Lower Kirklington Road will be extremely busy;
- Existing access on Kirklington Road should be used;
- A short stretch of road will potentially have 150 - 180 properties exiting and entering here, close to the town's gateway and to the brow of a hill taking into account the existing dwellings and all allocations;
- Traffic management plan needs to be put in place;
- This public footpath will be a real asset to these homeowners but it is currently impassable in wet weather and needs fully resurfacing;
- Similarly the footpaths into town from this site are in need of resurfacing as they are the routes to the town and schools etc;
- Objection to the new pedestrian access to the existing public right of way (PROW) on the southern boundary. This is a new access point from that land not previously on the Ordnance Survey;
- The increased footfall on the PROW will result in possible damage/ingress to the adjacent land boundaries and to the footpath itself. The PROW is not currently suitable if it is to be inclusive to all users.
- It will also encourage greater footfall through the new estate from Lower Kirklington Road and be used as a shortcut to Kirklington Rd.
- Footpaths need to be improved to make them suitable for children that would attend the school
- Certainly it will be an experience for the housing occupants to walk along to the Norwood Gardens bus stop.

#### *Drainage and Flood Risk*

- No more development until comprehensive review of the flood alleviation scheme which was started in 1998 but never fully completed;
- Concern regarding surface water run off as existing gardens in area flood at times of heavy rainfall and there is concern that this development will exacerbate the problem.
- FRA inaccurate when it refers to the drainage system that magically whisks water away under Lower Kirklington Road to the river Greet. This ditch was partially blocked in 2014

and water now flows directly down to existing properties instead of passing under the Southwell trail to the Greet.

- Last floods after storms Ciara and Dennis flooded neighbouring properties;
- The Southwell Flood Alleviation Scheme does not take water down to the river Greet and this must be addressed before any further development is allowed to discharge surface water into that system;
- No explanation about how and where the attenuation pond is drained; concerned particularly about the one on the southern boundary overflowing and overwhelming the dyke. Although there has been work to improve flow in the dyke, it is not being maintained and is already overgrown which impedes the flow of water;
- Attenuation pond is close to gardens on Springfield Rd – concern water could escape to neighbouring land;
- Concern that ditches to be used could become blocked;
- No indication as to how deep the attenuation ponds are going to be. Is there going to be any actual outlet from the pond into the Springfield Dyke or is it going to rely on seepage and what would present its seepage onto neighbouring land?
- It is untrue that the dyke is dry as it takes from the water-course crossing the Norwood estate and only the excess runs over into the newly built culvert beneath running the length of Kirklington Road. The Springfield Dyke water was needed to fill the pond on the adjacent land for the livestock kept there in the Springtime. This year it dried in March after an exceptionally dry month but then had water again before May and finally dried up in June. If this year follows the yearly pattern it will have water again by October. There is also a mistake on page 22 of the flood documents, as paragraph 4:9 shows a green line of a ditch that is non-existent;
- Arrival of the developer to jet, vacuum and clean the watercourse and culvert that is mentioned is awaited;
- The culvert is at present built on stacks of blocks and no authorities claim responsibility for it; perhaps this should be investigated before any further water is put through it;
- A fence has been erected that encroaches onto a footpath (reported to NCC) but affects the drainage as forms barrier;
- Concern that authors of Flood Statement is weak and concerned they didn't visit the site;
- Last year, alongside Southwell Flood Alleviation Scheme (SFAS), Trent Rivers Trust installed some natural flood Concern that without maintenance downstream, the flood risk could be greater;
- management measures to mitigate the likelihood of Springfield Dyke overtopping so not logical to specifically direct water into that Dyke which would appear to be contrary to the aims of the SFAS;
- Not clear who is responsible for maintaining the length of the culvert along Kirklington Road;
- Who will maintain the ditch in the future.

#### *Other*

- The answer to the access difficulties in site access is to include The Beacon on LKR into the developable area;
- 'Guise' land has been included in the plan for residential development and this should be taken into account;
- Developing the site and position of the site access could prejudice the development of the 'Guise' land which would have an impact on housing allocations.

## **Preliminary Matters**

The application site includes former allotments which were not included within the site allocation. I believe this was because at that time they were not available and were still in use as allotments. Having regard to Policy SP8 which seeks to protect community facilities, I have considered this but have established that these were private allotments not covered by the statutory provisions and that these have been re-provided elsewhere. As such I am satisfied that this need not be treated as a loss of an existing community facility and the matter need not be discussed further.

The proposal also involves the creation of a new mini-roundabout. This is not within the red line of the application site but as the works would take place on land controlled by the applicants and the Highways Authority only, its timely provision can be controlled by the imposition of a *Grampian* style condition so this is not fatal to the application.

## Main Issues

I consider the main issues to be 1) the principle of development, 2) highway matters including a discussion on whether this scheme would prejudice the delivery of the allocated site to the north, 3) landscape, trees and provision of public open space 4) housing density, type and mix, 5) flooding 6) ecology and 7) impacts on infrastructure. These are discussed in turn below.

## Principle of Development

The starting point for decision taking (as set out in DM12 and the NPPF) is with the Development Plan. Newark and Sherwood District Council's Development Plan is considered to be up-to-date with the Core Strategy being adopted just over a year ago. Furthermore the Council can demonstrate in excess of the necessary five year housing land supply.

Southwell is defined in the Core Strategy's settlement hierarchy as a 'Service Centre' with its function being to act as focus for service provision for its large population and rural hinterland. It is intended that Southwell will accommodate 10% of the overall housing growth for Service Centres. The site, located at the north-western edge of the town, lies within the settlement boundary and forms a site that is allocated for around 45 dwellings as part of Policy So/Ho/4 of the Allocations and Development Management DPD. This Policy (and Policy SS4 in the Southwell Neighbourhood Plan (SNP)) provide the framework for how development should be brought forward. It is therefore considered that the principle of residential development and the quantum proposed on the site is acceptable subject to a detailed site specific assessment.

The application is made in outline form with only the means of access to be formally considered at this stage together with the quantum of development which is within the description of development. Notwithstanding this, the applicant has submitted a site plan to indicatively show how 45 dwellings could be successfully provided on site taking into account the site constraints and the need to provide suitable infrastructure such as sustainable drainage attenuation. This is discussed in more detail in the sections that follow.

## Highway Impacts

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development. Spatial Policy 7 encourages proposals to provide for safe convenient and attractive

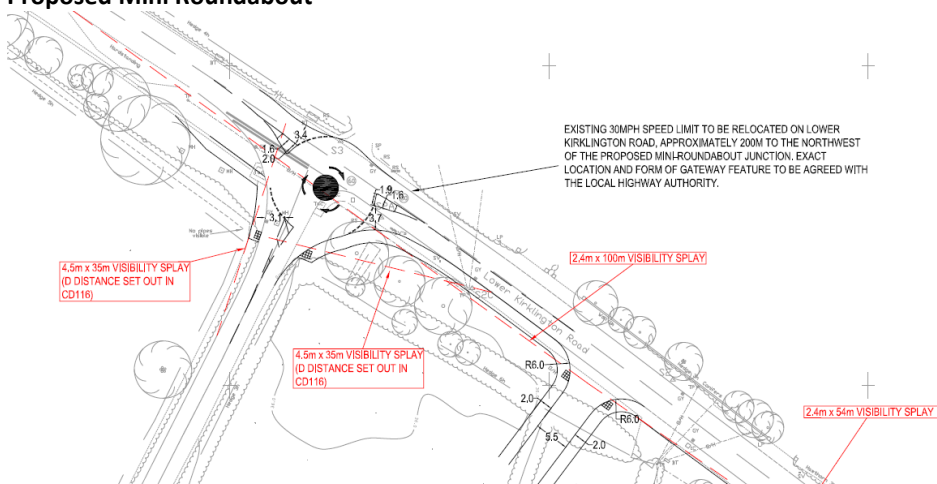


accesses for all and provide links to the network of footways etc to maximise their use, be appropriate for the highway network in terms of volume and ensure the safety, convenience and free flow of traffic are not adversely affected. So/Ho/4 and SS4 require suitable access from Lower Kirklington Road along with supporting justification.

This application is accompanied by a Transport Assessment and proposes its highway access from Lower Kirklington Road to the north. Given its proximity to the junction with Kirklington Road, in order to make the development safe from a highway perspective it would be necessary for a new mini roundabout to be installed at the junction. This would be a 3-arm mini-roundabout designed to slow traffic approaching from the west in order to make utilizing the new access to the development safe. This would need to be provided before development commences to allow it to be in place for delivery vehicles during site construction as well as the dwellings themselves. This can be achieved by condition.

The mini-roundabout has already been designed and been through a NCC safety audit with revisions made such that NCC Highway Authority are now satisfied that the scheme would be safe in highway terms. They expect the developer to enter into a Section 278 Agreement with the Highway Authority whereby the developer agrees to carry out works within the existing public highway. It will also be necessary to restrict the speed limit on Lower Kirklington Road to 30mph which would be achieved either by an extension of the street lighting westwards (which will automatically achieve the change) and/or require a Traffic Regulation Order which NCC have advised may be dealt with as part of the S278 Agreement.

#### Proposed Mini Roundabout



The mini roundabout would require some additional street furniture signage such as the mini roundabout sign, refuges and bollards etc but this is not considered to be excessive and is appropriate in my view for its edge of settlement/rural context. Indeed there is a mini-roundabout further along the road to the east. At the time of allocation, it was known that this site would require this highway intervention. Indeed this same mini-roundabout has already been subject to an approval by this authority back in 2013, albeit it lapsed without being implemented. For all these reasons I consider that this highway solution is acceptable for the context of the site and is safe in highway terms subject to conditions.

In terms of car parking, this matter will be assessed at reserved matters stage in detail.

The indicative layout shows there would be a pedestrian access link to the PROW to the south which is welcomed and accords with point 5 of the site specific policy. Maintenance of the link

would be secured through the s106 Agreement albeit I expect that reserved matters application and suitable conditions would control the finish of this feature.

#### *Impact upon site allocation So/Ho/5 to north*

It is noted that Southwell Town Council has raised concerns regarding the impact of the highway works on the site to the north, allocated for around 60 dwellings. In addition, one representation purports to offer the land to the north referred to as 'The Beacon' by the representation, as having the potential to be included within this developable area. It is assumed that the land referred to is the site allocation to the north. Members will be aware that two applications for 80 dwellings were refused by the committee with one of the reasons being that the four arm roundabout would be detrimental to highway safety on NCC Highway advice and the alternative of the traffic light junction being considered to harm the site's gateway position at the edge of the town where it transitions to countryside.

Appeals were lodged to test the impact of the traffic light (the four arm mini roundabout option was removed from the plans) and both were dismissed for poor design which included the impact from the traffic light junction. In defending that appeal the Council argued that the allocated site to the north does not need to rely on an access from a newly constructed roundabout as the extent of the allocation provides for an alternative access at High Gables which could serve the appropriate level of development allocated, with the existing private drive to the north of the mini roundabout remaining as a private drive. This is the position of NCC Highways and was so at the appeal earlier this year. It is therefore considered that the development of the mini roundabout does not prejudice the ability of the site to the north to come forward with an appropriate scheme and this current development before Members can be considered without reliance of land to the north being part of this application.

#### Impacts on Landscaping and Trees and Provision of Public Open Space

The starting point is that trees and features such as hedgerows should be retained where possible as set out in Policies CP12 and DM5.

The application has been accompanied by an appropriate Arboricultural Survey which seeks to identify, based on the indicative layout, which trees would be retained, managed and felled. There has been a genuine attempt to retain as many of the best specimens of trees and hedgerows within the site as possible. It is of course inevitable that some hedgerows and trees would need to be removed, a matter that would have been known at allocation stage. However all of the best trees (one x A1 graded and all B1 graded trees) would be retained if this were the layout advanced at reserved matters stage. The trees that would be felled out of necessity are generally lower quality ungraded or C category trees. I am satisfied that, subject to more detailed impacts being assessed at reserved matters stage once the layout is fixed, that a scheme of this quantum could be accommodated on the site in an acceptable way that would retain the best quality trees and that there is space to allow for mitigation and replacement tree planting elsewhere within the site.

Whilst not considering the layout at this stage, it is important that the LPA is satisfied that the quantum of dwellings proposed can be achieved on site in an acceptable way taking into account the site constraints and the need to address the site's gateway location and that the development is capable of managing the transition from countryside to the built up area. This is a requirement set out by site specific policies So/Ho/4 and SS4 which go on to say that a landscape buffer should be

provided to the north and western extents which should be particularly extensive to the south of the Vineries.

*Indicative layout plan below:*



Members will see from the indicative layout plan that the developer has sought to include a buffer alongside the dwellings on the northern part of the site which is shown as being outside of garden curtilages and c6m wide. To the south, the area retained for the landscape buffer is between 30m (rear of existing dwellings) narrowing to 5.5m. Landscaping and trees belts are also indicated along all other site boundaries; to the southern boundary a landscape buffer in excess of 7m (to the site boundary) is shown as being provided all of which would assist with assimilation. In addition the Protected Tree (walnut) at the northern end of the site sits adjacent to the attenuation pond as a fey feature. I consider that this type of layout proposed in respect of landscaping would meet the expectations of the site specific policies and would achieve an appropriate level of greenery that would help to soften the built form given its edge of settlement location.

#### *Public Open Space and Maintenance*

In line with the Council's SPD, Amenity Open Space, at a rate of 14.4m<sup>2</sup> per dwelling (648m<sup>2</sup> for this development) is expected on site. The indicative layout would vastly exceed this (I have calculated the total POS is c 12,460m<sup>2</sup>) which would provide a visually attractive environment that is appropriately green at the edge of settlement whilst providing some ecological benefits including wildlife corridors. I am therefore satisfied that the minimum requirement of space will be met and this can be controlled through the s106 agreement.

Developments are also expected to make provision for Children and Young People at a rate of 18m<sup>2</sup> per dwelling (capable of family occupation) as set out in the Developer Contributions SPD. Both the site specific policy and SNP require provision on site and therefore a financial sum in lieu of this would not be appropriate in this instance. Excluding the 13 x 1 bedroom units, there would be 32 dwellings capable of family occupation reliant upon the play facility on site and policy

indicates 576m<sup>2</sup> of space would be required. The LEAP on site is indicated as being more modest in size (c150sq m; albeit with more amenity open space around it and elsewhere on site) and enlarging this would reduce the buffering with adjacent and existing neighbours. The comments of the parks and amenity manager made at pre-application stage indicate that in the circumstances the play space would be appropriate. In my view, given this site will inevitably have more informal open space this compensates for the shortfall in formal play space and in negotiating the type of equipment to be provided on site, officers can seek to achieve an enhancement where possible to ensure the equipment is multi-purpose and best uses the space available. Overall, subject to these controls I am satisfied that the broad location and size of the LEAP is acceptable being located as a focal point and accessible to all of the development.

This Council would not take on the maintenance of the POS and therefore this, including the landscape buffers (which should be separate to private gardens as is currently indicated on the layout), the SUDs and new footpath links to footpath no. 55 would need to be managed by a management company (which could include the Town Council if there was an appetite on both sides for this) for its lifetime and secured through the obligation.

I consider that the indicative layout shows a well planned development that would successfully managing the transition between the adjacent countryside and the town. This is partly down to the low density and sense of green space. The siting of mainly bungalows adjacent to the western boundary could also help to soften the urban edge.

Housing Density/Type/Mix

Policy SS4 requires a developer prepared design brief to address appropriate design, density and layout which addresses the site’s gateway location and manages the transition into the main built up area. Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. It goes on to say that development densities below this will need to be justified, taking into account individual site circumstances.

In this case the site was always envisaged as having a much lower density than average given the requirements for a landscape buffer, on-site play space etc and as such a density of c15.8 dwellings per hectare is considered appropriate at this edge of settlement location.

In accordance with Policy So/HN/1, it is pleasing to see that the majority of the dwellings to be provided (in this case 66.45%) are shown as 1 and 2 bedroom units. Policy HE2 of the SNP also sets out a required mix for greenfield sites and the table below demonstrates how the indicative layout would fare in comparison:

Dwelling Type	Policy Expectation Proportion	Proposed Scheme
1 or 2 bedroom dwellings	40%	20 (44.45%)
1 or 2 bed bungalows	20%	9 (20%)
3 bed (family homes)	15%	7 (15.55%)
4+ bed (executive homes)	25%	9 (20%)
<b>TOTALS</b>	<b>100%</b>	<b>45%</b>

Members will note that the vast majority of units shown are smaller units and that more 1 and 2 bedroom units are proposed than policy requires, but fewer larger 4 bedroom (or more) houses are proposed. I do not consider that this should be fatal to the scheme as the smaller houses are where

the greater need is in the Southwell area. Overall I consider that the indicative mix is appropriate and further demonstrates that such a scheme is capable of being acceptable on this site. I do not consider it necessary to fix this mix by condition as this matter would be considered at reserved matters stage.

### Flooding and Drainage

The site lies entirely within Flood Zone 1 and is therefore not a site which has been identified as being at risk of flooding. A Flood Risk Assessment and Sustainable Drainage Strategy has been prepared which accompanies this application which aligns with the requirements of policies E1 and E2 of the SNP.

Members will note that a previous scheme on part of this site was refused under delegated powers due partly to drainage concerns as the drainage scheme was not considered fit for purpose; relying on land not within the control of the applicants and not following the drainage hierarchy all of which could have jeopardized the delivery of the wider site allocation that is now before Members. By contrast, considerable efforts have been made as part of this scheme to include a comprehensive sustainable urban drainage system that would also bring about other ecological benefits to the site.

Flood risk to the site from a variety of sources has been considered and it has been concluded that there is no significant risk from river, groundwater or sewer-based sources. Southwell has experienced several flood events over recent years; these events comprised a mix of fluvial, pluvial and sewer-based events. However, the proposed site is in a location where these known sewer and fluvial risks are not significant. Pluvial risk has been considerably reduced at the southern edge of the site since a culvert drain was built along Kirklington Road, as part of the Southwell Flood Alleviation Scheme, diverting flows from the small water course at the southern boundary. The topography of the site is such that the site drains to two separate catchments and the indicative layout shows two attenuation ponds; one close to the site entrance at the north and one to the eastern part in the southern area.

These ponds would be designed to accommodate the 1 in 100 plus 40% climate change event. Flows will be restricted to 11.5l/s, split between the north and south area, which is less than half the existing run off rate in a 1 in 100 year event. Flood risk from the development posed to neighbouring residential properties can be mitigated against. Earthworks are planned to direct overland flows inwards towards a route through the centre of the site, where the road and roadside swales will transport flows to either of the attenuation ponds. Foul drainage will be discharged to the combined sewer along Lower Kirklington Road. A small pumping station would be required for the southern part of the site which is not currently shown on the indicative layout.

The majority of the comments received from neighbouring residents raise concerns with flood risk as many have experienced flooding of their properties during heavy rain and worry this development could exacerbate existing problems. It appears that the issues are in part because of a lack of maintenance of the existing drainage ditches downstream (off site) where there are riparian rights. This is not a matter that the developer can be obligated to fix as the land here is not within their control and the LPA cannot require them to undertake future maintenance works. However they have offered to jet, vacuum and clean the watercourse and culvert immediately downstream of the development to ensure that any discharge is free flowing and the culvert network works as it should do in the first instance which will improve the situation in the short

term. In any event, the drainage solutions set out in the strategy should not give rise to any increase in flooding problems as a result of the development.

Based on the FRA and drainage strategy, I am satisfied that the proposal represents a sustainable development compliant with the drainage hierarchy approach embedded in national policy. This view is shared by the Lead Local Flood Authority who raise no objections subject to a condition which requires the reserved matters approval to accord with the broad strategy already provided which is entirely reasonable. I am therefore confident that this scheme meets the requirements of Policies CP10, CP10A, DM5, E1 and E2 of the Development Plan.

### Ecological Impacts

The site has the potential to provide habitat for wildlife and as such the application has been supported by a number of Ecological Appraisals and additional surveys.

CP12 (Biodiversity and Green Infrastructure) seeks to conserve and enhance biodiversity whilst Policy DM7 specifies that: "On sites of regional or local importance, including previously developed land of biodiversity value, sites supporting priority habitats or contributing to ecological networks, or sites supporting priority species, planning permission will only be granted where it can be demonstrated that the need for the development outweighs the need to safeguard the nature conservation value of the site. All development proposals affecting the above sites should be supported by an up-to date ecological assessment, involving a habitat survey and a survey for protected species and priority species listed in the UKBAP."

The scheme has been assessed against Natural England's Standing Advice.

#### *Bats*

A number of bat surveys have been undertaken and trees that could provide roost sites have been surveyed or inspected by an endoscope. Findings suggest that the mature treeline at the south of the site provide an important foraging and commuting feature for bats and to a lesser extent the hedgerow running north to south. No evidence of bats was found in trees surveyed. However it is recommended that a condition is imposed to require surveys to be carried out immediately before any trees found to have a medium potential for roosts are felled. Further, to compensate for the loss of potential roosting habitat and to enhance the site, a variety of bat boxes are recommended to be installed and this would be controlled by condition. A wildlife sensitive lighting strategy is also necessary to mitigate harm to nocturnal wildlife including bats, again which can be subject to a condition.

#### *Badgers, Reptiles and Great Crested Newts*

No evidence of badgers or reptiles was found on the site and there is a lack of suitable areas and habitat for badger sett creation or habitat suitable for reptiles in the area. No mitigation is therefore necessary. However a precautionary method statement as outlined in the ecological report (Section 5) would need to be adhered to. In addition, if works have not commenced on site by March 2021 an updated badger survey will be sought to be controlled by condition.

The risk of Great Crested Newts being present on site was scoped out during the initial assessment and no impacts nor mitigation is required.

### *Breeding Birds*

Existing hedgerows, trees and scrub on site offer resources for breeding birds so the loss of some of this would have a negative impact. However mitigation is possible in the form of avoiding clearance during breeding season along with the provision of a minimum of 18 bird boxes, details of which, would be required by condition.

### *Habitats*

There are a number of hedgerows within the site which are species rich and the removal of trees and hedgerows during construction would disturb habitats for bats and hedgehogs. A number of measures will be required in order to manage the impacts, these include the submission of a detailed construction environmental management plan (CEMP) prior to works commencing. 300m of hedgerow (not all species rich) would likely be removed to facilitate the development and therefore it is necessary to mitigate for this loss within a minimum length (90m) of species diverse hedgerow. Other habitat creation is to be formed such as the formation of log piles from felled trees, the provision of bee sticks etc details of which will need to accompany the reserved matters application. It is expected that the attenuation ponds will be able to contribute to the biodiversity of the site if designed well and further details will be required with the reserved matters approval which is to be conditioned.

Habitat loss is likely to adversely affect hedgehogs (a species of Principle Importance) which are protected unless measures are included to mitigate this. The ecologist has recommended that at least two hedgehog friendly (permeable) fencing panels with small gaps at the base will be installed per plot to allow these to move between gardens and as such further details of this will be required at reserved matters stage.

In line with the requirements of the Development Plan and the NPPF, consideration of how the scheme would contribute towards habitat creation and improvement needs to be considered and the reserved matters submission will need to address this in more detail, distinguishing between what is mitigation and what represents a biodiversity net gain. This will be controlled by condition. Subject to a range of conditions, I am satisfied that the site is capable of a development for the quantum of units proposed without significant harm to the biodiversity and that subject to proposed enhancements, in time, that it will be possible to offer enhancements in accordance with local and national policy.

### Impacts on Infrastructure

Spatial Policy 6, Policy DM2 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. They state that infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where appropriate funding assistance from the District Council. It is critical that the detailed infrastructure needs arising from development proposals are identified and that an appropriate level of provision is provided in response to this. The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure. The following contributions are appropriate to this scheme and would be secured by way of a section 106 planning obligation.

### *Primary Education*

The Developer Contributions and Planning Obligations SPD indicates that development which generates a need for additional primary school places will be secured via a legal agreement. The number of primary places required is based on a formula of no. of dwellings x 0.21 to establish the number of child places required. However the Local Education Authority have confirmed they have sufficient capacity within the town at this time and they do not seek a contribution for primary school places.

### *Health*

The Council’s SPD sets out that the type and size of developments which may trigger a health a contribution. These are

- Residential developments of 65 units are more and/or
- Development which places extra demand on the local health care provision through its operation.

The application in question relates to 45 dwellings in total so would fall below our usual threshold for seeking such a contribution. However as the CCG have stated that the existing health service in Southwell (and local Farnsfield and Bilsthorpe) is already operating at capacity. Further justification has been sought that demonstrates that this development would place an additional demand on health care and I therefore consider the request is justified. The developer has agreed to this. The contribution (indexed at 2016 so would require an uplift) is £982.62 per dwelling equating to £44,217.90 which would be secured by the s106 agreement and be spent on facilities in the area.

### *Affordable Housing*

Core Policy 1 provides that for schemes of 11 or more dwellings, 30% on-site affordable housing should be provided with a tenure mix of 60% social rented and 40% intermediate housing. This is reaffirmed within the Council’s SPD on Developer Contributions.

A scheme for 45 dwellings would yield 14 affordable units to meet the policy requirement. The proposal has been advanced in accordance with the council’s preferred mix and tenure split as set out at pre-application stage which is as follows:

Type	Rent	S/O	Total
<b>1 Bed Maisonette</b>	4	0	4
<b>2 Bed Bungalow</b>	1	1	2
<b>2 Bed House</b>	2	4	6
<b>3 Bed House</b>	1	1	2
	<b>8</b>	<b>6</b>	<b>14</b>

I am therefore satisfied that the scheme is policy compliant in tenure split and type of units. This mix will be fixed by the obligation such that there is certainty on this element.

### *Community Facilities*

Community facilities are defined as including Community Halls, Village Halls, Indoor areas for sport, physical activity, leisure and cultural activity and Halls related to places of worship. The Council’s SPD provides where existing infrastructure exists or where small scale developments do



not warrant new infrastructure, a contribution may be appropriate to support the existing infrastructure such as a village or community hall or other community asset. It goes on to say that 'it is further recognised that some community facilities are not fulfilling their potential to meet the needs of residents and thus may appear to be underused. In such circumstances qualitative improvements to such facilities would increase their ability to make a positive contribution to meeting the needs of the community.'

The proposal itself does not offer any provision for community facilities and therefore the additional pressure upon community facilities that this scheme would place upon the community should will be met by way of a financial contribution which is likely to be spent on upgrading and enhancing facilities at the Southwell Leisure Centre. A financial contribution toward community facilities based on £1,384.07 (figure from SPD but indexed at 2016) per dwelling is justified equating to £62,283.15 for the 45 dwellings.

#### *Transport Contribution*

NCC have requested a contribution of £7,000 towards bus stop infrastructure which would be used to improve the bus stop denoted at NS0188 Norwood Gardens and would include installation of raised boarding kerbs and replacing the polycarbonate bus shelter. Provision for such contributions is set out within the Council's SPD and it is considered to be a reasonable request. I am satisfied that the pressure that this development would place upon existing infrastructure can be adequately mitigated through the above developer contributions.

#### Other Matters

##### *Impact on Residential Amenity*

Safeguarding the residential amenity/living conditions for both existing and any new dwellings will be paramount in order to comply with the Development Plan. This would be assessed against Policy DM5 at reserved matters stage once the details of the development are fixed. At this stage there is nothing indicated that leads me to consider there would be an issue in terms of the effect on residential amenity.

##### *Heritage*

Given the substantial distance of the site from listed buildings and the conservation area, I do not consider there would be any adverse impacts on these heritage assets.

With regard to archaeology, the proposed site lies to the north-west of the historic core of Southwell which was an important settlement from the Anglo-Saxon period onwards, especially as a place of pilgrimage to the minster church during the medieval period.

The site lies just to the north of an area used as a deer park in the medieval period which was owned by the Archbishop of York and had originally been given as part of the Manor of Southwell by King Eadwig in AD956. The Deer Park was created in a tract of woodland pasture, notable for its fine specimen oak trees and fish ponds, by enclosing it within an earthwork that still exists. The medieval earthworks defining the deer park are recorded within the NHER (L11383 and L11382) as are medieval fishponds (NHER: M2737/L2737, M18268/L2925 & M18296/L11379).

The area to the north-west of Southwell is under-represented on the Nottinghamshire Historic Environment Record, more likely reflecting a lack of archaeological fieldwork in the past, rather than a lack of past human settlement and activity.

In line with the site specific policies, the application has been accompanied by a desk based assessment and incorporates the results of a non-intrusive geophysical survey of the site to evaluate the archaeological potential which concludes is very low, although this could be due to the lack of archaeological fieldwork on or in the vicinity of the site. Consequently our advisor, in agreement with their heritage consultant, has agreed a sensible way to establish the potential which would involve digging a trial trench. Further mitigation work may be required if any remains are identified within the evaluation. This can be secured by condition. Subject to this, I am satisfied that the scheme would have appropriately considered archaeology as required by policies DM7, CP14, So/Ho/4 and Policy SS4 of the Development Plan.

### Concluding Comments

The principle and quantum of development is considered acceptable as set out in both site specific policies contained within the Neighbourhood Plan and Allocations and Development Management DPD. The submission has demonstrated, with an indicative layout, that both is achievable when taking into account the site constraints. Any harm through the loss of trees and hedgerows is able to be appropriately mitigated.

Only the details of the means of access (and quantum) is being considered at this outline stage. In order to make the scheme safe from a highway perspective, off site highway works are required in the form of a 3 arm mini roundabout at the Lower Kirklington Road/Kirklington Road junction to the west in order to slow traffic. This can be achieved through a condition to require this to be undertaken before development commences. The speed limit would also need to be reduced to 30mph which can be controlled by condition. Once done, these measures will also benefit the wider community by slowing traffic in the area. For the reasons set out above, I have also concluded that this scheme would not prejudice the delivery of the allocated site to the north.

I am also satisfied that the ecological value of the site can be safeguarded and enhancements can be achieved in the longer term. Flood risk and drainage have been properly considered and the strategy advanced is acceptable and will not increase flood risk elsewhere, a matter agreed by the Lead Local Flood Authority.

The scheme would bring about the delivery of an allocated site for the quantum envisaged in a sustainable location, boosting the local economy well as securing 30% affordable housing and developer contributions to mitigate the impacts on local infrastructure. No other harm is identified that would weigh against the positives.

Taking all of these matters into account, the application is considered to accord with the Development Plan and a recommendation for approval is made.

### RECOMMENDATION

**That outline planning permission is approved subject to**

- 1) the conditions and reasons shown below; and**

2) the execution of a legal agreement to secure the contributions set out in the table below:

*Summary of Developer Contributions*

<b>Contribution</b>	<b>Policy Requirement</b>	<b>Contribution Achieved</b>	<b>Trigger Points</b>
Affordable Housing	30% on site, (tenure split 60% social rent, 40% home ownership products)	Policy compliant contribution of 14 affordable units as follows unless otherwise agreed: <u>Social/Affordable Rent:</u> 4 x 1 bed maisonette 1 x 2 bed bungalow 2 x 2 bed house 1 x 3 bed house <u>Home Ownership Product:</u> 1 x 2 bed bungalow 4 x 2 bed house 1 x 3 bed house Plot numbers to be provided at RMA stage.	Not to occupy more than 22 dwellings (c48%) until 7 (50%) of the affordable units are provided. Not to occupy more than 36 (80%) dwellings until remaining affordable units provided and TF to provider
Health	Contribution towards health infrastructure £982.62 per dwelling	Justification has been provided to show the need. Policy compliant £44,217.90 to be secured towards expansion of infrastructure within the area.	Prior to occupation of 10 <sup>th</sup> dwelling
Public Open Space	Combined POS ('Amenity Open Space' of 14.4m per dwelling and 'Children's and Young Person's Space' of 18m per dwelling)	Not less than 1,458m of public open space to be provided on site and to include a Locally Equipped Area for Play (LEAP) (size not to be specified to allow flexibility) details of which will need to be agreed with LPA prior to first occupation.  Maintenance of all public open space (including footpath links, LEAP, SUDs and landscape buffers) to be secured through management company for the lifetime of the development	Provided on site in accordance with scheme to be agreed before works commence  Not to commence until management plan and spec has been submitted and not to occupy until this has been approved
Community Facilities	Off-site contribution of £1,384.07 (indexed at 2016 and to be uplifted) per dwelling	Total policy compliant contribution of £62,283.15 to be spent within Southwell.	Not to occupy more than 22 dwellings (c48%) until sum paid
Transport	Contributions made upon subject to justification	£7,000 towards bus stop infrastructure to improve bus stop at NS0188 Norwood Gardens including raising boarding kerbs and replacing polycarbonate bus shelter.	Not to occupy any dwelling until sum paid

<b>TOTALS</b>		<b>14 affordable dwellings plus £113,501.05</b>	
<b>Monitoring fees of £1,260 also have been agreed, to be payable when other contributions are paid by the developer</b>			

Conditions

01

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

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

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

02

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

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

03

Any reserved matters application pursuant to this outline consent shall be accompanied by a waste audit in line with paragraph 049 of the National Planning Practice Guidance which details:

- the anticipated nature and volumes of waste that the development will generate;
- the steps to be taken to ensure effective segregation of wastes at source including, as appropriate, the provision of waste sorting, storage, recovery and recycling facilities;
- any other steps to be taken to manage the waste that cannot be incorporated within the new development or that arises once development is complete.

Reason: To ensure the development proceeds in a sustainable way and to enable the LPA to be satisfied that it does not prejudice the implementation of the waste hierarchy.

04

No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Lumax Flood Risk Assessment (FRA) and Drainage Strategy LMX296-LMX-00-ZZ-RP-D-002 Rev B., 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.
- 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.
- Demonstrate all exceedance shall be contained within the site boundary without flooding new properties in a 100year+40% storm.
- Provide details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
- Evidence 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.

05

No development hereby permitted shall be commenced until the roundabout junction, gateway feature and housing land access as shown for indicative purposes on drawing 001 Rev. D has been provided in accordance with the approved details.

Reason: In the interests of highway safety and capacity and to avoid unnecessary disruption and delays to highway users.

06

Notwithstanding the submitted Illustrative Masterplan, all site highway layouts shall comply with the Highway Authority design guide (current at the time of submission) and be first submitted to and agreed in writing by the Local Planning Authority.

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

07

No part of the development hereby approved shall be occupied until the off-site traffic management works required to extend the 30 mph speed restriction on Lower Kirklington Road have been undertaken in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

08

No part of the development hereby permitted shall be brought into use until visibility splays as shown on drawing no. 001 Rev D 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 above carriageway level.

Reason: In the interests of highway safety.

09

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

#### **Part A: Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems;
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

#### **Part B: Submission of Remediation Scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

### **Part C: Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

### **Part D: Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

010

Any reserved matters application pursuant to this outline consent shall either be accompanied by a new Arboricultural Impact Assessment or be made in accordance with the Arboricultural Survey by Quants Environmental dated March 2020 and in either case shall be accompanied by an Arboricultural Method Statement which shall include;

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

- g) Details of any scaffolding erection and associated ground protection within the root protection areas
- h) Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

The approved tree protection measures shall be implemented on site prior to development commencing on site and shall be retained for the construction period unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to afford existing trees adequate protection during the construction phase.

011

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

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

Reason: In order to afford trees adequate protection.

012

No tree identified as having a moderate bat roost potential in the Ecological Impact Assessment (by Quants Environmental dated September 2020) shall be removed from the site until it has been subject to an endoscope survey by a suitably qualified ecologist within a 24 hour period prior to it being felled. Should a roost be found, the tree shall not be felled until such time as a licence is received from Natural England to undertake works and the Local Planning Authority have been informed of this in writing.

Reason: In order to safeguard protected bats from harm that could otherwise result from the development in line with the recommendations of the assessment submitted in support of this application. For the avoidance of doubt this condition will relate to trees T1, T2, T3, T4, T5, T6 and T7.

013



Any application for reserved matters approval pursuant to this outline consent shall be accompanied by a Scheme of Ecological Mitigation and Enhancement which shall build upon the recommendations set out in the Ecological Impact Assessment, by Quants Environmental, dated September 2020 and shall include:

- a) purpose, aims and objectives of the scheme;
- b) a review of the site's ecological potential and any constraints which shall include an updated ecological walkover survey if this is submitted after February 2022;
- c) description of target habitats and range of species appropriate for the site;
- d) selection of appropriate strategies for creating/restoring target habitats or introducing target species;
- e) selection of specific techniques and practices for establishing vegetation;
- f) sources of habitat materials (e.g. plant stock, log piles) or species individuals;
- g) method statement for site preparation and establishment of target features;
- h) extent and location of proposed works;
- i) aftercare and long term management;
- j) the personnel responsible for the work;
- k) timing of the works;
- l) monitoring;
- m) disposal of wastes arising from the works;
- n) a plan showing the areas of retained habitats;
- o) clear commentary on what is considered mitigation and what is an enhancement.

It shall also include as a minimum details of;

- deadwood log piles using the trees felled within the site;
- the contribution that the sustainable urban drainage scheme will make to habitat creation;
- 6 integrated terrace house sparrow boxes, 6 integrated starling boxes and 6 integrated swift boxes (the scheme shall identify precise locations and the position of the boxes as well as manufactures details)
- 5 integrated bat boxes to be installed within the new builds (the scheme shall identify which plots and the position of the boxes as well as manufactures details);
- 5 bat boxes to be installed on trees within the site (the scheme shall identify the precise location, height of installation and manufactures details of the boxes)
- a minimum length of 90 metres of new diverse hedgerow to be planted for mitigation purposes for that lost;
- a minimum of 10 integrated bee sticks at locations to be specified;
- permeable boundary treatments to be installed to allow hedgehogs to move through the site (including designs and locations).

The approved details shall be implemented on site to an agreed timetable which shall be embedded within the scheme.

Reason: In order to secure mitigation and enhancement measures that are identified as necessary within the submission to protect biodiversity.

014

No clearance work including the removal of hedgerows, trees, semi-improved grassland, scrub or woodland that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of

August inclusive) unless otherwise agreed in writing by the local planning authority. Any active nest found should be left undisturbed until the chicks have fledged or the nest is no longer in use.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

015

Prior to first occupation, details of any external lighting to be used in the development shall be submitted to and approved in writing by the local planning authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution with particular regard to nocturnal wildlife. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual and residential amenity and to minimise impacts on foraging and commuting bats.

016

No development shall be commenced until a Construction Environmental Management Plan and timetable has been submitted to and approved in writing by the local planning authority. The plan shall identify appropriate measures for the safeguarding of protected and locally important species and their habitats during the construction period and shall include:

- a) an appropriate scale plan showing protection zones where construction activities are restricted and where protective measures will be installed or implemented;
- b) details of protective measures (both physical measures and sensitive working practices) to avoid impact during construction including those highlighted within the Ecological Impact Assessment, by Quants Environmental, dated September 2020
- c) a timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed;
- d) details of a person responsible for the management of the protection zones.

Development shall be carried out in accordance with the approved details and timetable unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of maintain and enhancing biodiversity.

017

No development, including site clearance, shall be undertaken after March 2021 unless an updated Badger Survey (including mitigation as necessary, detailing timings of this) has been undertaken and the findings have been submitted to and approved in writing by the Local Planning Authority. Any proposed mitigation measures embedded in the Survey shall be carried out in full.

Reason: In order to adhere to the recommendations contained within the Ecological Impact Assessment, by Quants Environmental, dated September 2020 given the transient nature of badgers.

018

No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme shall 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; and
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.

019

The archaeological site work must be undertaken only in full accordance with the approved written scheme referred to in the above Condition 18. 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 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.

020

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 approved 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 in accordance with the National Planning Policy Framework.

### **Notes to Applicant**

01

This application should be read in conjunction with the section 106 legal agreement which secures a range of contributions to mitigate the impacts of the development.

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

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@nottsc.gov.uk .

04

The Rights of Way Team at Nottinghamshire County Council wish to make the applicant aware of the following points:

- Maintenance of the hedgerow alongside the Public Right of Way is the responsibility of the landowner(s). We request that the applicant is clear as to who will be responsible for the ongoing maintenance of the hedges and trees on the boundary. Whoever is responsible for maintenance of the boundary alongside the Public Footpath must ensure that the trees and hedgerow are cut back regularly so as not to interfere with the right of way. We would recommend that hedgerow maintenance be included in any site annual maintenance schedule so that the hedge and trees alongside the public right of way do not become an obstruction or inconvenience to path users.
- 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.

05

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).

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

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

08

With respect to the attached archaeological conditions, please contact the Historic Places team at Lincolnshire County Council, Lancaster House, 36 Orchard Street, Lincoln, LN1 1XX, 01522 554823, email [Matthew.Adams@lincolnshire.gov.uk](mailto:Matthew.Adams@lincolnshire.gov.uk) to discuss the requirements and request preparation of a brief for the works.

It is recommended the resulting written schemes of investigation are approved by the LCC Historic Environment Officer prior to formal submission to the Local Planning Authority. Ten days' notice is required before commencement of any archaeological works.

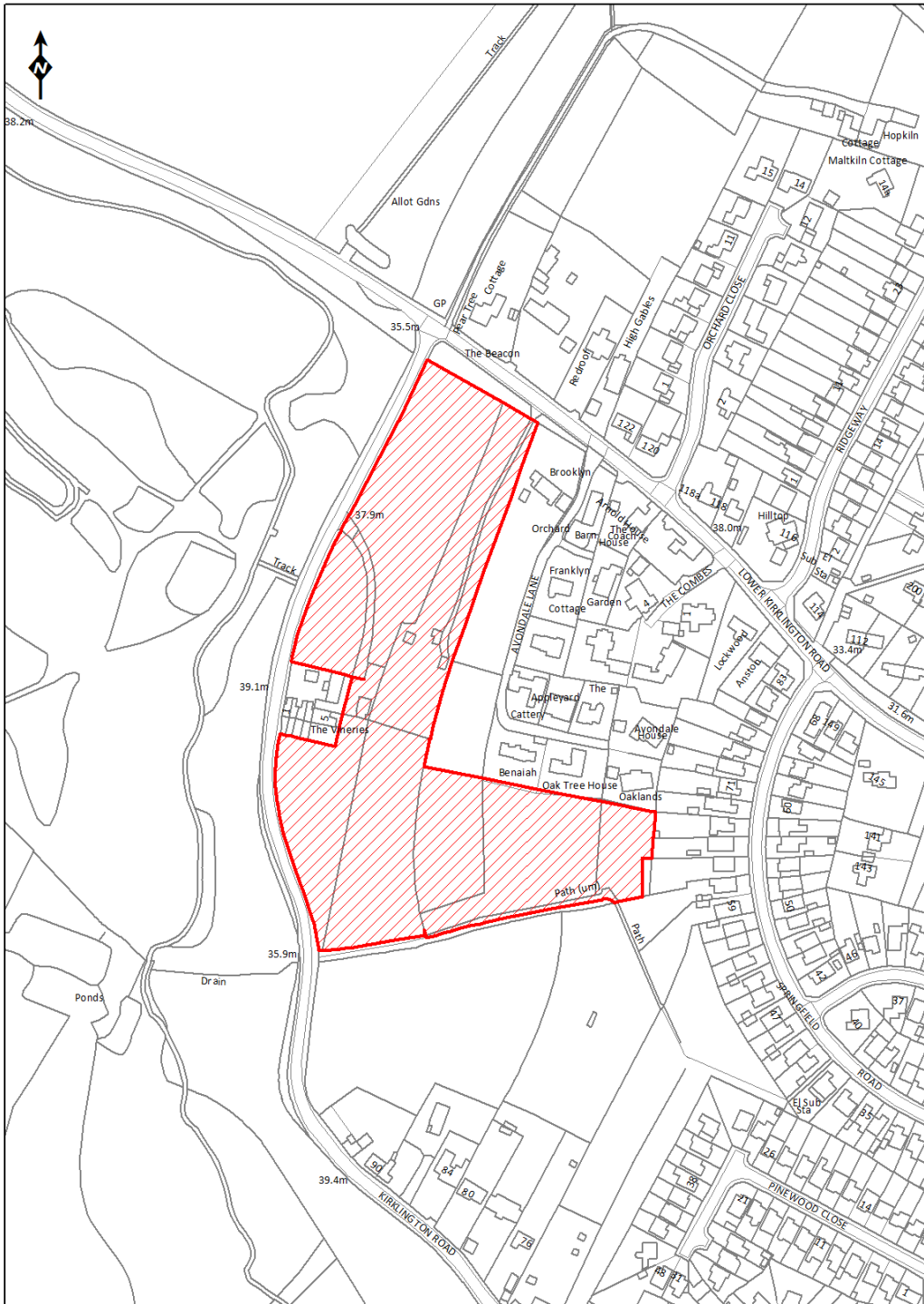
#### BACKGROUND PAPERS

Application case file.

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

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

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



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## COMMITTEE REPORT - 3 November 2020

<b>Application No:</b>	<b>20/01280/FUL</b>
<b>Proposal:</b>	<b>Demolition of the existing dwelling and the erection of a replacement dwelling with associated works</b>
<b>Location:</b>	<b>Cosy Cot, Clifton Lane, Thorney, NG23 7DQ</b>
<b>Applicant:</b>	<b>Mr. Joe Hillier</b>
<b>Agent:</b>	<b>Rachael Skillen Planning Ltd – Rachael Skillen</b>
<b>Registered:</b>	<b>14.07.2020</b> <b>Target Date: 15.09.2020</b>
	<b>Extension of time agreed until 19<sup>th</sup> October 2020</b>
<b>Website link:</b>	<b><a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a></b>

**This application is being reported to the Planning Committee as it is being recommended for approval, although it goes against the Council’s Local Development Framework.**

### The Site

Located within the ‘Open Countryside,’ between Moor Lane and Clifton Lane - directly opposite a nameless no-through road - on the northern side of a t-junction, is found the application site, which encompasses a plot of land, comprising 0.14-hectares in size. The site comprises a previously extended, single-storey dwelling, named ‘Cosy Cot,’ along with a detached-brick-built outbuilding, and a vehicular access – the latter of which is found directly off the Lane. Surrounding the site, in all directions, are arable fields, which are predominantly used for farming. There is also a footpath (‘public bridleway’) found to the north-east of the site that connects to the ‘National Cycle Network 647,’ which then in turn, proceeds to connect to the ‘National Cycle Network 64 Route.’

Approximately 200-metres away to the east of the site, is found the closest-residential-neighbouring dwelling, which is two-storeys in height, along with several outbuildings within its vicinity. Where Cosy Cot’s existing materials are comprised of timber and clay pantiles, this neighbouring dwelling is instead comprised of London-stock brick and clay pantiles – as is the same for the overall design of all other neighbouring buildings.

Whilst there are exceptions, many of the front-boundary treatments found belonging to nearby-neighbouring dwellings, are predominantly comprised of soft landscaping, using either hedgerows or low-level timber fencing.

The site is located within Flood Zone 3 ('Highest Risk').

### Relevant Planning History

19/02035/FUL – Proposed New Vehicular Access – Permitted on 24.12.2019

PREAPP/00152/19 – Proposed Replacement Dwelling – Advice given on 01.08.2019

19/01763/HPRIOR – Proposed Single Storey Rear Extension – Prior Approval was deemed to be not required on 31.10.2019

### The Proposal

The proposal seeks full-planning permission for the demolition of the site's existing-single-storey bungalow, for the purpose of erecting a new 1.5-storey 'dwellinghouse,' within the host dwelling's existing footprint.

The applicant's design for a replacement dwelling had originally encompassed a traditional 2-storey dwelling, but this design has now been reduced to being comprised of only one-and-a-half storeys, following the advice that the applicant had received from the Council during the pre-application stage (reference PREAPP/00152/19). As such, the proposed-replacement dwelling would now comprise of the following rooms: a kitchen with utility, lounge, study and snug at the ground-floor level, as well as 3-bedrooms, an en-suite, and a bathroom at first-floor level. The proposed-updated design of the replacement dwelling would consist of a singular-roof light on both the dwelling's front and rear elevations; two first-floor gables to both the front and rear of the dwelling; both head and cill detailing; a single-storey side extension; an open-timber porch; and timber-casement windows. Finally, the proposed materials would comprise of clay pantiles for both the roof and porch coverings; London-stock brick for the dwelling's external walls, and an oak-frame for the proposed-open porch.

In respect of the proposal's location within the site, the proposed development would retain its existing-setback position of approximately 10-metres from the host dwelling's access with Clifton Lane / Moor Lane, and its proposed distance to its nearest-residential-neighbouring receptor would also remain the same as existing.

Various plans have been submitted to the Local Planning Authority, during the lifetime of this application. This application has been assessed against the following plans and documentation:

- Completed Application Form
- Site Location Plan (A 0001)
- Existing Scheme (JG 20 001)
- Existing Plans and Elevations (A 0002)
- Existing Block Plan (053JH-MBD-00-XX-A- 0003)
- Topographical Survey (053JH-MBD-00-XX-A- 0004)
- Revised Proposed Site Plan (053JH-MBD-00-XX-A1003 P06)



- Revised Proposed Floor Plans (053JH-MBD-00-XX-A1001 P05)
- Revised Proposed Elevations (053JH-MBD-00-XX-A1002 P05)
- Design and Access Statement (Final Version July 2020)
- Extended Phase 1 Habitat Survey (P2061 0620 – 02 V1)
- Revised Flood Risk Assessment (September 2020 Version 2)
- Addendum to Flood Risk Assessment (16<sup>th</sup> October 2020)
- Severn Trent Drainage Plan (418807 – 1)
- Tree Survey (P2061 0620 – 01 V1)
- Completed CIL Form
- EA Drainage Form
- Correct Fee Paid

Currently, the site's host dwelling comprises a total floor space of approximately 64.25m<sup>2</sup>. The proposed-replacement dwelling would consist of two storeys in height, and consequently, comprise of the following proposed-floor spaces, with respect to each of its proposed-floor levels:

Ground Floor Area = 80.84m<sup>2</sup>  
 First Floor Area = 57.65m<sup>2</sup>  
 Combined Floor Area = 138.49m<sup>2</sup>

Therefore, the proposal's total floor area would see an increase of 74.24m<sup>2</sup> (or 116%) both over and above that of the host dwelling's existing floor area.

#### Departure/Public Advertisement Procedure

Occupiers have been notified of this proposal by a Site Notice displayed near the site.

### **PLANNING POLICY FRAMEWORK**

#### **The Development Plan**

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

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

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

- Policy DM5 – Design

- Policy DM7 – Biodiversity and Green Infrastructure
- Policy DM8 – Development in the Open Countryside
- Policy DM12 – Presumption in Favour of Sustainable Development

#### Other Material Planning Considerations

National Planning Policy Framework 2019  
 Planning Practice Guidance (online resource)  
 Newark and Sherwood Landscape Character Assessment SPD

#### CONSULTATIONS

**Thorney Parish Council** – “The view of Thorney Parish Council is that there are no objections at all to this application. Therefore, we fully support this proposal.”

**Trent Valley Internal Drainage Board** – No comments.

**Natural England** – No comments.

**NCC Landscape Officer** – No comments.

**NCC Flood Officer** – No comments.

**Environment Agency** – The proposed development would only meet the National Planning Policy Framework’s requirements in relation to flood risk, if a condition dealing with flood risk planning condition is included.

**NCC Highways Officer** – No objections subject to conditions.

**Tree Officer** – No objections subject to conditions.

No neighbour representations have been received.

#### Comments of the Business Manager

##### Principle of the Development

The starting point for all development-management-decision making is S.38 (6) of the ‘Planning and Compulsory Purchase Act 2004,’ which states the following: *“The determination of planning applications must be made in accordance with the ‘Development Plan,’ unless other material planning considerations indicate otherwise.”*

The ‘Amended Core Strategy’ (ACS) of the ‘Development Plan’ details out the ‘Settlement Hierarchy,’ which helps to deliver both sustainable growth and development within the District. The intentions of this hierarchy is to direct new residential development to the Sub-Regional Centres, Service Centres and Principal Villages, which are all well served in terms of

both their overall infrastructure and services. Beyond these defined areas, however, all development will be considered against the criteria as set out for 'Other Villages' - called the 'Sustainability Criteria' - as detailed out in 'Spatial Policy 3 (Rural Areas).'

In light of the above, therefore, Spatial Policy 3 of the ACS states that development, which is neither located within villages nor settlements - but is found within the 'Open Countryside' - will both be *"strictly controlled and restricted to uses that require a 'rural setting.'* Policies to deal with such applications are set out in the 'Allocations & Development Management DPD.' Consideration will also be given to the re-use of rural buildings of architectural merit." The Policy then goes on to direct the Decision Maker to an open-countryside policy within the 'Allocations and Development Management DPD' (ADMDDP), being Policy DM8.

Policy DM8 of the ADMDDP states that any development, which is located away from the main-built-up areas of villages within the 'Open Countryside,' will be strictly controlled; however, this Policy also lists a number of exceptions, including no. 3, which concerns 'Replacement Dwellings.' Consequently, the Policy then proceeds to state the following: *"Planning permission will be granted, where it can be demonstrated that the existing dwelling is [both] in [a] lawful residential use and [one that is neither] of [an] architectural [nor] historical merit."*

Finally, Policy DM8 states that the advocating of the above policy is within the interests of minimising any visual impact upon the countryside, and maintaining a balanced-rural-housing stock. As such, the Policy proceeds to further state that all replacement dwellings should normally be comprised of a similar size, scale and siting to that which is being replaced.

It is considered that the site's host dwelling neither holds any significant architectural nor historical merit, and as such, its proposed demolition is deemed, therefore, to be acceptable. Furthermore, whilst I accept that this replacement dwelling would have an impact upon both the character and appearance of the area - by virtue of its larger scale - its built form does reflect that which one would expect to see within a countryside environment; it also reflects the applicant's desire to provide a safe-refuge area for themselves, in any future flooding event.

Referring back to Policy DM8, it is acknowledged that the proposal would have a similar siting to that of the existing-host dwelling. However, whilst the volume of the proposal would effectively double, on account of the proposed dwelling being comprised of an additional floor (albeit, half-a-floor), I do give weight to its overall-improved design, which I feel would better reflect the character of its rural locality, and would also recognise that its setback position from the roadside (in addition to the submission of a conditioned-approved-landscape scheme), would mean that its visual appearance, would be somewhat limited from the immediate streetscene.

It is considered that the proposal would, therefore, ensure the long-term availability of a good-quality-family sized dwelling within the area, which would also comprise of the Environment Agency's approved-flood-resilience measures, as well as an improved standard for energy efficiency.

In light of the above assessment, therefore, the principle of a proposed-replacement dwelling is considered on balance to be acceptable within the 'Open Countryside; when subject to the proposal's full compliance with the criteria as set out within Policy DM8 of the ADMDPD.

#### Impact upon the Character of the Area

Core Policy 9 of the ACS states that all new development should achieve both a high standard of sustainable design and layout that is considered to be comprised of both an appropriate form and scale, to its context, whilst complementing both the existing built and landscape environments.

Core Policy 13 of the ACS requires for the 'Landscape Character' of the surrounding area, to be conserved. Policy DM5 of the ADMDPD states that the rich-local distinctiveness of both the District's landscape and character of its built form, should be reflected within the proposal's scale, form, mass, layout, design materials and detailing.

The proposed use of the replacement dwelling's roof space - which also comprises the first floor - would help to provide sufficient living space for future occupation as well as a safe-refuge area in times of flooding; as is also required by both the Environment Agency and the Flood Risk Assessment. Furthermore, located within both the village of Thorney as well as its surroundings, are found a number of both one-and-a-half storey - with the roof space also occupying the first floor - and two-story dwellings. In addition, it is considered that the proposed-replacement dwelling, would deliver a significantly improved dwelling - in terms of both its size and adopted-flood-mitigation measures - to help preserve the overall-rural vitality of the area. As such, it is therefore considered that the proposal would represent one of a number of both similarly designed and sporadically located dwellings, within its overall-wider countryside setting; thereby, complementing both the existing built and landscape environments, in accordance with Core Policy 9.

Policy DM5 requires for all new development to achieve a high standard of both sustainable design and layout that is comprised of both an appropriate form and scale to its overall context; and finally, one which complements its existing-surrounding built and landscape environments.

In visual terms, and with particular regard to the proposal's architectural-design approach (including both its proposed-traditional-architectural-design details and its associated-good-quality materials), it is considered that the proposal would visually appear to be both sensitive and appropriate within its overall context. However, it is noted that although there would be an increase to the proposal's scale, this would be deemed to be on the cusp of acceptability, considering that the existing-host dwelling does not appear to be fit for its current purpose as a residential property, due to both its unusually small scale and size, as well as its current poor state of disrepair; according to the FRA, the latter of which, could be a huge risk to life, especially when considered in an extreme-flooding event.

Paragraph 130 of the NPPF advocates that where a development is comprised of a poor design, which fails to take the opportunities available to it into account, for the purpose of improving both the character and quality of an area (including, the way it functions), then planning permission should be refused.

Consequently, in light of the above, it is also considered that the proposed development would not have an adverse impact upon its locality, and as such, it would thus in turn, not conflict with any of the above-stated policies. As such, within the context of assessing the proposal's impact upon the existing character of its immediate locale, I do not consider that the increase in the proposed development's overall siting, would appear to be either incongruous or out of place, nor would it detract from both the character and appearance of its surrounding locality.

As a result of the above, it is considered that the proposal, therefore, fully complies with both Core Policies 9 and 13 of the ACS, Policy DM5 of the ADMDPD, as well as the NPPF.

#### Impact upon Neighbouring Amenity

The NPPF seeks to ensure a high standard of amenity for all existing and future occupants of both land and buildings. Policy DM5 of the ADMDPD states that the layout of development within sites, along with each of their respective-separation distances from neighbouring development, should be sufficient, to ensure that neither suffers from an unacceptable reduction in their overall-respective-private amenities (including, overbearing impacts, loss of light and privacy).

Considering the remoteness of the site to its nearest-neighbouring dwelling - which is found to be located over 200-metres away to the east - and the fact that the proposal would continue to remain within an isolated plot of land, it is considered highly unlikely that the proposed-replacement dwelling would have either a negative or detrimental impact upon its nearest-neighbouring buildings. As a result, it is considered that the proposal, therefore, fully complies with both Policy DM5 and the NPPF.

#### Impact upon Highway Safety

Spatial Policy 3 of the ACS requires that all new development should not create excessive-vehicular traffic from out of the area, and should not have an undue impact upon the existing-transport network. Furthermore, Spatial Policy 7 of the ACS indicates that development proposals should be appropriate for the highway network, in terms of both the volume and nature of traffic that they generate; in addition to ensuring that the safety, convenience and free flow of traffic - which currently use the highway - is not adversely affected; and finally, that appropriate-parking provision is provided for within the site.

Policy DM5 requires for the provision of safe access to new development, along with appropriate-parking provision. Considering that the application is intended for a replacement dwelling (albeit, one which comprises two-additional bedrooms), I do consider it unlikely the replacement dwelling to result in any excessive-vehicular traffic, which is both over and above that of the existing.

Following the site's most recently approved application (reference 19/02035/FUL) for a proposed new access, it will be necessary to comply with the conditions suggested at the end of the report, if approved, which the NCC Highways Officer has felt it necessary for the Applicant to fully comply with.

As a result, subject to the inclusion of the conditions, it is considered that the proposal would comply with Spatial Policies 3 and 7 as well as Policy DM5.

#### Impact upon Flooding and Drainage

The NPPF states within paragraph 155 that inappropriate development, which is within areas at a high risk of flooding, should be avoided by directing development away to areas at a lower risk of flooding. However, where development is deemed to be necessary within such high-risk areas of flooding, the development should be made safe from the possibility of flooding, without increasing any flood risk elsewhere.

Core Policy 10 of the ACS requires for new development to be located away from areas at the highest risk of flooding. However, this Policy also states that when supporting an application within an area - which is at a high risk of flooding - a sequential-test approach should be taken; as detailed under Policy DM5. In line with the NPPF, upon having passed the 'Sequential Test,' the 'Exception Test' should then be applied. Where an 'Exception Test' is not required, proposals would still need to demonstrate that the safety of the development, and the prevention of its future occupiers from being impacted by any flooding events, can both be provided for by the proposal, over the whole life of the proposed development.

Policy DM5 states that for development proposals within either of the Environment Agency's Flood Zones 2 or 3, and areas with critical-drainage problems, proposals would only be considered, where they not only constitute appropriate development but can also demonstrate - by application of the 'Sequential Test' - that there are no reasonably available sites in any other areas, which have a lower risk of flooding. However, where development is deemed necessary within such areas at risk of flooding, it would need to satisfy the 'Exception Test,' by demonstrating that it would be safe for all intended users, without increasing flood risk, elsewhere.

According to the 'Environment Agency Flood Maps,' the site is located within Flood Zone 3 ('Highest Probability of Flooding'). However, it is considered that the proposed-floor levels of the replacement dwelling being raised to 6.66m ODN is acceptable from a flood-risk perspective. It is also noted that both the E.A. and the FRA have also confirmed this ODN to represent a significant betterment to that of the existing – especially in terms of a dwelling being found to be located within such a high-flood-risk zone.

In the context of the 'Exceptions Test,' it is considered that the proposal would secure wider-sustainability benefits, particularly in the view of the replacement dwelling having significantly better-flood-resilience measures - which have been approved by the E.A. - than that of the existing-host dwelling.

In addition to the above, the FRA has also confirmed that the proposal would not increase flood risk to others and that it fully complies with both the Sequential and Exceptions Tests.

In light of both the above assessment and the Environment Agency's comments, I consider for the reasons given that the proposal is acceptable.

### Impact upon Trees and Ecology

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

An 'Extended Phase 1 Habitat Survey' has been submitted with the application, which concludes that the proposal would not have any significant impacts upon either local biodiversity or any protected species. However, the Survey does state that some precautionary-mitigation measures would be required, and that there are also opportunities within the site for ecological enhancements, such as the use of both bird and bat-nesting boxes, refuge for hedgehogs, and the use of native species for landscape planting. Moreover, the Survey also identified that no species of bats were found to be present within 1km of the site; furthermore, the Survey found that there was no evidence of bats existing within the site's host dwelling.

A 'Tree Survey' (CBE Consulting - June 2020) has also been submitted along with this application, which confirms that all trees are located at a satisfactory distance away from the proposal. In addition, the Survey confirmed that the proposed dwelling - which had also been further reduced in scale due to the results of the 'Tree Survey' - is now clear of the 'Root Protection Area' (RPA) of the T7 (Birch), which the site's earlier design of its replacement dwelling had infringed upon.

In light of both these above points, therefore, it is considered that the proposal fully accords with Core Policy 12 ('Biodiversity and Green Infrastructure') as well as Policy DM7.

### Planning Balance and Conclusion

The site is located within the 'Open Countryside,' where upon the principle of a replacement dwelling at the site is considered acceptable, subject to compliance with the criteria as set out within Policy DM8- in particular that the siting, size and scale of the replacement dwelling would be similar to that of the existing. The proposed-replacement dwelling is considered to be comprised of both an improved design to that of the existing, for the purpose of being able to suitably provide both adequate and sufficient-living accommodation as a dwellinghouse, for future occupants; in addition to also providing a safe-refuge area during times of extreme-flooding events.

The site is located within Flood Zone 3 in accordance with the 'Environment Agency Flood Maps,' but in accordance to the FRA, this application has demonstrated that the proposal

would in fact pass both the Sequential and Exception Tests as well as satisfying the Environment Agency's position of providing no objections to the proposal – in respect of the future possibility of flooding impacts within the area.

In light of the above assessment, therefore, I have arrived at the conclusion that the proposal would be considered on balance to be acceptable subject to its full compliance with both the relevant conditions and informatives, which would be attached to any grant of planning permission.

### **RECOMMENDATION**

That planning permission be granted subject to the following conditions.

#### **Conditions**

01

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

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

02

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

- Revised Proposed Site Plan (053JH-MBD-00-XX-A1003 P06)
- Revised Proposed Floor Plans (053JH-MBD-00-XX-A1001 P05)
- Revised Proposed Elevations (053JH-MBD-00-XX-A1002 P05)

Reason: So as to define this permission.

03

No development, hereby permitted, shall take place until the manufacturer's details (and samples upon request) of all external-facing materials (including colour/finish) have been both submitted to and approved in writing by the Local Planning Authority. Development shall, thereafter, be carried out in full accordance with all the approved details.

Reason: In the interests of visual amenity.

04

The development, hereby permitted, shall be carried out in accordance with both the submitted 'Flood Risk Assessment' (ref. RM Associates, September 2020 Version 2) and



'Addendum to the FRA for Cosy Cottage' (sent via email by Rachael Skillen Planning Ltd on 09/10/2020) as well as in accordance with the following-mitigation measures:

- Finished-floor levels shall be set no lower than 6.66-metres above the Ordnance Datum (AOD);
- Flood-resilience measures shall be implemented either to a height of 7.7mAOD or above (as confirmed within the FRA Addendum); and finally,
- No sleeping accommodation shall be located on the ground floor.

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

Reasons: To reduce the risks of flooding to both the development, hereby permitted, and its future occupants; to reduce the impact of flooding (should it occur); to protect its future occupants from rapid-onset flooding; and to provide a safe-refuge area for its futures occupants in an extreme-flooding event.

05

No part of the development, hereby permitted, shall be occupied until both a 'Flood Warning and Action Plan' has been both submitted to and approved in writing by the Local Planning Authority. The Plan shall include the provisions for signing up to the Environment Agency's Flood Warning Service, for all occupants to receive an early warning of any potential-flood events; details of how information would be disseminated; and finally, how the development's occupants would be evacuated.

Reason: To safeguard the development's occupants against the risk of flooding.

06

#### Prohibited Activities

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

- a. No fires to be lit on site within 10-metres of the nearest point of the canopy of any retained trees/hedgerows, which are found either on or adjacent to the site;
- b. No equipment, signage, fencing etc. shall be either attached to or be supported by any retained tree, which is found either on or adjacent to the site;
- c. No temporary access within the designated root protection areas, without first the prior written approval of the Local Planning Authority;

- d. No mixing of cement, dispensing of fuels or chemicals within 10-metres of any retained tree/hedgerow, which is found either on or adjacent to the site;
- e. No soakaways to be routed within the 'Root Protection Areas' of either any retained trees and/or hedgerows, which are found either on or adjacent to the site;
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of either a retained tree or hedgerow, which is found either on or adjacent to the site;
- g. No topsoil, building materials or such other to be stored within the root protection areas of either any retained trees or hedgerows, which are found either on or adjacent to the site; and finally,
- h. No alterations/variations of the approved works and/or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

Reason: In the interests of both maintaining and enhancing biodiversity.

07

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

Reason: In the interests of both maintaining and enhancing biodiversity.

08

An approved Landscaping Scheme shall be carried out within 6-months of the first occupation of either any building within the site or the completion of the development, whichever is soonest. If within a period of 7-years from the date of the planting of any tree, shrub, hedgerow or replacement, either of such is removed, uprooted, destroyed or dies, then another of the same species and size of the original shall be planted at the same place.

Reason: In the interests of both maintaining and enhancing biodiversity.

09

In terms of highway access, the development, hereby permitted, shall not be carried out except in complete accordance with the approved-drawing number 053-JH A1003 Rev D under the planning application (ref. 19/02035/FUL).

Reason: Only for the sake of clarity in terms of the highway access.

10

The gate at the access point of the development, hereby permitted, shall only be able to open inwards and must also be set back at least 5-metres from the edge of the carriageway.

Reason: To avoid on-street parking occurring to the detriment of other road users, while the gates are either opened or closed.

11

No building on site shall be occupied until all details of bat, owl, swallow, and housemartin nest boxes and/or bricks have been both submitted to and approved in writing by the Local Planning Authority.

The nest boxes/bricks shall be installed prior to occupation, in accordance with the approved details, and retained thereafter, for the whole lifetime of the development.

Reason: In the interests of both maintaining and enhancing biodiversity.

12

No development, hereby permitted, shall commence until full details of how the foul drainage from the proposed development will be discharged to both a septic tank and soakaway system, in accordance with the details, which shall be both submitted to and approved in writing by the Local Planning Authority. The details shall ensure that the following are fully adhered:

- a. There is no connection to any watercourse or land-drainage system, and no part of the soakaway system is situated within 10-metres of any ditch or watercourse;
- b. Porosity tests are to be carried out to demonstrate that both a suitable subsoil and an adequate land area are available for the soakaway.

The development, hereby permitted, shall be carried out, thereafter, in accordance with all the approved details.

Reason: To prevent the pollution of either any nearby watercourses or groundwater.

13

No development, hereby permitted, shall commence until details of the means of the surface-water disposal have been both submitted to and approved in writing by the Local Planning Authority. The development, hereby permitted, shall be carried out, thereafter, in accordance with the approved details.

Reason: To ensure the provision of satisfactory means of surface-water disposal.

14

No trees, shrubs or hedges within the site, which are shown as being retained on the approved plans, shall neither be felled, uprooted, wilfully damaged/destroyed, cut back in any way, nor removed without the prior-written approval of the Local Planning Authority.

Any trees, shrubs or hedges, which either die, are removed, or become seriously damaged or diseased, within five years of being planted, shall be replaced with either trees, shrubs or hedge plants in the next planting season, with others that are of a similar size and species.

Reason: To ensure either the existing trees, shrubs and/or hedges are retained, and thereafter, properly maintained, in the interests of both visual amenity and biodiversity.

#### Notes to Applicant

01

The applicant is advised that all planning permissions, which are granted either on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL can be found on the Council's website: <https://www.newark-sherwooddc.gov.uk/cil/>. On the above assessment of the development, hereby permitted, however, it is the District Planning Authority's view that **CIL is PAYABLE** on the development, hereby permitted, because its gross-internal area exceeds 100-square metres.

02

The applicant is advised that the development, hereby permitted, may require approval under the Building Regulations. Any amendments to the hereby-permitted scheme, which may be necessary to comply with the Building Regulations, must also be approved in writing by the Local Planning Authority, in order for any planning implications arising from those amendments, to be properly considered.

03

The application as submitted is deemed to be acceptable. In granting permission without unnecessary delay, the Local Planning Authority has worked positively and proactively with both the Applicant and their Agent, in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

04

The development, hereby permitted, makes it necessary to construct a vehicular crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Agent (Email: [licences@viaem.co.uk](mailto:licences@viaem.co.uk) / Tel. 0300 500 8080), Via East Midlands to arrange for these works to be carried out. Further information can be found at the following website address: <https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities>

05

All future occupants of the development, hereby permitted, must sign up to receive Environment Agency Flood Warnings by either phone, email or text message; this is a free service, which is provided at <https://www.gov.uk/sign-up-for-flood-warnings>

06

The applicant's attention is drawn to those conditions within the Decision Notice, which should be discharged, before any part of the development, hereby permitted, commences. It should be noted that if these conditions are not appropriately dealt with, then the development, hereby permitted, may be unauthorised.

07

This permission shall not be construed as granting rights to carry out works either on, under or over land, which is not within either the ownership or control of the applicant.

08

The applicant is advised to refer to 'BS 5837:2005 – A Guide to the Protection of Trees in Relation to Construction' prior to the construction of the approved development.

09

Your attention is drawn to the fact that a separate licence will be required from the Highway Authority, in order to allow for any works in the adopted highway to be carried out.

10

The applicant is advised that badgers are a protected species under the 'Protection of Badgers Act 1992.' Any works, which are either carried out or cause interference in the area of a sett that is used by badgers; or where either the works or interference causes either the death or injury to the protected animal, are illegal. For further information, please contact Natural England at the following address:

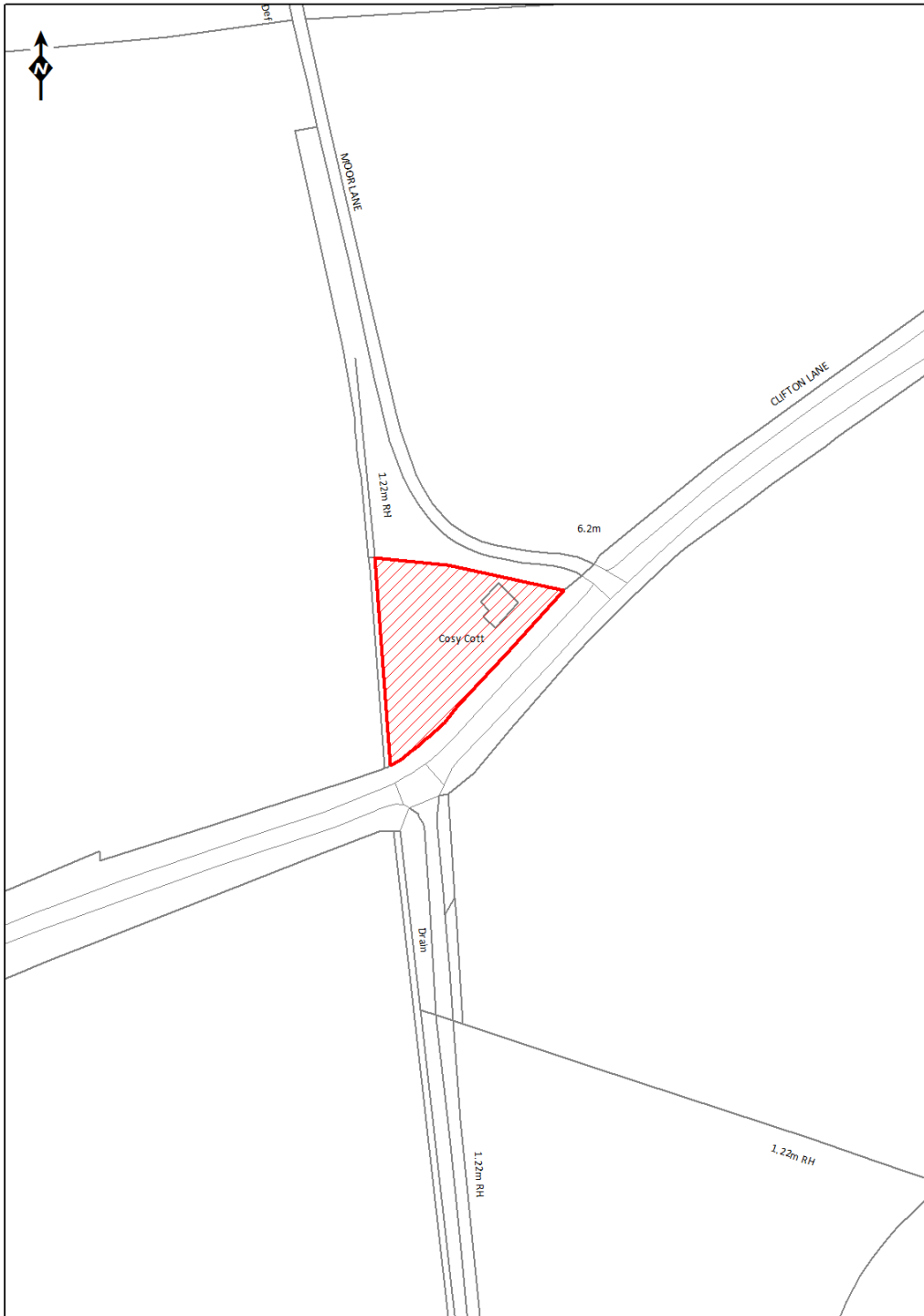
Block 6 & 7 Government Buildings  
Chalfont Drive  
Nottingham  
NG8 3SN

Tel: 0115 929 1191

Fax: 0115 929 4886

Email: [eastmidlands@naturalengland.org.uk](mailto:eastmidlands@naturalengland.org.uk)

Committee Plan - 20/01280/FUL



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## COMMITTEE REPORT

## AGENDA ITEM NO.

<b>Application No:</b>	<b>20/00889/FUL</b>		
<b>Proposal:</b>	<b>Demolition of dwelling and erection of replacement dwelling and detached garage/workshop.</b>		
<b>Location:</b>	<b>17 Gunthorpe Road, Lowdham, NG14 7EN</b>		
<b>Applicant:</b>	<b>Mr J Fearn</b>		
<b>Registered:</b>	<b>12 August 2020</b>	<b>Target Date: 07 October 2020</b>	
	<b>Extension of time agreed until 06 November 2020</b>		
<b>Website Link:</b>	<b><a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage</a></b>		

**The application is being presented to the Planning Committee in line with the Council's Scheme of Delegation at the request of Cllr Wendels. The referral was declined by the Panel, appealed to the Chief Executive who agreed the proposal should be debated by Planning Committee.**

### The Site

The site relates to a brick detached four bedroom bungalow on the east side of Gunthorpe Road in the village of Lowdham in the Nottingham Fringe Area of Newark and Sherwood District. At this location Gunthorpe Road meets the A6097 and the site is located on a service road off the main Gunthorpe Road. The dwelling has a generous rear garden which is bounded at the rear by the Cocker Beck. Boundary treatments consist of hedges and close-boarded timber fencing. There is a detached garage to the side (north) with vehicle hardstanding to the front.

The site is located in Flood Zone 3b and is also at risk of surface water flooding as indicated by the Environment agency maps.

### Relevant Planning History

None applicable

### The Proposal

The application seeks planning permission for the demolition of the existing dwelling and garage and the erection of a four bedroom replacement dwelling and detached garage/workshop.

### *Replacement dwelling:*

The existing side wall (north) would remain as would a small section of the front wall, with the remaining house demolished in order to accommodate a replacement dwelling of dimensions 11.2m width x 16.4m length. The roof form would be dual-pitched roof 1.25m with a ridge height 8.2m with an eaves height of 4.7m. The existing oriel window in the side (north) elevation would

be extended upwards with a rooflight on top and one opening in the front elevation would be modified to form a new window. The remaining fenestration would consist of a panel of full-height windows to the sides of and above the front door, casement windows serving the reception rooms and bedrooms to the front, three sets of bi-fold doors in the rear extension and bi-fold doors and casement windows serving the master suite to the rear. A full-length glazed balcony would be erected at the rear at first floor. In addition, glazing would be inserted in the apex of the gable end to the rear and seven rooflights would be installed. Double sliding doors would serve the dining area in the side (south) elevation.

Materials would consist of blue bricks to match the existing, off-white render at ground floor, cedar cladding at first floor, dark grey aluminium doors and windows, aluminium fascias and Edgemere interlocking slate concrete roof tiles in anthracite.

#### *Garage:*

An existing detached garage to the north side of the dwelling would be demolished and a new garage and workshop of dimensions 2.725m x 9m would be erected on the boundary with the neighbouring dwelling to the north. It would have a dual-pitched roof with a ridge height of 3.34m and an eaves height of 2.525m. Materials would consist of red/brown facing bricks and Edgemere interlocking slate concrete roof tiles in anthracite.

#### *Boundary treatment:*

A close-boarded fence of 2.2m would be erected between the garage and dwelling facing the highway.

#### *Plans:*

001 Block Plan 1:500 dated 20.08.2020  
002 Site Location Plan 1:1250 dated 20.08.2020  
101 Ground Floor plan As Existing 1:50  
102 First Floor plan As Existing  
103 Roof Plan As Existing 1:50  
201 Ground Floor plan As Proposed 1:50 dated 27.08.2020  
202 First Floor plan As Proposed 1:50 dated 27.08.2020  
203 Roof Plan plan As Proposed 1:50 dated 27.08.2020  
301 Front elevation As Existing 1:50  
302 LHS elevation As Existing 1:50  
303 Rear elevation As Existing 1:50  
304 RHS elevation As Existing 1:50  
401 Front elevation As Proposed 1:50 dated 27.08.2020  
402 LHS elevation As Proposed 1:50 dated 27.08.2020  
403 Rear elevation As Proposed 1:50 dated 27.08.2020  
404 RHS elevation As Proposed 1:50 dated 27.08.2020  
901 3D Model Proposed Front NTS  
902 3D Model Proposed Rear NTS  
903 3D Model Proposed RHS NTS  
904 3D Model Proposed Front/LHS NTS  
Revised 2D Street scene  
Revised 3D Street scene



Documents:  
Flood Risk Assessment.

### Departure/Public Advertisement Procedure

Occupiers of three 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  
Core Policy 10A – Local Drainage Designations

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

DM5 – Design  
DM12 – Presumption in Favour of Sustainable Development

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

- National Planning Policy Framework 2019
- Planning Practice Guidance

#### **Consultations**

**Lowdham Parish Council** – Objects – Out of character.

**NSDC Contaminated Land** - Advice Note re. Radon.

**Trent Valley Internal Drainage Board** - The Board's consent is required. Cocker Beck, exists along the boundary of the site. The Environment Agency should be consulted.

**Environment Agency – Objects.** Flood Zone 3b. Contrary to NPPG. Recommends refusal.

**Representations have been received from three local residents. Their comments may be summarized as:**

- introduces a comfortable and spacious family home
- visually appealing and of a modern design
- blend in beautifully

- vital we embrace new designed buildings for our future
- no one style on the street.

### Appraisal

The application site is located in Lowdham, which is defined as a Principal Village in the settlement hierarchy. Principal villages have a good range of day to day facilities, normally including a primary school, food shop, health facilities and employment or access to nearby employment. They act as a secondary focus for service provision in these locations to assist rural accessibility. Spatial Policy 2 identifies the strategy for Lowdham as sustainable communities during the plan period (2013-2033). Core Policy 3 states that the District Council will expect good quality housing design which adequately addresses the housing need of the District, including that for smaller houses of two-bedrooms or less.

I consider that a replacement four-bedroom dwelling which increases floorspace and improves the accommodation provided is appropriate for the application site, subject to an assessment against a number of criteria including that there is no adverse impact on character and the amenities of neighbouring uses including loss of privacy, light and overbearing impacts. The site is located in flood zone 3b (functional floodplain) and therefore an assessment against the NPPG, climate change and flood risk policies will also be made.

### *Character and local distinctiveness*

The NPPF states that good design is a key aspect of sustainable development and that decisions should ensure that developments are visually attractive and sympathetic to the surrounding built environment. Core Policy 9 states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built environments. Policy DM5 states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

This application dwelling comprises a modest 1930s bungalow with loft conversion and the proposal would create a substantial two-storey dwelling with four bedrooms and three bathrooms at first floor. The footprint, floorspace and volume would be more than double that of the existing dwelling. In addition, the roof form, style and materials would be dramatically different to those of the existing dwelling. The traditional 1930s bungalow would be replaced by a substantial contemporary dwelling. The Parish Council has objected to the application on the grounds that the replacement dwelling would be out of character and too large.

The street scene is composed of dwellings which have a range of styles, size and scale. A pair of modest 1960s bungalows are located to the south of the application dwelling with a substantial two-storey detached dwelling located to the north. In order to aid an appraisal of the impact of the proposal on the street scene and character the agent has supplied 2D and 3D street views. It is accepted that the replacement dwelling is of an entirely new form and scale. However, I consider that the row of dwellings at this section of Gunthorpe Road does not represent a uniform row in any case and as such, the introduction of a new dwelling of altered size, scale and appearance would not harm the street scene.

I consider that the proposal is in conformity with the relevant policies in this regard.

### *Neighbour amenity*

The NPPF seeks to create places which have a high standard of amenity for existing and future users. Policy DM5 of the Allocations and Development Management DPD states that the layout of development within sites and separation distances from neighbouring dwellings should be sufficient to ensure that neither suffers from a reduction in amenity including overbearing impacts, loss of light and privacy.

There is a separation distance of 9.1m between the application dwelling and the boundary of neighbouring dwelling to the north which would be unaltered. I do not consider that this dwelling would suffer any amenity impacts from the proposal.

There is the potential for the proposed full length balcony to the rear, which would have a depth of 1.1m and be capable of accommodating outdoor furniture, to cause overlooking and loss of privacy impacts to the rear amenity space of the neighbouring dwelling to the south. However, boundary treatments to the rear are formed by hedges and there are trees on site which would provide screening. In addition, the balcony has an overhang which would reduce the potential for overlooking and as such I am satisfied that the incorporation of a balcony would not have harmful amenity impacts.

There would be a separation distance of 2.5m between the boundary of the neighbouring dwelling to the south and the proposal and a separation distance of 4.5m between the neighbouring dwelling to the south and the proposal. I consider that the separation distances are just adequate to make any loss of light or overbearing impacts to this dwelling acceptable.

As such I consider that the proposal is in conformity with the relevant policies in this regard.

### *Flood Risk*

Policy DM5 states that the Council will aim to steer new development away from areas at highest risk of flooding. Development proposals within Environment Agency Flood Zones 2 and 3 and areas with critical drainage problems will only be considered where it constitutes appropriate development and it can be demonstrated, by application of the Sequential Test, that there are no reasonably available sites in lower risk Flood Zones. Environment Agency maps indicate that the site is in Flood Zone 3b (functional flood plain) and is at risk from surface water flooding. The Strategic Flood Risk Assessment has recommended the development of Local Drainage Designations for the Lowdham area, and Core Policy 10A states that in order to ensure appropriate management of flood risk as part of new development the District Council will work with partners to develop Local Drainage Designations in Lowdham. However, Local Drainage Designations are not currently in place and there is no Article 4 Direction in place limiting permitted development rights on flood risk grounds.

The Environment Agency objects to the application on the grounds that the site is within the functional floodplain and that the development is classed as "More Vulnerable" in accordance with table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.

The NPPF sets strict tests to protect people and property from flooding. The Sequential Test and Exception Test do not need to be applied for applications for minor development, the meaning of which, in relation to flood risk, includes householder development. However minor development

does not include a replacement dwelling and the Sequential Test and Exception Test have not been applied in the Flood Risk Assessment submitted to support the application, which is contrary to the guidance in the NPPG.

I am mindful that permitted development rights have not been removed for the application dwelling. As such the applicant would be able to extend to the rear of the application dwelling by 8m which would increase the footprint by approx. 70m<sup>2</sup>. In addition permitted development rights would allow for a building within the curtilage for a purpose incidental to the enjoyment of the dwellinghouse, which has an area not exceeding 50% of the total area of curtilage not covered by the original dwellinghouse. The rear garden is extensive and the total area of curtilage which could be developed would be approx 400m<sup>2</sup>. The proposed replacement dwelling would increase the footprint over and above that of the existing dwelling by approx. 89m<sup>2</sup>. In addition, the replacement garage would increase the footprint over and above that of the existing garage by approx. 12.5m<sup>2</sup>. The total increase in ground cover over that of the existing situation would be approx 101.5m<sup>2</sup>. It is not an unreasonable assumption that a larger home extension, replacement larger garage and summer house, for instance, all of which would benefit from deemed consent, could be developed on such a site. The cumulative footprint of such a development could be in the region of 100m<sup>2</sup> which is comparable to the proposed increase in footprint for this application. In addition, if a householder application were to be submitted for large extensions, then Environment Agency Standing Advice would apply. For this reason, I have to consider whether it is reasonable to refuse the application on flood risk grounds, even though the proposal represents more vulnerable development in the functional floodplain.

The applicant has submitted a Flood Risk Assessment which has stated that floor levels within the proposed extension will be set no lower than existing levels and mitigation proposals include the use of flood resilience measures, including the use of low permeability and flood resilient materials and the location of electrical services at a high level. These measures are supported and a condition would be attached to any permission which would require floor levels to be agreed before commencement of development.

In view of the fact that permitted development rights are intact for the application dwelling, and that development of a footprint in excess of that which is proposed would have deemed consent, I do not consider that it would be reasonable to refuse the application on these grounds, even though the application is contrary to the NPPF, NPPG, Core Policy 10 and Policy DM5.

Core Policy 10 states that new development should positively manage its surface water run-off through the design and layout of development to ensure that there is no unacceptable impact on run-off into surrounding areas of the existing drainage scheme. Trent Valley Internal Drainage Board was consulted on the application. An open watercourse, exists in close proximity of the site and the applicant would be required to consult the IDB for any works that increase the flow or volume of water to any watercourse. An informative would be added to any permission.

#### *Radon*

The site is located in potentially Radon Affected Area. An informative would be attached to any permission.

#### Conclusion

The proposal represents more vulnerable development in the functional floodplain which the NPPG states should not be permitted. The development is therefore contrary to the NPPF, NPPG,

Core Policy 10 and Policy DM5 in this respect. However, I am obliged to take into consideration the quantum of development which has deemed consent and this represents a material planning consideration. I do not consider that the proposal would have a harmful impact on character or neighbour amenity and on balance find that the development is acceptable.

## **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:

- 001 Block Plan 1:500 dated 20.08.2020
- 002 Site Location Plan 1:1250 dated 20.08.2020
- 201 Ground Floor plan As Proposed 1:50 dated 27.08.2020
- 202 First Floor plan As Proposed 1:50 dated 27.08.2020
- 203 Roof plan As Proposed 1:50 dated 27.08.2020
- 401 Front elevation As Proposed 1:50 dated 27.08.2020
- 402 LHS elevation As Proposed 1:50 dated 27.08.2020
- 403 Rear elevation As Proposed 1:50 dated 27.08.2020
- 404 RHS elevation As Proposed 1:50 dated 27.08.2020
- Flood Risk Assessment.

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application.

Reason: In the interests of visual amenity.

04

No part of the development shall be commenced until details of the existing and proposed ground and finished floor levels of the site and approved building have been submitted on a single plan/or document and approved in writing by the Local Planning Authority. Finished floor levels at ground floor should be a minimum of 300mm above the 1:100 flood event level + 30% climate change allowance or no lower than the finished floor levels in the existing dwelling, whichever is higher. The mitigation measures shall be fully implemented prior to occupation or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with the aims of the NPPF and Core Policy 10 and Policy DM5 of the DPD.

## 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) Order 2010 (as amended).

02

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

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

[www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

03

The proposed development is in a potentially Radon Affected Area\*. These are parts of the country where a percentage of properties are estimated to be at or above the Radon Action Level of 200 becquerels per cubic metre (Bq/m<sup>3</sup>). Given the above, it would be prudent to investigate if the development will be affected by radon and incorporate any measures necessary into the construction to protect the health of the occupants. Further information is available on the council's website at: <http://www.newarksherwooddc.gov.uk/radon> \*based on indicative mapping produced by the Public Health England and British Geological Survey Nov 2007.

04

The site is within the Trent Valley Internal Drainage Board district. The Board maintained Bypass Feeder, an open watercourse, exists in close proximity of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies. The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required).

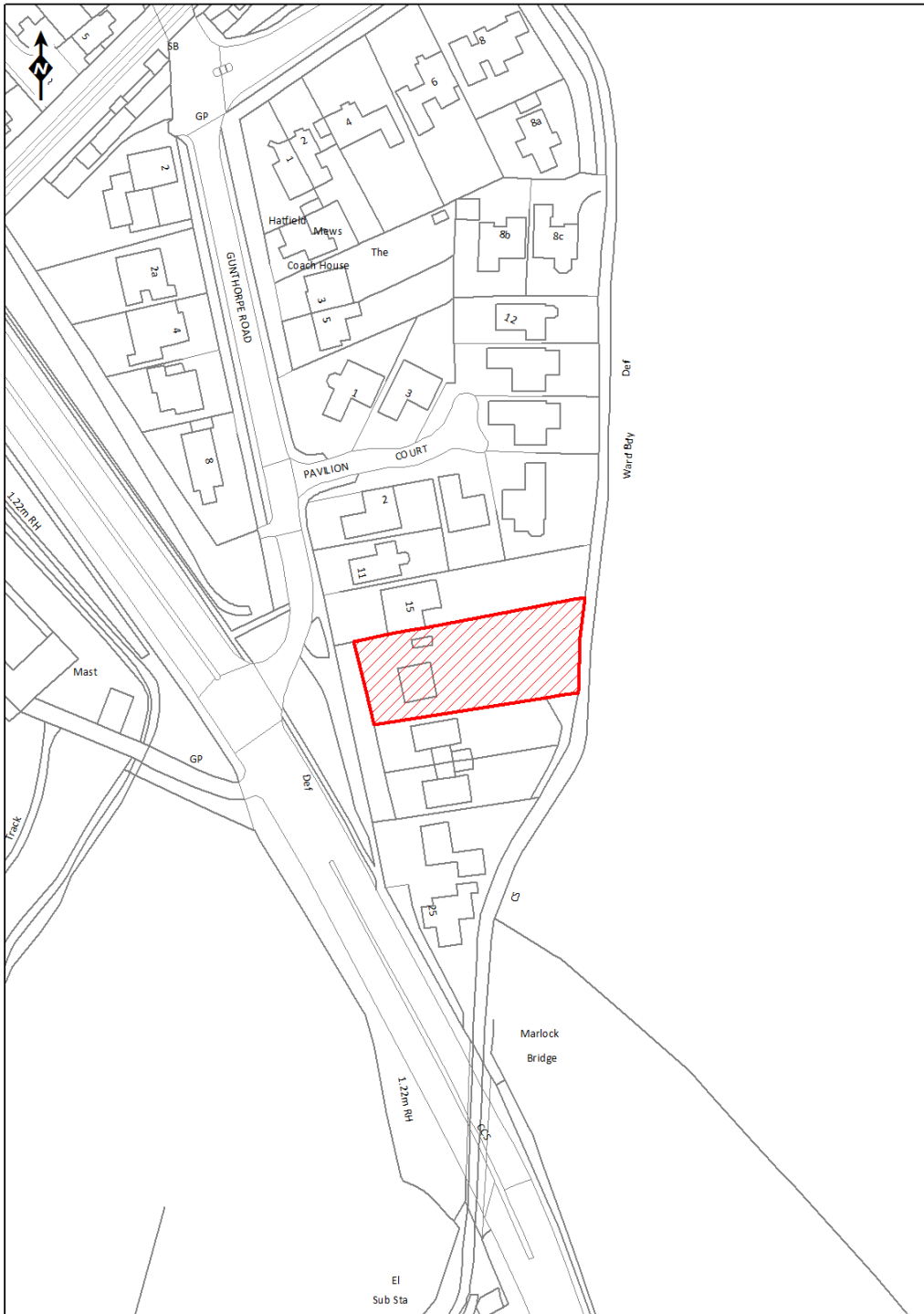
### BACKGROUND PAPERS

Application case file.

For further information, please contact Emma Fawcett on ext 5436.

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

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



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## PLANNING COMMITTEE – 3<sup>rd</sup> NOVEMBER 2020

<b>Application No:</b>	<b>20/01436/RMA</b>	
<b>Proposal:</b>	<b>Erection of 1 No. four bed house with attached garage and 1 No. four bed house with detached garage</b>	
<b>Location:</b>	<b>Land At Norwell Road, Caunton</b>	
<b>Applicant:</b>	<b>Ms S Brown</b>	
<b>Agent:</b>	<b>Mr Mike Sibthorp</b>	
<b>Registered:</b>	<b>03.08.2020</b>	<b>Target Date: 28.09.2020</b>
	<b>Extension of Time Agreed Until 06.11.2020</b>	
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QECCOGLBIN700">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QECCOGLBIN700</a>	

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Councillor Michael is part owner of the site.**

### The Site

The application site relates to a broadly rectangular plot of approximately 0.2 hectares to the south of Norwell Road. The site as existing forms agricultural grazing land demarcated by a hedged boundary with Norwell Road. There is a slight decreasing gradient within the site in a westwards direction.

The site is immediately adjacent to, but outside of, the designated Conservation Area for Caunton. Neighbouring land uses include residential curtilages to the south and the approved residential curtilages of a recent housing scheme to the east of the site.

### Relevant Planning History

**19/01180/OUT** – Erection of 2 dwellings, approved September 2019.

### The Proposal

The application seeks reserved matters approval for appearance; landscaping; layout; and scale for the erection of two dwellings. As described by the development above, the proposal relates to 2 no. four bed dwellings, one with an attached garage and one with a detached garage. The plans have been revised during the life of the application following the original comments from the Conservation Officer such that the garages are now both single storey but with attached home office space.

The dwellings have approximate footprints of 188m<sup>2</sup> and 186m<sup>2</sup> respectively. Plot 1 would be

approximately 8.9m to the ridge and 5.0m to the eaves whilst Plot 2 would be around 8.3m to the ridge and 5.1m to the eaves.

The application has been considered on the basis of the following plans and documents:

- Design and Access Statement Planning Statement by Mike Sibthorp Planning;
- Site Location Plan;
- Block Plan – 1843.A.1.h dated June 2020;
- Plot 1 Plans – 1843.A.2.d dated May 2020;
- Plot 1 Elevations – 1843.A.3d dated June 2020;
- Plot 2 House Proposals – 1843.A.4a dated May 2020;
- Garage to Plot 2 – 1843.A.5b;
- Proposed Planting Scheme (and associated specification) dated 25.06.2020;
- Proposed Landscape Plan (and associated specification) dated 25.06.2020;
- Topographical Survey – 36721\_T Rev. 0;
- Foul Drainage Assessment Form (FDA);
- Drainage Assessment dated 26<sup>th</sup> September 2020 by EWE Associates Ltd.

#### Departure/Public Advertisement Procedure

Occupiers of 20 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

#### Planning Policy Framework

##### The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 – Spatial Distribution of Growth  
Spatial Policy 3 – Rural Areas  
Spatial Policy 7 - Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 -Sustainable Design  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character  
Core Policy 14 – Historic Environment

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

DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM8 – Development in the Open Countryside  
DM9 – Protecting and Enhancing the Historic Environment

#### Other Material Planning Considerations

- National Planning Policy Framework 2019

- Planning Practice Guidance (online resource)

### Consultations

**Caunton Parish Council** – No comments received.

**NSDC Conservation** – Comments on original plans raised issue in terms of the prominence of the garages to the front boundary. Confirmed no objection to the revised plans.

**NCC Highways** – Original comments accepted means of access were safeguarded by the outline permission and confirmed visibility splays are appropriate. Requested changes to surface materials and further information regarding the means of taking the surface water away. Latest comments confirm no objections based on the revised plans.

**Tree Officer** - Proposed soft landscaping submissions are acceptable.

**Trent Valley Internal Drainage Board** - There are no Board maintained watercourses in close proximity to the site.

**NCC Flood** – Informal discussions included within the appraisal below.

**Representations have been received from 8 local residents/interested parties which can be summarised as follows:**

- The development will create further flooding on both the lane of Amen Corner and also the junction of Norwell Road and Beckway;
- Previous flood events have resulted in stranded cars and the use of water pumps to control the water;
- 2 new houses would only increase the flooding;
- Climate change identifies that there will be an increase in more extreme rainfall;
- The drains cannot cope with the sheer volume of rainwater;
- There has been structural and subsidence damage to neighbouring property caused by water since the development of the Hedge Row houses;
- The houses will be dominating and imposing to neighbouring properties and will lead to overlooking when there are no leaves on the trees which are deciduous;
- Privacy and peace for neighbouring residents will be disrupted;
- The houses will urbanise the green area of the village;
- Caunton is not a sustainable village;
- There is a sharp blind bend on Norwell Road;
- The properties will lead to a loss of natural light;
- There is no need or demand for large houses such as these in the village;
- There have been no drawings of what the property will look like;
- The construction of affordable housing has increased the amount of traffic on Norwell Road which is a very busy country road extensively used by cyclists horse riders and large farm machinery;
- The plans have no detail of the proposed garage for plot 2;
- Allowing this development will set a precedent for further development of green belt land adjoining the site;
- There is no reference to proposals to mitigate flooding;

- There is no confidence in the surface water measures shown on the plans.

### Comments of the Business Manager

#### Principle of Development

The principle of the development is now established through the granting of the outline consent with the means of access being the only matter that was considered and ultimately approved. It is therefore neither necessary nor appropriate to rehearse the principle of two new dwellings within the site. Only reserved matters including appearance, landscaping, layout and scale of the development proposed is open for consideration.

#### Housing Mix and Type

Core Policy 3 of the Core Strategy confirms that the District Council will seek to secure an appropriate mix of housing types to reflect local housing need which will be dependent on any localized housing need information.

The density of the development within the site has already been established by the outline consent. The outline application indicatively suggested that the two dwellings would be as per the current application in terms of footprint albeit it did not secure the size of the dwellings in terms of number of bedrooms. As detailed by the description of development, the reserved matters submission presents 2 four bedroomed properties albeit both with a study and home office at ground floor which would be big enough to form another bedroom if desired. The reference to the number of bedrooms in the description of development is not considered fatal to the assessment as it is clear in either scenario that the two dwellings would deliver large executive family homes. If approved, planning permission would not be required for any changes to the internal configuration presented.

Core Policy 3 acknowledges that there is a need for family housing of 3 or more bedrooms. More specifically, the District Council has commissioned a District wide housing needs survey which splits the District into smaller sub-areas. Caunton falls within the Rural North sub area where there is a need for both four and five bed dwellings in the market sector. These do not form the majority need (which is three bedroom properties) however it is notable that this survey is now some 6 years old (published 2014) and due to be updated imminently. It is therefore not considered to be reasonable to be overly perspective to the size of the properties noting that they follow the principle suggested at outline stage and would satisfy an identified need for larger family houses.

#### Impact on Character (including in the heritage context)

Policy DM5 of the Allocations and Development Management DPD considers matters of design. Criterion 4 of this policy outlines that the character and built form of new proposals should reflect the surrounding area in terms of scale, form, mass, layout, design, materials, and detailing. Noting the proximity of the designated Conservation Area (the southern boundary of the site abuts the boundary of the CA) Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

The proposal relates to two substantially sized dwellings with associated garages. The submitted Design and Access Statement outlines the context of the site including the recent delivery of 6

affordable dwellings of a modern design immediately east of the site (also outside of the designated Conservation Area). It is presented that the dwellings have been designed with traditional design elements. Materials proposed include red brick and clay pantiles. Whilst the design elements and use of materials are accepted as being commensurate to modern development in the surrounding area, the scale of the proposed dwellings in comparison to the recent development to the east would be considerably larger in footprint (albeit not dissimilar in height with the neighbouring dwellings being approximately 8.2m to pitch height). Nevertheless the site represents somewhat of a transitional corner plot between larger spacious plots to the south to the more modestly sized semi-detached dwellings to the east. Due to the set back of the principle elevations of the proposed dwellings (and indeed roadside boundary hedging), the change in scale is not considered to have a harmful impact to the wider character of the area. Particularly given that there is a rising gradient eastwards such that the recent affordable housing scheme is built on slightly higher land than the site.

Notwithstanding the close proximity of the designated Conservation Area, the proposed dwellings would be visually read in conjunction with the more modern development to the east of the site with broadly the same set back from the highway. It is notable that the east of the village (as the road turns sharply at Norwell Road) is formed of post war development quite distinct from the majority of the main village core. The site in itself therefore does not warrant an overly perspective design approach.

The Conservation Officer commented on the original scheme accepting that the design of the dwellings was in keeping with the traditional vernacular with positive design elements such as arched window heads and dentiallated string courses. The comments did however go on to raise an objection to the scale of the originally proposed two storey garages considered that they would be overly prominent and fail to preserve the setting of the Conservation Area. As is detailed above, the applicant has addressed these concerns through revised plans during the life of the application which now demonstrate the use of single storey garages (with modest attached home offices).

Even in the context of the wider Conservation Area, there are modern developments which the proposed dwellings would respond well to in their design and materials. The use of projecting garages is also not an uncommon feature in the village. In any case the majority of the roadside hedge would be retained which would assist in softening the impact of the built form. Overall, the proposed dwellings are considered to have a neutral impact on the setting of the Conservation Area and the character of the surrounding area outside of the heritage context. Precise details of the materials are provided by the submitted Design and Access Statement (para. 45) and are considered acceptable without the need for further details.

### Impact on 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.

The site is bounded by residential curtilages to the east and south. To the east, Plot 1 would be built broadly in line with the neighbouring dwelling at no. 1 Hedge Row (albeit the garage would project beyond the neighbouring principle elevation).

The side elevation of the neighbouring property features their front door as well as a small window at first floor and what appears to be a secondary window at ground floor. Plot 1 would be around 6.5m away from the neighbouring side gable but with the closest part of the dwelling

being the attached projecting garage and connecting home office. The revised plans now show this element of the dwelling to be single storey with an approximate pitch height of 5m (just under the eaves of the proposed dwelling) and eaves of around 2.3m.

Other than two roof lights there are no windows on the east elevation of the garage / connecting home office but there are three windows on the eastern gable end of the proposed house. The window at first floor is intended to serve a bathroom and therefore could reasonably be conditioned to be obscurely glazed. With this mitigation in place, Officers have identified no harmful impacts to no. 1 Hedge Row in terms of overlooking or loss of privacy.

However, amenity can also be adversely affected by overbearing impacts. This has been carefully considered in respect to the garage element of the proposal which projects approximately 5.5m forwards of the neighbouring property principle elevation. There are windows at both ground and first floor of the neighbouring dwelling albeit these are set some distance from the edge of the dwelling. A rough rule of thumb which is often used in amenity assessments is the '45° test' whereby the angle from roughly the centre of the neighbouring window is taken. In this case, the projecting garage 'passes' the test insofar as the outlook from the window would largely bypass the garage unless at a greater than 45° oblique line of sight. In this context, it is not considered reasonable to resist the application on overbearing impacts arising from Plot 1. It is notable that the revised plans represent an improvement to this amenity relationship by reducing the height of the garage to single storey.

Whilst the rear of Plot 1 would be towards paddock land, the rear boundary of Plot 2 would be shared with the neighbouring curtilage of Holly House with an approximate distance of 21m between respective built forms. Albeit the neighbouring dwelling has a single storey projection such that two storey to two storey distance would be more akin to 25m. The proposed dwelling would be on slightly higher land than the neighbouring property. However, the shared boundary is heavily vegetated which the landscaping plans show to be retained. Owing to the existing landscaping and the aforementioned distances, it is not considered that Plot 2 would impose harmful amenity impacts to Holly House.

Plot 2 would also be close to the residential curtilage of Orchard Lodge to the south west. The west elevation of Plot 2 would be orientated towards an area of the wider paddock land which does not appear to form part of the residential curtilage for the neighbouring dwelling. In any case, the western elevation of the proposed dwelling would only feature one first floor window which again would serve a bathroom and therefore could reasonably be conditioned to be obscurely glazed. Any outlook from the rear elevation of Plot 2 would be at an oblique line of sight towards Orchard Lodge and at a distance of over 20m away. I therefore do not consider there to be any adverse impacts to this property.

In terms of the amenity space for the proposed occupiers, both plots would be afforded a generous rear amenity space commensurate to the size of the dwellings.

Taking the above into account, overall the proposal is considered to comply with the amenity provisions of Policy DM5.

#### Impact on Highways

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

new development and appropriate parking provision and seeks to ensure no detrimental impact upon highway safety.

The position of the two vehicular accesses has been accepted by the outline permission which also included a number of conditions in relation to highways matters including securing dropped kerbs; surface materials and visibility splays. A condition was also imposed requiring the closing up of the field access the west of the site. These conditions would remain relevant and require compliance before the development could be brought into use (albeit details have largely been shown on the submitted plans for the reserved matters submission as discussed further below).

### Other Matters

The block plan shows a retaining wall along part of the eastern boundary of the proposed Plot 1. Clarification on the height of the proposed wall has been sought during the life of the application. This has been shown on the latest block plan demonstrating that the wall at the point of the built form would be approximately 1.8m in height, decreasing to around 0.9m. This would not impose harmful character or amenity impacts which would warrant concern.

Officers have also requested detail of the boundary treatment proposed between the two plots (the original block plan suggested this would part retaining wall too) but the agent has requested that these details be provided through condition.

As confirmed above, the conditions originally attached to the outline application remain relevant and require compliance unless specifically addressed through the reserved matters application.

#### *Condition 1 – Time*

The reserved matters application has been received within three years of the outline decision (12<sup>th</sup> September 2019). In order to comply fully with this condition, development would need to commence within two years from the date of the last reserved matters approval.

#### *Condition 2 – Reserved Matters details*

All reserved matters have been submitted for consideration with the current application as required by this condition.

#### *Condition 3 – Landscaping*

Landscaping details have been submitted with the current application and are considered acceptable. A condition would be required to secure their implementation through the current application.

#### *Condition 4 – Finished floor levels*

Finished floor levels have been indicated on the proposed block plan and are considered appropriate in responding to the existing gradient within the site.

#### *Condition 5 – Drainage details*

The original block plan showed drainage intentions including the use of a soakaway for each plot which is considered to be a sustainable means of drainage. However, as is summarized above, a number of the neighbouring comments raised concern with the drainage intentions owing to recent surface water flood events.

Despite not being a statutory consultee for an application of this size, Officers have taken the opportunity to discuss the proposals with NCC as the Lead Local Flood Authority. Their comments on the original submission raised concern that the drainage intentions were in some respects contradictory and therefore the actual intentions were not clear.

The applicant has responded to this through the submission of a drainage assessment during the life of the application. NCC Flood have confirmed that the proposals within are now much clearer and are acceptable in principle. This document could be added to the approved plans and documents condition such that the intentions of the outline condition have now been adequately satisfied.

#### *Condition 6 – Avoidance of bird breeding season*

This condition would require compliance albeit does not require the submission of further details.

#### *Condition 7 – Ecological recommendations*

This condition would require compliance albeit does not require the submission of further details.

#### *Condition 8 – Dropped kerbs*

This condition would require compliance albeit does not require the submission of further details.

#### *Condition 9 – Hard surfacing of driveways*

This condition would require compliance albeit does not require the submission of further details (notwithstanding that the submitted plans show tarmac for 5m from the highways edge).

#### *Condition 10 – Driveway Drainage*

The landscaping plans show that the driveways would be constructed on aggregate flatstone. This would be permeable to allow surface water to drain into the site rather than onto the highways and therefore would meet the requirements of the condition.

#### *Condition 11 – Visibility splays*

As is discussed above, the agent has been asked to clarify the visibility splays during the life of the application. These have now been shown on the block plan and accepted by NCC Highways.

#### *Condition 12 – Closure of existing field access*

The submitted Design and Access Statement implies that the landscaping plans show details of the closure of this access. The latest block plan shows where the kerbs would be re-instated.

#### Conclusion



Outline planning permission for two dwellings has already been granted on the site by permission dated September 2019. As is discussed in the above appraisal, there is nothing in the detail of the scheme now presented which would be harmful to a degree to prevent the reserved matters approval subject to the conditions outlined below.

## **RECOMMENDATION**

**That reserved matters are approved subject to the conditions and reasons shown below:**

### Conditions

01

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

- Block Plan – 1843.A.1.h dated June 2020;
- Plot 1 Plans – 1843.A.2.d dated May 2020;
- Plot 1 Elevations – 1843.A.3d dated June 2020;
- Plot 2 House Proposals – 1843.A.4a dated May 2020;
- Garage to Plot 2 – 1843.A.5b;
- Proposed Planting Scheme (and associated specification) dated 25.06.2020;
- Proposed Landscape Plan (and associated specification) dated 25.06.2020;
- Drainage Assessment dated 26<sup>th</sup> September 2020 by EWE Associates Ltd.

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

Reason: So as to define this approval.

02

The development hereby permitted shall be constructed entirely of the material details submitted within the Design and Access Statement (paragraph 45) unless otherwise agreed in writing by the local planning authority through an application seeking a non-material amendment.

Reason: In the interests of visual amenity.

03

The approved soft landscaping shown on the documents:

- Proposed Planting Scheme (and associated specification) dated 25.06.2020;
- Proposed Landscape Plan (and associated specification) dated 25.06.2020.

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.

04

The first floor window opening on the eastern side elevation of Plot 1 and the first floor window opening on the western side elevation of Plot 2 shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development.

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

05

No development in respect to the features identified below shall be commenced, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 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.

Reason: In order to preserve the setting of the adjacent Conservation Area.

06

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

Reason: In the interests of residential and visual amenity.

## Notes to Applicant

01

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

02

The applicant's attention is drawn to those conditions on the decision notice and those contained on the outline consent which will also be of relevance, which where appropriate 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](http://www.newark-sherwooddc.gov.uk)

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

## BACKGROUND PAPERS

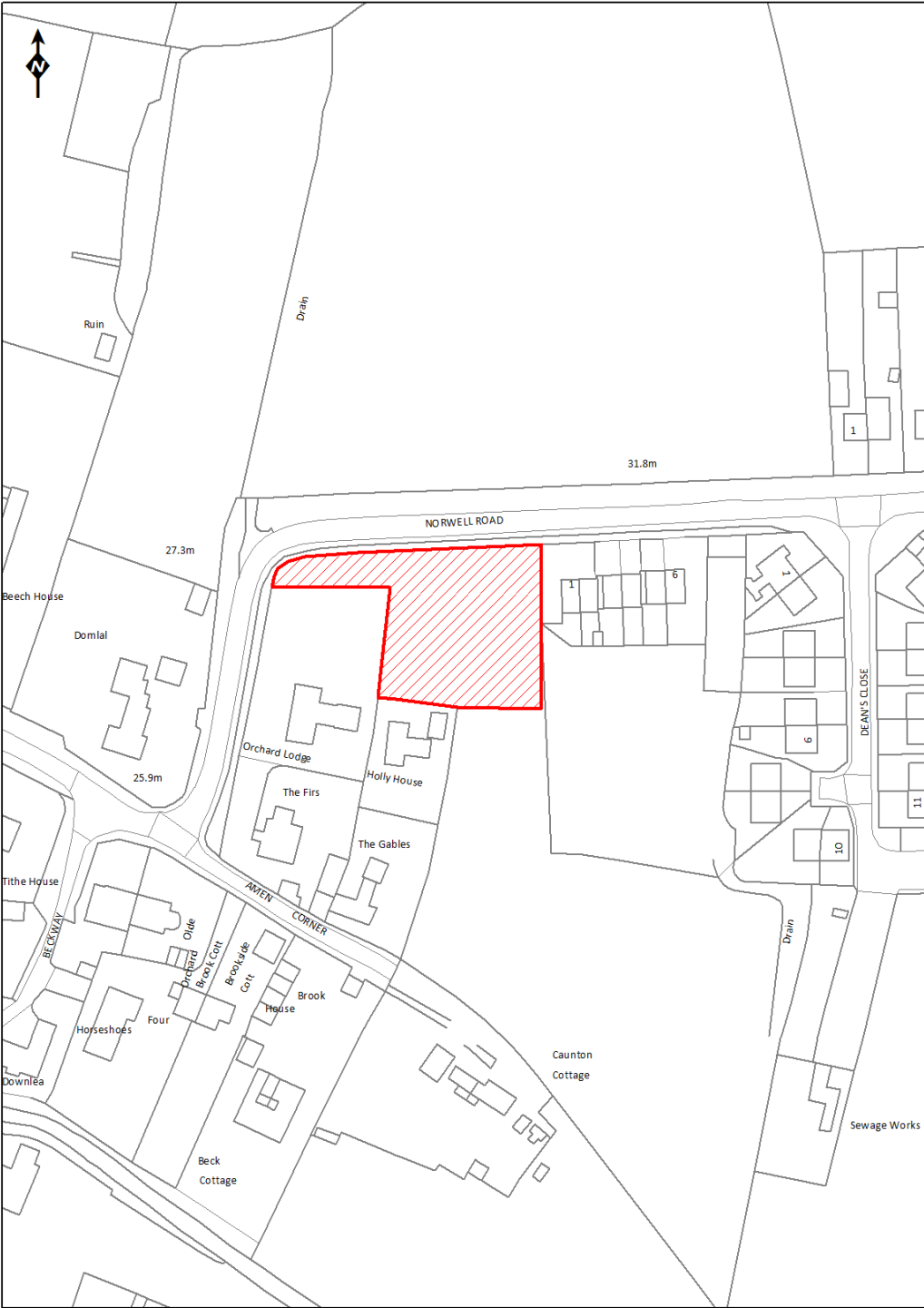
Application case file.

For further information, please contact Laura Gardner on extension 5907.

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

**Lisa Hughes**  
**Business Manager – Growth and Regeneration**

Committee Plan - 20/01436/RMA



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## **PLANNING COMMITTEE**

**3 NOVEMBER 2020**

### **PROACTIVE PLANNING ENFORCEMENT AND TEMPORARY STRUCTURES**

#### **1.0 Purpose of Report**

1.1 To seek approval from Members for the adoption of a policy for under enforcement of temporary structures requested as a result of the Covid-19 pandemic.

#### **2.0 Background Information**

2.1 The Covid-19 pandemic has resulted in significant impacts for the whole of the country, not least businesses. One challenge for many businesses is providing a safe environment for operation enabling compliance with social distancing rules. A number of authorities have introduced a temporary relaxation for planning enforcement where structures are provided within a business premise to assist with complying with these rules and enable the business to continue operating or to operate more successfully.

2.2 A number of enquiries have been received from different companies asking if temporary structures including portacabins and gazebos can be erected without the need for planning permission. As is detailed within Appendix 2 of the guidance leaflet, the majority of these structures would require planning permission due to the length of time that they would be in place (more than 28 days).

2.3 In order to guide such enquirers, a guidance leaflet (attached to the end of this report) has been prepared to assist businesses who might wish to take the opportunity of providing additional space for either its customers or staff. It is hoped the principle of under enforcement of planning regulations for a time restricted period enable a number of businesses to continue trading whilst also giving some comfort should they provide additional [enclosed] space. This guidance, is suggested, would only give a temporary period of relaxation from planning enforcement for businesses – it is suggested until the end of March 2021 – when the approach would be reviewed in light of the pandemic.

2.3 It is hoped that a number of businesses will be able to take the opportunity of providing such structures as we are heading into winter and also Christmas. However, it is also of paramount importance to ensure that such developments are not significantly harmful to either the environment in which they are situated or to adjoining neighbours. Additionally, it is important that if agreement is sought and there are significant concerns that the Council has the opportunity to intervene.

2.4 It is also necessary to ensure that anyone wishing to take opportunity of this temporary relaxation is aware that other controls, such as building regulations or licensing approval for example, have not been waived.

#### **3.0 Proposal**

3.1 In order for a business to benefit from these temporary changes, they would be required to submit details of their proposal to the Council for consideration. This would ideally be

prior to undertaking the works. As detailed in the attachment, information required would comprise:

- Business name, contact details of a named individual,
- A site location plan,
- A location plan including the location of the structure,
- A description of the structure,
- When the structure was erected or when do you plan to erect it,
- Photos of the site including the area where the temporary structure will be located, and,
- A brief overview of what the structure will be used for (including the hours it will be used for) and why the structure is required (related to Covid-19).

This would be assessed by an Officer as to whether or not it is acceptable and any decision made. In view of this being an informal temporary measure to under enforce, there would not be any right of appeal against the decision.

3.2 An assessment after 31<sup>st</sup> March 2021 would be taken in relation to any complaints that might have been received as well as to the 'state' of the Covid-19 pandemic. It is likely if no complaints have been received and the social distancing measures are still required, that a further extension in time would be permitted. However, this would be limited to ensure the development did not become immune from enforcement action.

3.3 It should be noted that any shelter which is 'substantially enclosed' (more than 50% of the sides are enclosed) will be required to be smokefree in accordance with the Health Act 2006 and the Smoke-free (Premises and Enforcement) Regulations 2006.

3.4 Businesses considering erecting some form of structure will also be advised to consider whether noise from people using the structure could cause problems to people in neighbouring properties?

#### **4.0 Financial Implications**

4.1 This process would have no direct financial implications upon the Council outside of the time for Officers to record, assess and provide a decision on the request.

#### **5.0 Equalities Implications**

5.1 The Council's approach to under enforcement of temporary buildings is not considered would have impact in terms of equality. Having a defined approach will ensure there is equal opportunity and that no individuals or groups are disadvantaged or discriminated against because of race, sex, disability, religion or belief, sexual orientation, gender reassignment, maternity and pregnancy, marriage or civil partnership, age, or social inequality.

#### **RECOMMENDATIONS that:**

- (a) **Members agree the approach to under enforcing breaches of the planning regulations for temporary structures for businesses for a temporary period up until the 31<sup>st</sup> March 2021.**
- (b) **After 31<sup>st</sup> March 2021 Officers will review the requests received or any temporary structure erected without a request to determine whether it is appropriate to allow the structure to remain for a longer period of time.**

### **Reason for Recommendations**

**To enable businesses to continue to operate more effectively during the Covid-19 pandemic for the benefit of the economy.**

### **Background Papers**

None

For further information please contact Lisa Hughes – Business Manager Planning Development on Ext 5565.

Matt Lamb  
Director – Growth & Regeneration

## PROACTIVE PLANNING ENFORCEMENT AND TEMPORARY STRUCTURES

### Introduction

Covid-19 has presented a wide range of challenges to the safe and ongoing operation of many business and organisations and with this has some concern regarding the compliance with social distancing advice. One issue that has become clear is the need, in some instances, for more physical space to accommodate social distancing and safer operations to enable businesses to operate as effectively as they can. Temporary structures/buildings (for example portacabins, portable buildings, portable welfare blocks) may provide a solution to this issue on a temporary basis. We have received a number of queries about the installation of temporary structures/buildings since the onset of Covid-19 and this guidance is therefore seeking to offer clarification on Newark and Sherwood District Council's approach to these matters.

In most instances temporary structures/buildings require planning permission, in some instances for any time period and in some instances if they are to be in place for longer than 28 days of a year. Given the current COVID-19 situation, Newark and Sherwood District Council is seeking to allow temporary structures/buildings without planning permission in certain circumstances, for approximately five months initially (until the 31 March 2021), to ensure the successful running of existing businesses and organisations in the district, whilst adhering to the government's COVID-19 guidance. This does not apply to residential properties.

What follows, is guidance to existing businesses and organisations who wish to create more space for operational reasons arising directly from Covid-19 by utilising temporary structures/buildings. Below we have set out the information we need to assess the planning requirements for all temporary structures/buildings being considered. We have provided information and links to guidance to ensure risk assessments are in place, Environmental Health standards are maintained and Covid-19 measures are adhered to (see Appendix 1). These matters remain the responsibility of the relevant business and/or organisation and nothing in this documentation overrides that responsibility.

The temporary use of the highway is not covered by this document as that is maintained and managed by Nottinghamshire County Council, and therefore we would suggest that in such instances communication is had with the County Council in the first instance. The highway is defined as:

*"All roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements over which there exists a public right of passage, that is to say a right for all Her Majesty's subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance."*

This guidance covers planning controls only. Temporary structures/buildings may require building regulation consent. We will make you aware of the need (or otherwise) for building regulation consent when you make enquiries to us. Before doing anything, we suggest having a discussion with one of our officers as follows:

For temporary structures on private land please contact [planning@newark-sherwooddc.gov.uk](mailto:planning@newark-sherwooddc.gov.uk) or call **01636 650000**.

If your proposal is within the setting of a listed building, we will aim to take a sympathetic approach to such developments. However, should your building be listed, please contact the Council's Conservation Team prior to submitting the above information for advice. They may be contacted via [conservation@newark-sherwooddc.gov.uk](mailto:conservation@newark-sherwooddc.gov.uk).



Appended to this document you will find:

- information and links to guidance to ensure risk assessments are in place, Environmental Health standards are maintained and Covid-19 measures are adhered to,
- Examples of the need for temporary structures, and
- A technical note explaining the planning rationale for this initiative.

### General Requirements

Any existing business or organisation wishing to erect (or which has already erected) a temporary structure/building for Covid-19 related reasons on private land will need to email [planning@newark-sherwooddc.gov.uk](mailto:planning@newark-sherwooddc.gov.uk) with the following information:

- Business name, contact details of a named individual,
- A site location plan,
- A location plan including the location of the structure,
- A description of the structure,
- When the structure was erected or when do you plan to erect it,
- Photos of the site including the area where the temporary structure will be located, and,
- A brief overview of what the structure will be used for (including the hours it will be used for) and why the structure is required (related to Covid-19).

Council Planning Officers will make an assessment of this information to determine whether the proposal is acceptable (subject to the relevant section below). We will seek to make this determination within ten working days. If we are unable to meet this timescale we will endeavour to communicate with you to provide you with a revised suitable timescale.

We may impose controls on the way in which temporary structures are used (for example limit them to day time use to reduce noise to neighbours).

**We will approach this assessment in a positive and proactive manner, although a positive outcome is not necessarily guaranteed.**

There is no charge for this initial request. If a Building Regulation Consent or Licence is required, there may be a fee.

Where controls have been imposed at the assessment stage, but these are not being implemented, the Council may instruct removal or changes to operations.

### What happens after 31<sup>st</sup> March 2021?

The guidance above will allow for the erection of temporary structures for Covid-19 reasons for five months (initially) without the need for planning permission in certain circumstances and following assessment. After the 31<sup>st</sup> March 2021, the Council will review its position and the Covid-19 situation.

We will communicate with you at this stage. Possible outcomes include:

- you are instructed to remove the structure you have erected,
- you are asked to apply for planning permission, or
- this initiative continues for an extended but finite period of time.

## Appendix 1 – Environment Health, Risk Assessment and Covid -19 Guidance

There is a wealth of guidance available to businesses and organisations for safe operations during the COVID-19 pandemic. Our website (<https://www.newark-sherwooddc.gov.uk/coronavirus/latestupdatefromthecouncil/>) contains links to some of this information. Guidance is changing at pace, and it is business and organisational operators' responsibility to keep up to speed with and implement the relevant guidance. Below is a summary of some of that guidance and other matters to consider, but this is not intended as an exhaustive or complete list.

1. Inside the area where you place your objects (i.e. tables and chairs), you will be required to maintain 1m social distancing (2m though remains preferable), where possible. <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/5-stepsto-working-safely> states that where the 1m cannot be maintained between people (from different households), you should do everything practical to manage the transmission risk by:

- considering whether an activity needs to continue for the business to operate,
- keeping the activity time involved as short as possible,
- using screens or barriers to separate people from each other,
- using back-to-back or side-to-side working whenever possible,
- staggering arrival and departure times,
- reducing the number of people each person has contact with by using 'fixed teams or partnering'.

Whilst these apply to a workplace, the principles could be applied to the use of temporary buildings and structures to trade safely during the COVID-19 pandemic.

2. You also need to consider how other more general social distancing measures can be supported, such as queuing outside your business. Consideration points for the management of social distancing in the public realm when queuing to enter businesses include:
  - Other queues to other business,
  - Other general queues for cash machines, places where people are waiting for others, bus stops etc.,
  - Available space footpaths and roads,
  - Ability to clearly signpost (Cheltenham businesses can contact the Cheltenham BID for sourcing social distancing stickers),
  - Traffic control and risks to and from cars, cycles and other pedestrians walking by,
  - How roads and pavements might be divided up , – Which street and business premises may have the issues,

- Limiting the number of people queuing, particularly where your business adjoins others where people will be queuing too.

This assessment will form part of your overall COVID-19 risk assessment. Further guidance on <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/shops-andbranches> can be read online.

## Other considerations

1. **Noise and other nuisance:** The Council must balance the use of the temporary space to trade safely during the COVID-19 pandemic with the needs of others, particularly residents. The Council will consider every case on its merits to determine an appropriate start and terminal licensing hour. As a general guide however, businesses can consider their operating options between 0800h and 2200h bearing in mind the terminal hour will be subject to change on a case-to-case basis. Premises should avoid playing amplified music in temporary structures, as they offer little or no acoustic insulation.
2. **Sale of alcohol:** If the sale of alcohol forms part of your business, you must make sure any additional public realm space is adequately licensed for the sale of alcohol.
3. **Risk assessments:** The responsibility to carry out a COVID-19 risk assessment in line with the HSE guidance (<https://www.hse.gov.uk/simple-healthsafety/risk/index.htm>) remains with individual businesses to ensure they can trade safely and comply with the Government's safe working and social distancing guidelines. A new structure creates new risks from both its form and function and these must be addressed. If the structure is large or specially designed it may be a Temporary Demountable Structure (TDS) see <https://www.hse.gov.uk/eventsafety/temporary-demountable-structures.htm>
4. **Regulation and enforcement:** Through this guidance and more generally via the council's recovery strategy, we have a clear aim to support businesses with their recovery and safe trading practices. There is also a role for businesses to play. Businesses must operate in a responsible manner, being sensitive to their environments and making sure they comply with their duties; for example, any licence conditions and other legal duties.

As a statutory regulator, the Council will be under a duty to investigate and respond to complaints and non-compliance issues. Enforcement will be undertaken in accordance with the principles set out in the Council Planning Enforcement Policy (<https://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/planningpolicy/pdfs/REPORTTOEDC-PEP.pdf>) available on the website.

5. **Fire Safety:** All premises will have carried out a fire risk assessment which will need to be reviewed and amended as appropriate: <https://www.gov.uk/workplace-firesafety-your-responsibilities/fire-risk-assessments>

6. **Environmental Impact:** Gas-fired patio heaters have a huge environmental effect and should not be used. It is recommended blankets are used instead.

## Appendix 2 – Technical Planning Note

Part 4 (Temporary Buildings and Uses), Class B (temporary use of land) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) reads:

**“Permitted development B. The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of—**

- (a) the holding of a market;**
- (b) motor car and motorcycle racing including trials of speed, and practising for these activities, and the provision on the land of any moveable structure for the purposes of the permitted use.**

Development not permitted B.1

Development is not permitted by Class B if—

- (a) it would consist of development of a kind described in Class E of this Part (temporary use of land for film-making);
- (b) the land in question is a building or is within the curtilage of a building;
- (c) the use of the land is for a caravan site;
- (d) the land is, or is within, a site of special scientific interest and the use of the land is for—
  - (i) motor car and motorcycle racing including trials of speed or other motor sports, and practising for these activities;
  - (ii) clay pigeon shooting; or
  - (iii) any war game, or
- (e) the use of the land is for the display of an advertisement.”

Any building (temporary or otherwise) that does not meet the requirements above generally requires planning permission. Failure to seek planning permission(s) can result in enforcement action.

All Local Planning Authorities are required to investigate alleged breaches of planning controls with a view to deciding whether or not to take enforcement action to remedy the situation. The decision as to whether to enforce following an investigation is discretionary and is dependent on a number of factors including whether it is expedient to do so having regard to the development plan and any other material considerations.

We understand that businesses and organisations are experiencing difficult choices and decisions at present. For some who need more space but do not have the time to apply for and wait until

planning permission is granted for a temporary structure may face a difficult choice – either proceed and install a temporary structure and risk council enforcement action OR don't proceed and risk a negative business impact.

In recognition of this challenge and in order to exercise our statutory duty to investigate breaches of planning controls effectively, this guidance document seeks to 'front load' our enforcement investigation obligations. Businesses and organisations are being asked to report breaches to planning controls that they intend to implement or already have implemented. The Council will then investigate these breaches and determine an appropriate course of action.

The Council will approach this initiative in a positive and proactive manner. That said, the Council remains willing to enforce a breach where it is expedient and in the public interest to do so. The Council maintains absolute discretion over whether to relax enforcement for a set period of time in lieu of planning permission being sought, and this is subject to the structure being safe, suitable and appropriate etc.

The implementation of this initiative in no way ensures or implies that planning permission will be given to structures introduced through this initiative. These are exceptional times and the Council's decision as to whether to enforce alleged planning breaches will be based on exceptional circumstances.

Planning enforcement action would be unlikely to be taken against developments that are put up without planning permission, unless there are serious environmental or amenity concerns arising from them such as:

- Repeated noise nuisance at unsociable hours, for example from a temporary external cover or marquee
- Road Safety hazards from insufficient parking if displaced for use by customers
- Environmental harm, for example to trees, hedges or wildlife
- Damage to Listed Buildings
- Obstruction of rights of way
- Production of litter or other debris

In many instances it is likely that any temporary structures erected as a direct result of Covid-19 through this initiative will not receive planning approval in the long run and will need to be removed at the owner's cost. It is important that anyone considering the installation of temporary structures is aware of these risks.

## **Appendix 3 – Examples**

### Example 1 – Light Industrial Business B

Light Industrial Business B needs more office space to accommodate staff and ensure social distancing. Home working is not possible. They want to locate a temporary building on hardstanding alongside the industrial unit to accommodate staff. The temporary structure is located away from residential properties, does not compromise the car parking or operation of the site. In principle, this would be supported.

### Example 2 – Manufacturing Business C

Manufacturing Business C is unable to accommodate social distancing on its production line. The business can expand the production line into its existing store, but requires temporary space to use as a store. The business wants to locate a temporary structure on a grassed area with its ownership next to its main building. The store does not contain any noisy plant or equipment and only requires accessing now and again. In principle, this would be supported.

### Example 3 – Café in the Park Business D

Café in the Park Business D wants to create a covered, open sided area to allow customers to queue for takeaways within an area of a park they currently lease from the Council. This will be temporary. The covered area allows customers to queue in comfort in adverse weather, whilst observing social distancing. In principle, this would be supported.



## **Planning Committee – 3 NOVEMBER 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
- 2.1 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](mailto:planning@nsdc.info) quoting the relevant application number.

Lisa Hughes  
Business Manager – Planning Development

**Appendix A: Appeals Lodged (received between 19 September 2020 and 19 October 2020)**

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/W/20/32529 61	19/02093/FUL	9 The Paddocks Newark On Trent NG24 1SS	Part Conversion of 9 The Paddocks to create an additional Chalet bungalow within the site	Written Representation	Refusal of a planning application
APP/B3030/W/20/32584 61	20/00225/OUT	Field Reference Number 7919 Caunton Road Hockerton Nottinghamshire	Outline application for two detached dwellings (access only)	Written Representation	Refusal of a planning application
APP/B3030/W/20/32584 75	20/00579/FUL	Friary Fields Residential Nursing Home 21 Friary Road Newark On Trent NG24 1LE	Proposed change of use from Residential Institution (class C2) to large House in Multiple Occupation (class - Sui-Generis)	Written Representation	Refusal of a planning application

**Planning Committee – 3 NOVEMBER 2020**

**Appendix B: Appeals Determined (between 19 September 2020 and 19 October 2020)**

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
19/00782/FUL	Ashleigh Great North Road South Muskham Newark On Trent NG23 6EA	Proposed erection of 3 dwellings	Planning Committee	Committee Overturn	Appeal Allowed	9th October 2020
19/01371/FUL	Former Transport Cafe Newark Road Wellow	Demolition of the former derelict transport cafe and erection of one bungalow for residential use.	Delegated Officer	Not applicable	Appeal Allowed	12th October 2020
20/00041/FUL	Land Adjacent Old Norse House Station Road Bleasby NG14 7GD	Change of use of land from paddock land to residential use and erection of three bay garage with store above (for use by Old Norse House)	Planning Committee	Committee Overturn	Appeal Allowed	28th September 2020
19/02264/FUL	Field Reference Number 9161 Cross Lane Collingham Nottinghamshire	Proposed additional bay to existing store building.	Delegated Officer	Not applicable	Appeal Dismissed	12th October 2020
19/01810/FUL	Shady Oaks Eagle Road Spalford Nottinghamshire	Erection of detached house (resubmission of 18/02010/FUL)	Delegated Officer	Not applicable	Appeal Dismissed	12th October 2020
19/02218/FUL	Land To Rear Of 56 Winthorpe Road Newark On Trent NG24 2AB	Proposed new detached dwelling and garage	Delegated Officer	Not applicable	Appeal Dismissed	12th October 2020
19/02287/FUL	9 Fisher Close Collingham Newark On Trent NG23 7SL	Proposed new single detached bungalow	Planning Committee	Committee Overturn	Appeal Dismissed	28th September 2020

20/00395/FUL	3 Pitomy Drive Collingham Newark On Trent NG23 7QS	Change of use of land to extend the residential curtilage, erection of timber decking and partial replacement of boundary fence with picket handrail	Delegated Officer	Not applicable	Appeal Dismissed	1st October 2020
20/00443/FUL	Land Adjacent Grasmere Back Lane Eakring NG22 0DJ	Construction of a 4 bed dwelling with garage and off street parking	Delegated Officer	Not applicable	Appeal Dismissed	28th September 2020
20/00529/FUL	Plot 7 Balderton House Main Street Balderton	Erection of Dwelling and Amendments to Bin Collection Area Including Replacement of Trellis Fence with Brick Wall and New Brick Wall	Delegated Officer	Not applicable	Appeal Dismissed	21st September 2020

### 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](mailto:planning@nsdc.info) quoting the relevant application number.

Lisa Hughes  
Business Manager – Planning Development

## PLANNING COMMITTEE – 3<sup>rd</sup> November 2020

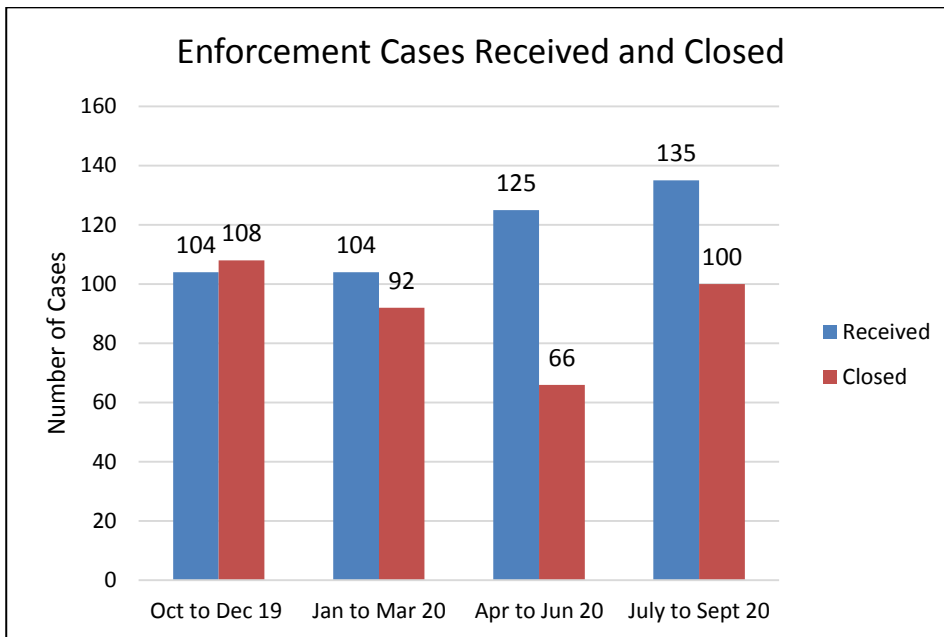
### QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

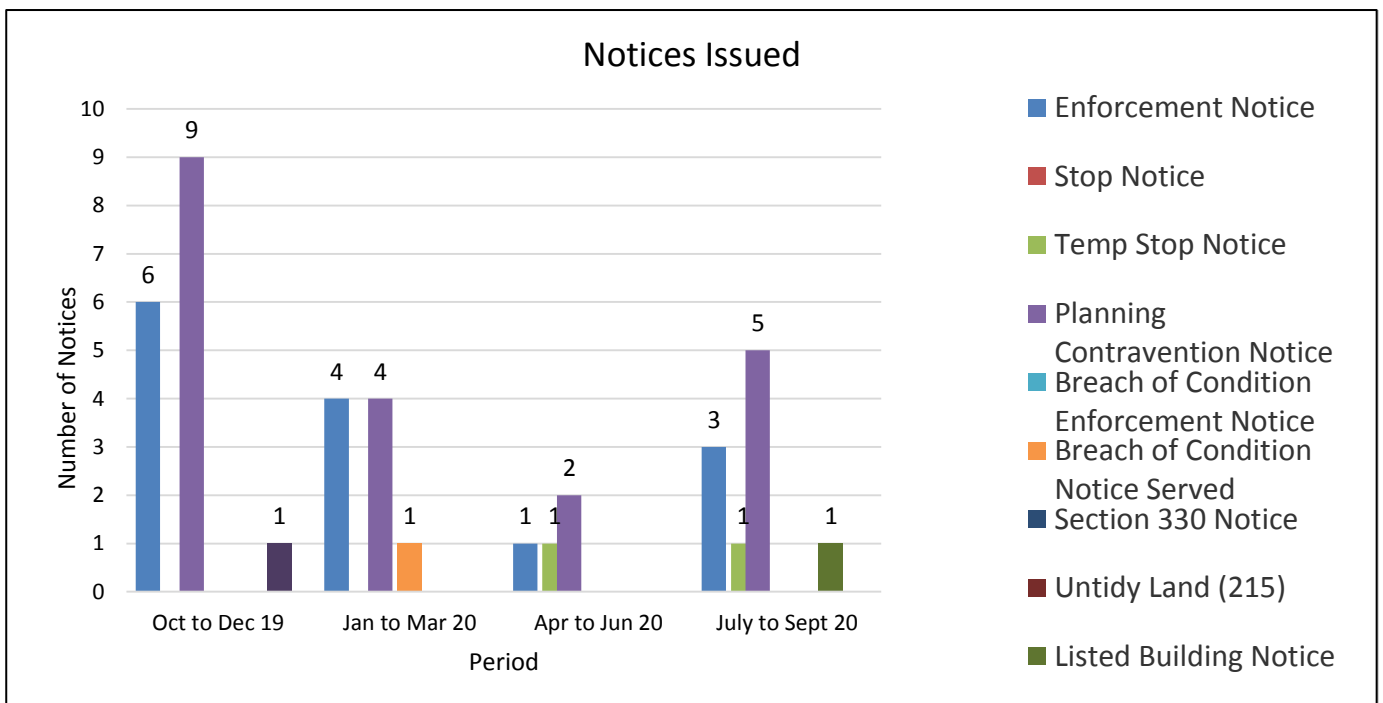
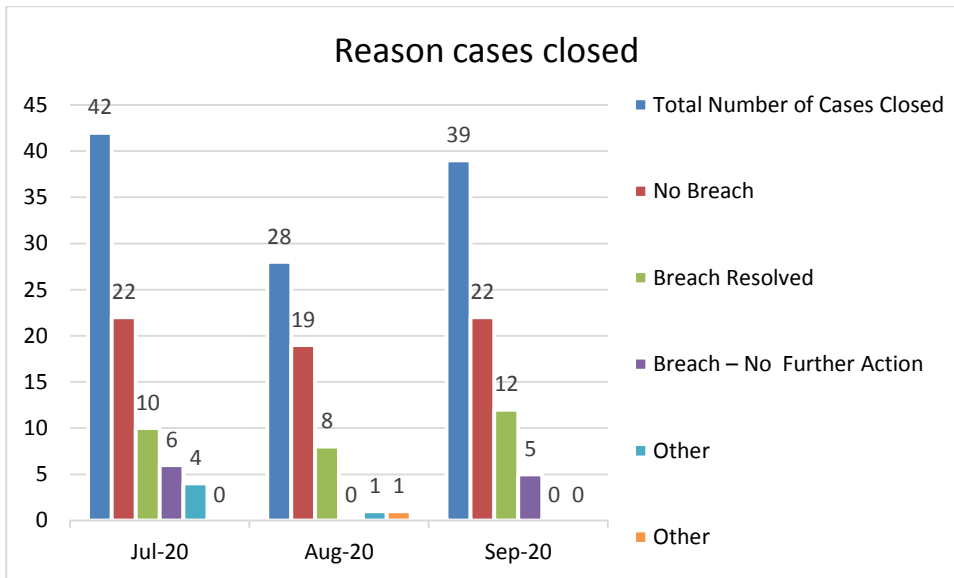
This report follows on from the report that was presented to Members on 8<sup>th</sup> September 2020 which highlighted planning enforcement performance during the first quarter of 2020. This report relates to the second quarter from 1<sup>st</sup> July 2020 to the 30<sup>th</sup> September 2020 and provides an update on cases where formal action has been taken. It 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 and shows an overview of the enforcement activity compared to previous quarters.

Broadly speaking Members will note that the figures provided show a continued increase in enforcement activity within the District. Not only has the number of enforcement cases opened increased in comparison to previous quarters, but also the number of cases being closed increasing as well as the overall number of notices being served by officers.

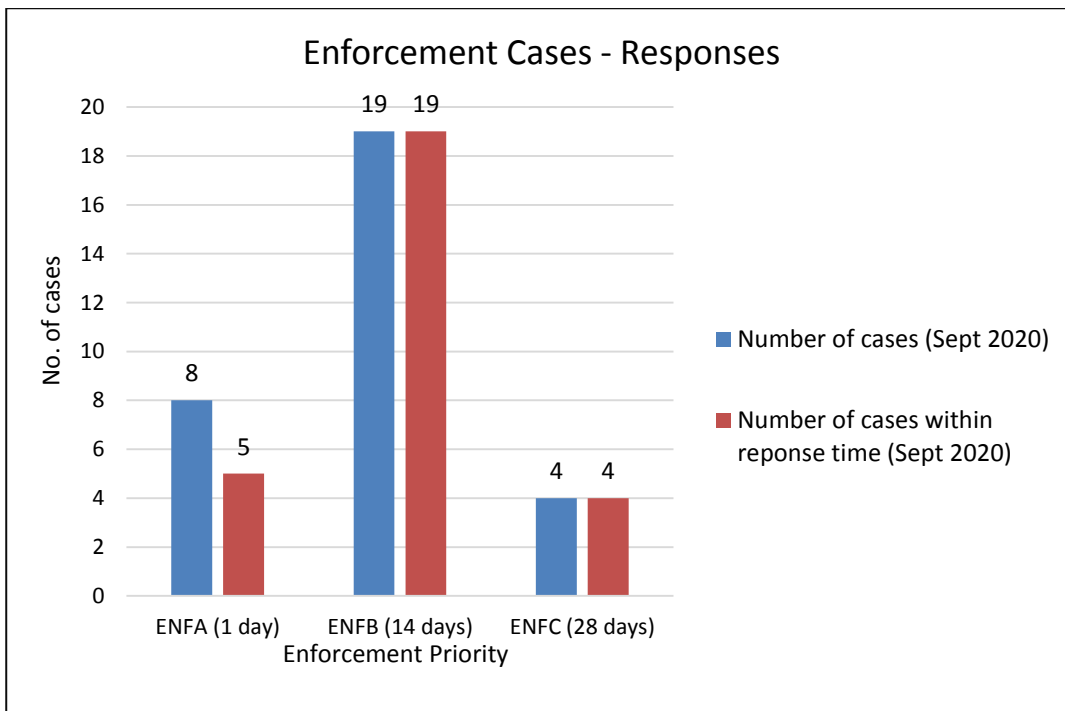
The figures continue to show that the main reason for investigations being closed is due to the alleged activity not being a breach of planning control, however a positive trend continues to be the number of cases that are closed following the resolution of an alleged breach.





In addition Members will be aware that in September the Planning Enforcement Plan (PEP) was adopted. As well as setting out how the enforcement service will operate and what Members and the public can expect from the service, the PEP also put in place a system of case prioritisation which encompassed targets for initial investigations to take place (these are set out below for reference). The following figures are based on September 2020 only due to the PEP being adopted in September and in future reports will revert to a quarterly basis as above.

- A. High priority e.g. works to a Listed Building or a protected tree – 1 working day.
- B. Medium priority e.g. development that may be harmful – 14 days.
- C. Low priority cases e.g. minor breaches of planning control – 28 days.



Members will note that the enforcement team did not meet the target for initial action in 3 cases (out of 31) during September. This was due to issues with the initial setting up of the prioritisation scheme following the adoption of the PEP and the establishment of new working practices. It is anticipated that officers will meet this target when figures for quarter 3 are presented to Members.

### Appeal Outcomes in Quarter 2

- 19/00037/ENF 32 King Street, Southwell, NG25 0EN (19/01780/FUL Change of use from A1 Use to Mixed Use A1 and A4)** – An enforcement investigation found that a barbershop in Southwell was operating as a bar in the evenings, which was said to be leading to noise issues to surrounding premises and residents. A retrospective application for a change of use was refused by the Council in February 2020 (19/01780/FUL) and an Enforcement Notice issued. The appeal was successful and Planning Permission was granted by the Planning Inspectorate, subject to conditions.
- 18/00034/ENF The Workshop, Cockett Lane, Farnsfield, NG22 8JQ - Storage and Transportation of Aggregate Materials** The Planning Inspectorate has dismissed the appeal and upheld the Enforcement Notice regarding an unauthorised used that has been causing considerable distress to residents of Farnsfield for some time. An agricultural parcel of land has been used for the storage and transportation of aggregate materials, with intervention Nottinghamshire County Council during a period of crushing and processing of such materials. The District Council issued an Enforcement Notice in December 2019, with the Planning Inspectorates hearing held in August 2020.

The Planning Inspectorate has upheld the Notice in full and requires the use to cease within 6 months of the decision being issued in September 2020.

In response to the outcome of the appeal the Council has received the following feedback from local residents:

“We are all overjoyed and may I take this opportunity of thanking you most sincerely for your help and guidance over the past few years. You have been a light at the end of a (sometimes) very dark tunnel!

“thank you so much for the result!!!! I suspect it isn't the end of the story but it is definitely the best chapter we've had in a long, long time! We are extremely grateful for your perseverance and continued involvement in this, especially through recent months when everything has been even more challenging than normal.”



#### **SCHEDULE B. FORMAL ACTION TAKEN (1<sup>st</sup> July 2020 to 30<sup>th</sup> September 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:** 19/00348/ENF

**Site Address:** Land at Main Street, Upton

**Alleged Breach:** The unauthorised erection of an agricultural building and concrete base

**Date received:** September 2019

**ACTION TO DATE:** Enforcement Notice issued September 2020

#### **Background**

In September 2019, the Local Planning Authority was made aware that a portal-framed building had been erected without planning permission on an agricultural parcel of land, with a stated intention of housing livestock.



A retrospective application for planning permission was first submitted to the LPA in November 2019, but was not made valid for consideration until April 2020. The application (19/01984/FUL) was refused on account of being of excessive scale without sufficient justification having been provided.

An Enforcement Notice requiring the dismantling and removal of the building and concrete base was subsequently issued in September 2020 and required to be complied with by the 14<sup>th</sup> December 2020.

An appeal against the serving of the notice has now been received and members will be updated further as to the outcome.



**Enforcement Ref:** 20/00018/ENF

**Site Address:** Glebe Steading, Gonalston

**Date received** January 2020

**ACTION TO DATE:** Enforcement Notice issued September 2020

Background

The Local Planning Authority received notification that building works were being undertaken at this property, located within the Nottinghamshire-Derbyshire Green Belt. A swimming pond and associated outbuilding were under construction when Officers first attended the site. An application for part-retrospective planning permission was submitted in January 2020, reference 20/00138/FUL.

The application initially included the outbuilding, but through negotiation with the case officer was removed from the application's proposal. The swimming pond has been granted planning permission, however the outbuilding was considered to be contrary to Green Belt planning policy. An Enforcement Notice requiring the dismantling and removal of the building was served in September 2020 with a compliance date of 29/11/20.



## **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: 20/00094/ENF**

**Site Address: White Hart Lane, Collingham**

**Alleged Breach: Unauthorised erection of a gate adjacent to the highway**

**Date received: March 2020**

### Background

In March, the LPA was notified that a new composite-panelled gate had been erected at the entrance to a property located within the Conservation Area and adjacent to the grounds of the grade I listed All Saints Church. Although this replaced a delapidated timber gate that was previously in place, the new gate required planning permission.

The design and materials used received an objection from Conservation Officers, who required amendments to be made if enforcement action was to be avoided. The owners of the property promptly and cooperatively replaced the composite panels with timber, and revised the design of the surrounding metalwork. Although planning permission is technically required for this gate, it is considered that the objections have been overcome and that the gate is acceptable on its planning merits. The enforcement case has been closed without the need for formal action.



**Before**





**After**

**Enforcement Ref: 19/00428/ENF**

**Site Address: The Manor House, Bulcote**

**Alleged Breach: Unauthorised fencing adjacent to the highway**

**Date received: November 2019**

Background

The LPA was notified that unauthorised timber fencing has been erected around the southern perimeter of the former cricket field of Bulcote, which is within the curtilage of the grade II listed Manor House. As a result, planning permission was required for the erection of any means of enclosure. The fencing was considered to be visually objectionable and out of keeping with the historic landscape.

Discussions and meetings were held with Officers and the landowner over a period of months, resulting in an application for new post and rail fencing with associated native hedgerow planting. This application (20/00254/FUL) was submitted in February and approved in March 2020. A period of grace was granted for the landowner to undertake the amendments cooperatively without the need for formal enforcement action. These works have now been undertaken and the new authorised fencing installed.



**Before**



**After**



**Enforcement Ref: 20/00247/ENF**

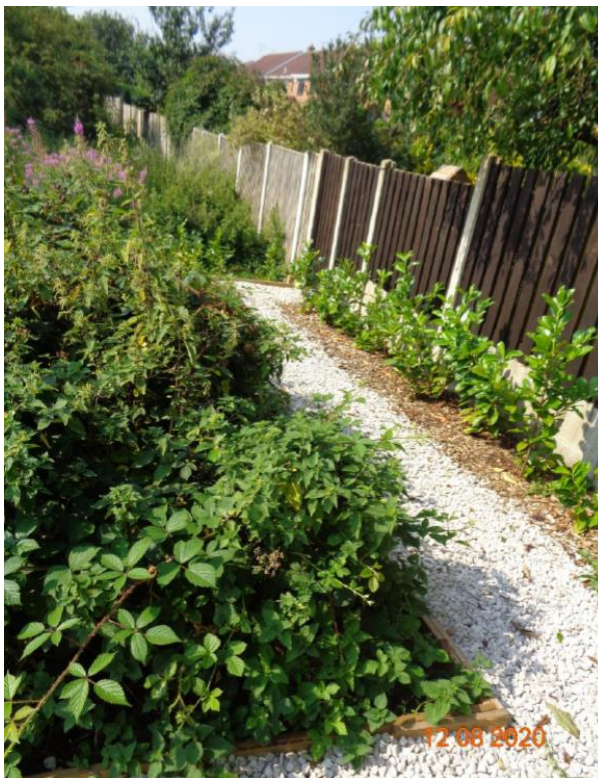
**Site Address: Cycle Track, Rainworth**

**Alleged Breach: Extension of residential curtilage onto ecological corridor**

**Date received: July 2020**

Background

The LPA received concerns that a number of dwellings that back onto the Rainworth disused railway cycle route, a designated Local Wildlife Site, had cleared vegetation between their rear boundaries and the cycle track, and had begun to lay pathways of a domestic nature. Cumulatively it was considered that this would set an unsustainable precedent in this protected location, a view supported by the Nottinghamshire Wildlife Trust. Letters were issued to the owners of the properties that had undertaken the works, as well as to the landowner to notify that the changes had taken place. The landowner, who was not aware of these works, acted promptly and the stone pathways were removed by the homeowners. The breach was resolved and the enquiry closed.



**Before**



**After**

**Enforcement Ref: 20/00201/ENF**

**Site Address: 3 Worcester Close, Lowdham**

**Alleged Breach: Erection of a wooden structure and 2.5m fence**

**Date received: 19.06.2020**

### **Background**

The LPA received concerns regarding a wooden structure erected within a rear garden of a residential dwelling and that 2 fence panels had been increased in height to 2.5m. Officers expressed the view that the increased height of the fence panels resulted in an overbearing impact and also passed on the concerns raised by neighbouring residents in relation to the impact on privacy from within the wooden structure when in use. As a result officers entered into negotiations with the site owner. The fence panels were reduced to 1.8m and infill panels were added to the structure to improve privacy between the site and the neighbouring property. With these amendments in place, the wooden structure and the fence were considered to be acceptable from a planning perspective. The breach was resolved and the enquiry closed.

**Before**



**After**





**SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER**

**Enforcement Ref: 19/00194/ENF**

**Site Address: Willow Holt, Lowdham**

**Alleged Breach: Unauthorised fencing adjacent to the highway**

**Date received: May 2019**

**ACTION TO DATE: Enforcement Notice issued September 2019**

**Background**

The LPA was made aware that close-boarded timber fencing had been erected on a corner plot property on Willow Holt, Lowdham. The fencing did not have planning permission and was considered to be visually detrimental to the area. An Enforcement Notice was issued requiring a section of the fencing to be reduced in height.

The Enforcement Notice was appealed and upheld in April 2020 by the Planning Inspectorate. The Council agreed to extend the period for compliance to 6 months during the appeal process. A site visit in September 2020 found that the Notice had been complied with, and the breach of planning control resolved.



**Before**



**After**

**RECOMMENDATION**

**That Planning Committee considers the contents of the report and identifies any issues it wishes.**

**PLANNING COMMITTEE**  
**3 NOVEMBER 2020**

**DEVELOPMENT MANAGEMENT PERFORMANCE REPORT**

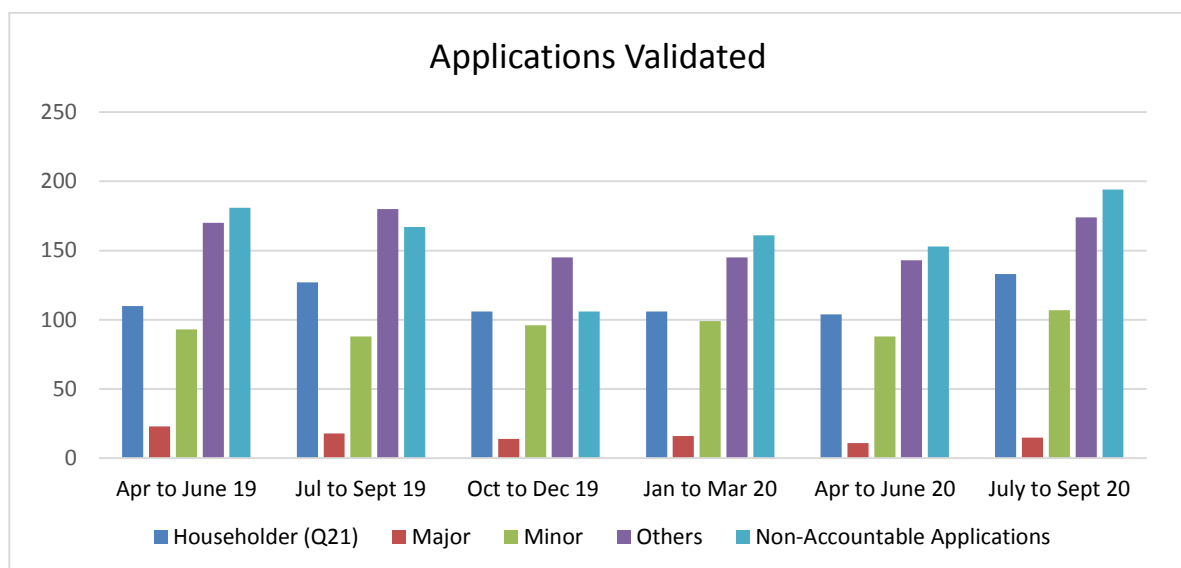
**1.0 Purpose of Report**

1.1 This report relates to the performance of the Planning Development Business Unit over the three month period July to September 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 September 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 second quarter of 2020/21, a total of 894 applications were received. This, compared to the same quarter in 2019/20 shows an increase from 823. The biggest increase in numbers are tree applications where applications have increased by more than 100% from 94 applications to 192. All other categories remain relatively consistent. Taking account of the impact of the Covid-19 pandemic on the economy, it would appear from the first 2 quarters that there hasn't been a significant change in activity 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 1,000m<sup>2</sup> 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.

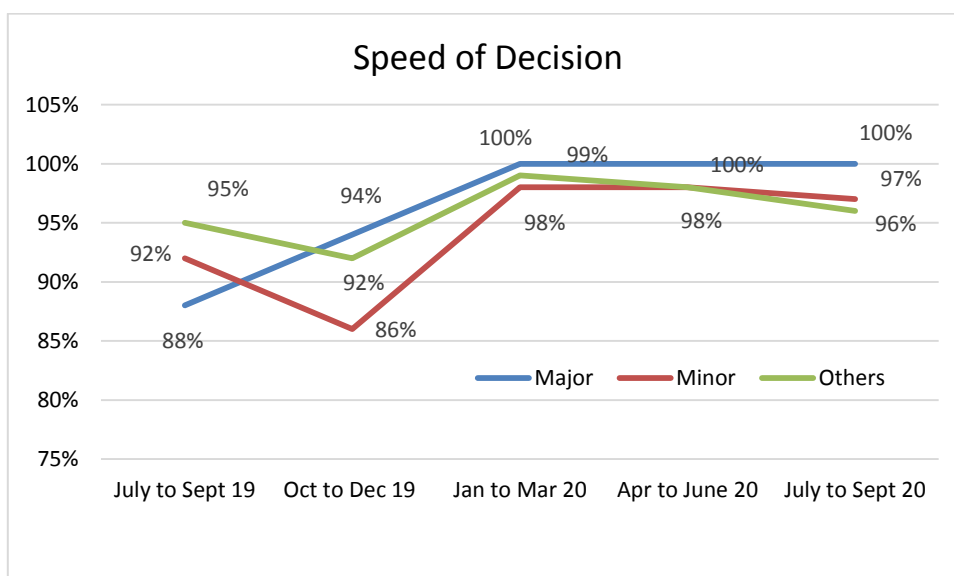
From the graph above, it can be seen that non-countable and others comprise the highest numbers, with householders shortly behind. This is not surprising based on the larger scale of development major and minor predominantly comprise (and thus fewer are submitted).

### 3.0 Performance

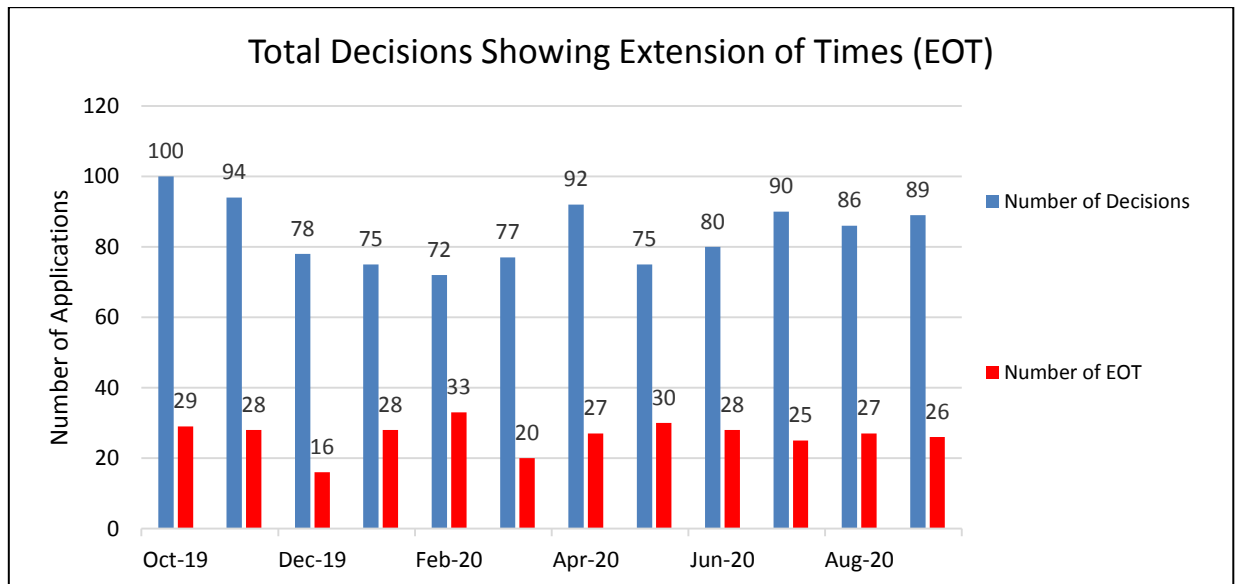
3.1 Government (MHCLG) monitor planning authorities on their speed of making decisions in relation to major and non-major applications. The target at national level is to determine 60% of major applications within the statutory period of 13 weeks or subject to the agreement of a time extension over a 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.

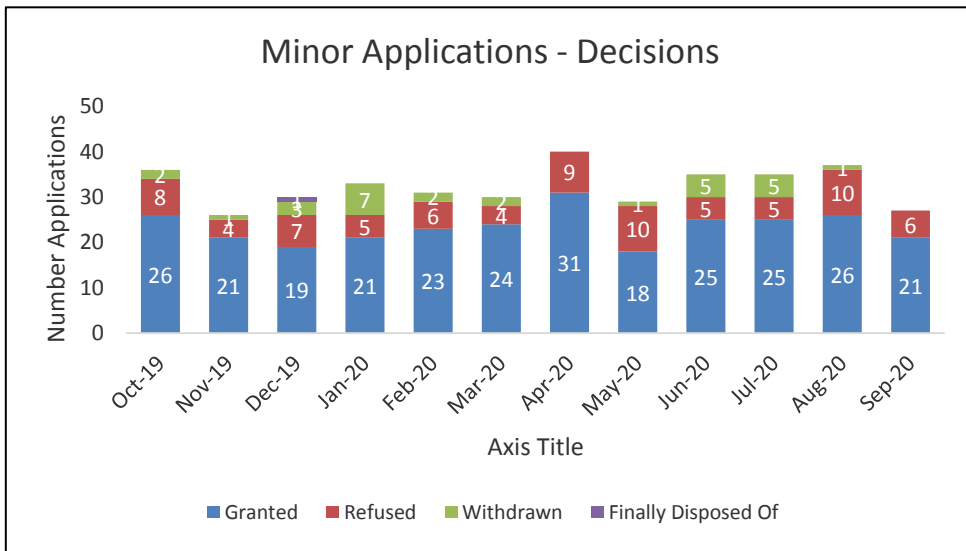
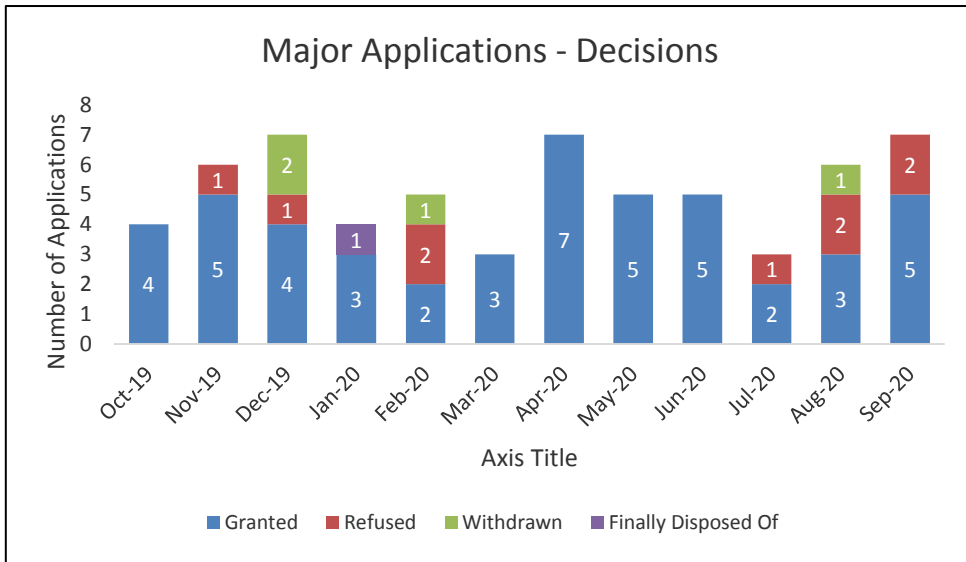


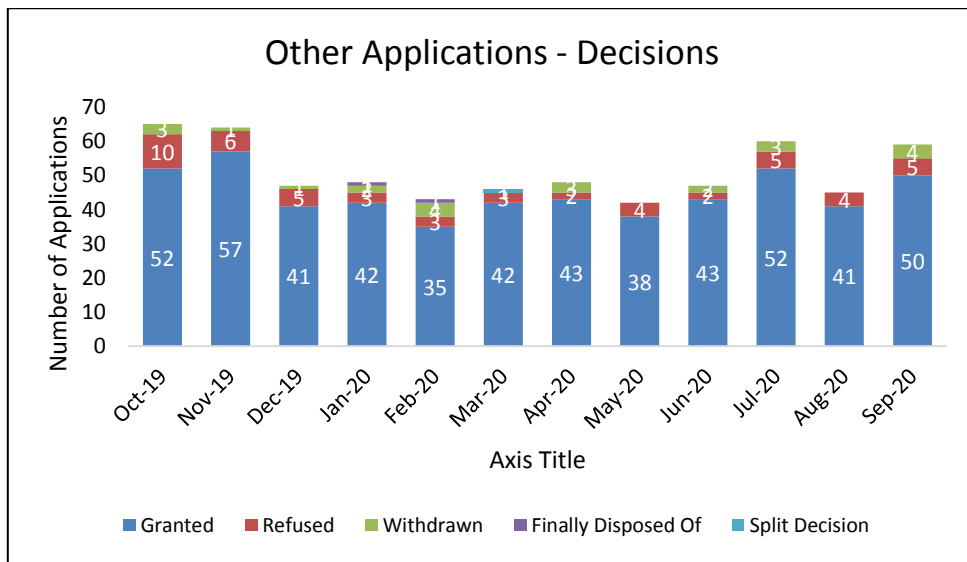
- 3.2 Over the previous three quarters, performance for majors has remained at 100% increasing from 94% and 88% in the second and third quarters of 2019. Minors has reduced very slightly from 98% to 97% and for others has reduced to 96% from 98% in the previous two quarters. As Members will be aware, since April this year Officers have worked solely from home. Whilst there has been a very marginal drop in minors and others, this has been during the summer months when leave has been taken. The above graph demonstrates how the team has been able to maintain and exceed previous performance. It is also of note that a number of developers have complimented the Council on still being able to provide a full planning service. Many authorities have struggled with their service provision for a number of reasons relating to Covid-19. Additionally, a number of officers have also been complimented on the service they have personally provided.
- 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. However, Members will be aware that the White Paper is suggesting that the determination timescales set out in legislation should be adhered to and are looking to potentially implement this as part of the overall planning changes.
- 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 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 department's attempts to engage.





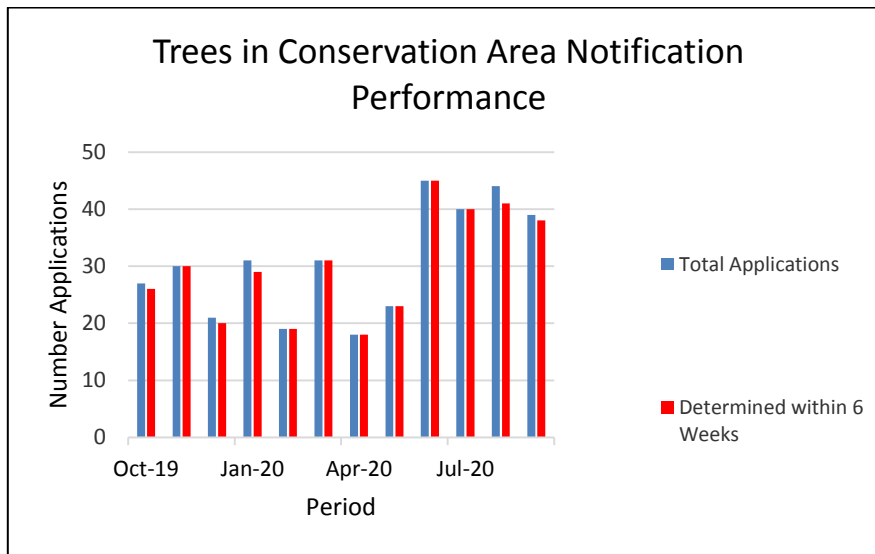
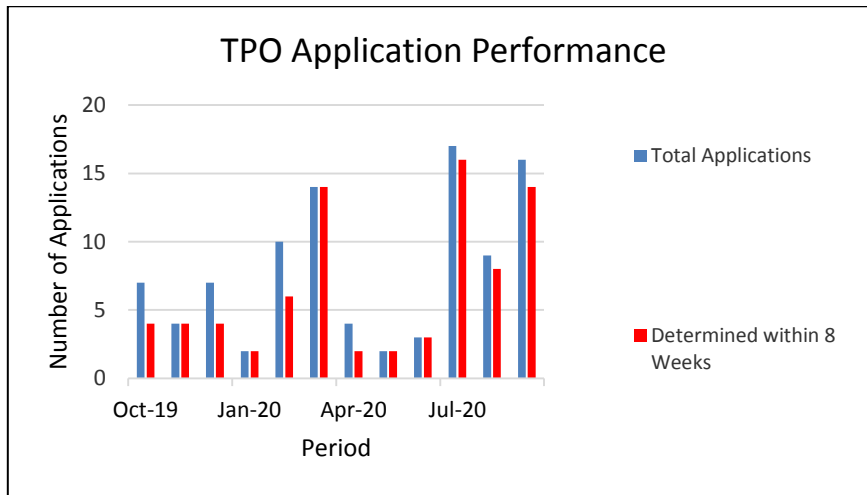
#### 4.0 Tree Applications

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.

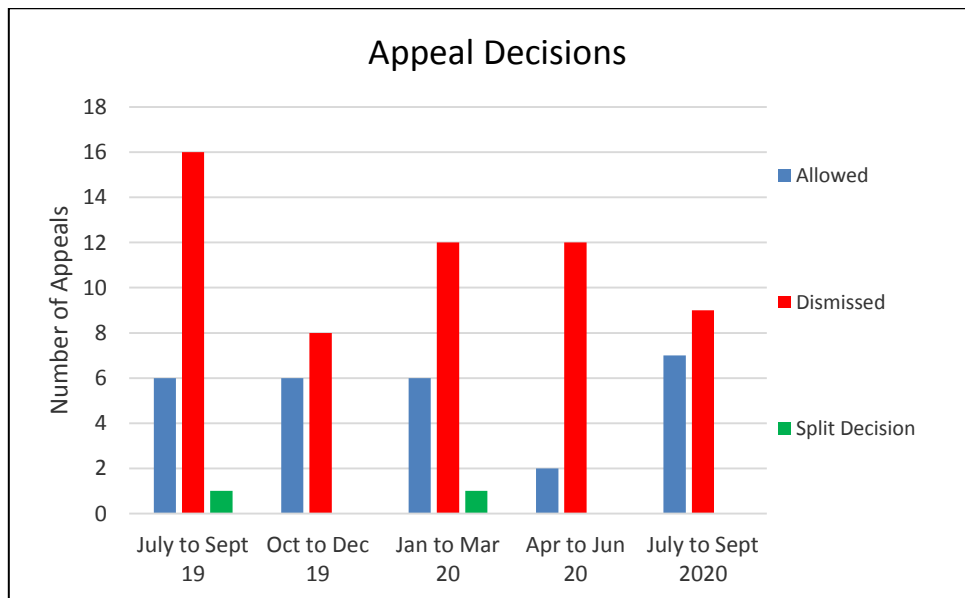
4.2 The following graphs show the number of TPO and Trees within a Conservation Area applications determined each month and whether they were determined within the statutory timescales. The number of applications received each month have no consistency making resourcing more difficult. It should be noted 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 quarter has seen a slight increase in the number of decisions compared to the previous quarter, from 14 to 16. It is anticipated this is largely due to Covid-19 and the Planning Inspectorate assessing how its appeal inspectors could work safely. The number dismissed slightly exceeds the number allowed but is below the previous Government target of having no more than 33% allowed. A review of decisions will be made should the numbers allowed continue to remain at the current comparative level. 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 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.
- 5.4 Data from government has not been updated since the previous report presented to Members which showed the Council is significantly below the thresholds set out.
- 5.5 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. One such case applies for this previous quarter in relation to an enforcement appeal at 32 King Street, Southwell reference 19/01780/FUL.

## 6.0 Updates

- 6.1 Since the previous report was presented, one officer has been retired on ill-health and a new starter joined mid-August (Tony Ridley). The other recruit is to join early November replacing the two vacant posts. Recruitment is currently underway for a Heritage Action Zone officer as well as an additional Conservation Officer to assist the increased conservation workload as well as cover for existing maternity leave.
- 6.2 Process changes are being implemented to reduce the amount of work as well as speed up the determination of applications. These, due to the amount of work continuing to be received, are a long-term project. As previously reported the department continues to

perform well overall. In addition, a virtual meeting has been held with Members of the Planning Committee to keep them up-to-date with conservation legislation, case law and guidance. Training sessions have also been provided to Members not on the Planning Committee as well as to Parish Councillors. Due to the amount of interest, these have been provided across four sessions and are understood to have been well received.

## **7.0 Equalities Implications**

7.1 None from this report

## **8.0 Financial Implications**

8.1 None from this report.

## **9.0 Conclusion**

9.1 Performance has continued to be met and exceeded, notwithstanding the need to work remotely due to Covid-19. The recent recruitment has and will enable further positive changes to be made to the service for the benefit of the District's communities and businesses.

## **10.0 Community Plan – Alignment to Objectives**

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 & Growth**