



*Castle House  
Great North Road  
Newark  
NG24 1BY*

*Tel: 01636 650000*

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

**Friday, 19 February 2021**

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

**Members of the Committee:**

**Councillor L Brazier  
Councillor M Brock  
Councillor R Crowe  
Councillor Mrs L Dales  
Councillor Mrs M Dobson  
Councillor L Goff  
Councillor Mrs 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, 2 March 2021 at 2.00 pm**

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

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

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### **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 2 February 2021 5 - 7

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

5. Land North of Halloughton, Southwell 20/01242/FULM 8 - 58
6. Yorke Drive and Lincoln Road Playing Field, Lincoln Road, Newark 20/02484/S73M 59 - 84
7. Land Adjacent 2 Gainsborough Road, Winthorpe 20/02279/FULM 85 - 100
8. Land Off Main Street, Balderton 20/01405/FUL 101 - 129
9. Norwood Park, Norwood Park Farm, Halam Road, Southwell 20/02472/FUL 130 - 142
10. Grove Bungalow, Barnby Road, Newark 20/02499/OUTM 143 - 166
11. The Lilacs, Front Street, South Clifton 20/02156/HOUSE 167 - 174
12. The Lilacs, Front Street, South Clifton 20/02157/LBC 175 - 180
13. Review: Scheme of Delegation 181 - 198

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

14. Appeals Lodged 199 - 200
15. Appeals Determined 201 - 212

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

There are none.

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

16. Exclusion of the Press and Public

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



# Agenda Item 4

## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** broadcast from the Civic Suite, Castle House, Great North Road, Newark, Notts, Tuesday, 2 February 2021 at 2.00 pm.

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

Councillor M Brock, Councillor R Crowe, Councillor Mrs L Dales, Councillor Mrs M Dobson, Councillor L Goff, Councillor Mrs R Holloway, Councillor Mrs P Rainbow, Councillor Mrs S Saddington, Councillor M Skinner, Councillor T Smith, Councillor K Walker and Councillor Mrs Y Woodhead

APOLOGIES FOR ABSENCE: Councillor L Brazier (Committee Member)

### 299 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor Mrs L Dales declared a personal interest as she was the Council's appointed representative on the Trent Valley Internal Drainage Board and Upper Witham Valley Drainage Board.

Councillor I Walker declared a personal interest as he was the Council's appointed representative on the Trent Valley Internal Drainage Board.

Councillors R Blaney, Robert Crowe, Mrs M Dobson, L. Goff, Mrs P Rainbow, Mrs S Saddington, M Skinner, T Smith, I Walker, K Walker, declared personal interests in Agenda Item 6 - 51 Syerston Way, Newark - 20/02071/HOUSE, as the applicant was known to them. Councillors Mrs P Rainbow, Mrs S Saddington, M Skinner, and T Smith would take no part in the debate or vote and would turn off their cameras and mute themselves in accordance with Council protocol, for the duration of that item.

### 300 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 would be webcast.

### 301 MINUTES OF THE MEETING HELD ON 12 JANUARY 2021

AGREED that the minutes of the meeting held on 12 January 2021 were approved as a correct record of the meeting, to be signed by the Chairman.

### 302 LAND AT HEALEY CLOSE, COLLINGHAM - 20/01481/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the erection of a one bedroom, single storey dwelling. This application was discussed at the 1 December 2020, Planning Committee, with Members resolving to defer the application to allow officers to negotiate an amended house type - a bungalow, whilst retaining the

additional six car parking spaces. The committee report had been updated with bold text and obsolete text had been deleted, to detail the discussions and submitted documents received since the December meeting.

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

Members considered the proposal acceptable and welcomed the retention of the six car parking spaces.

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

303 51 SYERSTON WAY, NEWARK - 20/02071/HOUSE

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the demolition of a rear conservatory and the erection of a single storey rear extension. The extension was proposed from block work and off-white render with a parapet roof and glazed lantern light. Development had already commenced on the site with the demolition of the conservatory and the rebuilding with the new structure. Development had ceased with the rendering, the only element to be completed.

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 two neighbours and the applicant.

Members considered the application and expressed their disappointment with the application being retrospective, although it was acknowledged that the applicant had understood that the extension was within permitted development. The extension was approximately 20cm deeper than what was considered to be permitted development under the relevant legislation. Some Members felt that the extension was overbearing, ugly and should have been kept in character with the house, using a red brick. It was suggested that if the committee were minded to approve, an amendment to the materials condition should be made regarding the render colour and finish as well as the exposed blockwork above the parapet roof on the rear elevation of the existing dwelling to allow officer to negotiate a less stark finish.

*(Having declared Personal Interests, Councillors Mrs P Rainbow, Mrs S Saddington, M Skinner, and T Smith took no part in the debate or vote and turned off their cameras and muted themselves in accordance with Council protocol, for the duration of this item).*

AGREED (with 5 votes For, 1 vote Against and 4 Abstentions) that:

- (a) planning permission be approved subject to condition 1 and its reason contained within the report; and

- (b) subject to the amendment to condition 2, requiring the precise colour of the render finish for the extension to be submitted to and approved in writing by the Planning Authority. This condition shall relate to the colour finish of the extension as well as colour finish and materials to the exposed blockwork above the parapet roof on the rear elevation of the existing dwelling.

304 PLANNING APPLICATION VALIDATION CHECKLIST

The Committee considered the report of the Director – Growth & Regeneration, which set before Committee an updated Draft Planning Application Validation Checklist. This had been prepared to provide guidance to applicants on the information required to be submitted with a planning application in order to assist a timely decision. The previous checklist was adopted in 2013 and since that time there had been a significant number of changes to policy and legislation meaning it was appropriate to review this. It also sought approval to undertake an eight-week period of consultation on the document with Members, Parish and Town Councils and statutory consultees. Details would be provided on the Council’s website enabling developers and interested stakeholders to respond as well as applicants and their agents, residents through planning application receipt and notification letters.

AGREED (unanimously) that:

- (a) the contents of the validation checklists as contained within the report be noted; and
- (b) the draft updated Planning Application Validation Checklist (as set out at Appendix A of the report) be approved for an eight-week public consultation with statutory consultees, District Councillors and Town/Parish Councils, applicants/developers and neighbours.

305 APPEALS LODGED

AGREED that the report be noted.

306 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 2.40 pm.

Chairman

## PLANNING COMMITTEE – 2 MARCH 2021

<b>Application No:</b>	<b>20/01242/FULM</b>		
<b>Proposal:</b>	<b>Construction of a solar farm and battery stations together with all associated works, equipment and necessary infrastructure.</b>		
<b>Location:</b>	<b>Land North Of Halloughton, Southwell</b>		
<b>Applicant:</b>	<b>JBM Solar Projects 6 Ltd</b>		
<b>Agent:</b>	<b>Mr James Walker - Pegasus Group</b>		
<b>Registered:</b>	<b>10.07.2020</b>	<b>Target Date: 09.10.2020</b>	
		<b>Extension Agreed to: 02.03.21</b>	
<b>Website link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QD7J5ALBI8R00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QD7J5ALBI8R00</a>		

**The application is being referred to Planning Committee at the discretion of the Business Manager, as this proposal would be of significance to the district in that it could potentially give rise to significant financial consequences.**

### The Site

The application site comprises 13 agricultural fields north of the village of Halloughton. Collectively all parcels of land are c.107.81Ha and given the isolated nature of the site it falls as Open Countryside. The site is gently undulating and rounded, resulting in views being medium to long distance throughout most of the area with frequent wooded skylines.

The southern portion of the site is located to the north of and within the parish of Halloughton. This section of the site comprises five large linear fields with boundaries at their edge, including copses at the western and part of the southern boundary. Overhead electricity lines and pylons cross this parcel in an east-west direction. The built-up area of Halloughton lies close to the southern boundary of the parcel and the A612 forms part of the eastern boundary. Agricultural land surrounds the parcel in other directions.

The northern section of the site is located further from Halloughton and largely lies within the parish of Southwell, comprising seven separate fields of various sizes. The parcel includes buildings associated with New Radley Farm, which has its own access track from the north. There are two Public Right of Ways within the Site boundary, footpath 209/43/1 (Southwell 43) is located in the far northern extent of the Site, situated adjacent to part of the northern boundary. Bridleway 209/74/1 (Bridleway Southwell 74) runs from the north-eastern edge of Halloughton Wood in a broadly east to west direction through the central portion of the site terminating at Stubbins Farm in the east. An overhead electricity line runs east to west through the southern section of the site and the Westhorpe Dumble crosses the site in the same direction just to the north of this.

Land around the Westhorpe Dumble is defined as a Local Wildlife Site (LWS) 'Westhorpe Dumble 2/524 – a characteristic dumble'. A number of other LWS's surround the application site such as:

Westhorpe Dumble Head Drain – 2/724 ‘An unlikely association of uncommon grassland species on the banks of a drain’, Radley House Scrub – 5/3390 ‘woodland’, Cotmoor Lane – 2/719 ‘Broad wooded trackside verges’, and Cotmoor Plantation – 2/723 ‘A damp deciduous woodland with a diverse flora’. An area of Ancient Woodland 'Halloughton Wood' is located c.150m to the west of this site at its closest point.

The SW parcel of the site lies close (between approx. 70 - 250 m) to the boundary of Halloughton Conservation Area (CA), however only the proposed access lies within the CA boundary. The northernmost portion of the site lies c.0.9km from the boundary of Southwell CA. With regard to other nearby historic designations there are a number of Grade II and II\* listed buildings within Halloughton and Southwell along with the internationally significant Grade I listed Southwell Minster Church.

### Relevant Planning History

**19/SCR/00016** - Request for screening opinion for a proposed solar installation – Environmental Impact Assessment Not Required 28.08.2019

### The Proposal

The application seeks planning permission to construct a 49.9 MW solar farm on approximately 106.07 ha of land (albeit the actual land take of the panels would be 76 Ha as not all land within the site area would have panels sited on them). The solar farm would be a temporary use of the land as the equipment would be removed and the land returned to its former condition when the development is decommissioned following 40 years from the date of the first export of electricity to the electrical grid, with the exception of the on-site Substation which will remain on site permanently (see ‘Other Issues’ section for further commentary of the length of the temporary period proposed).

The solar farm would comprise solar panels arranged on a simple metal framework supported by pile driven foundations, laid out in rows across the site in east-west orientation facing south to form tables (“arrays”), without the need for concrete foundations. The maximum height at the rear of the tables would be 3 m. The arrays are proposed to be spaced to avoid any shadowing effect from one panel to another with topography dictating exact row spacing ranging between approximately 4m and 6.5m. The arrangement of the solar PV panels themselves would either be 3 in portrait or 6 in landscape, as shown on the proposed plans. There would be at least 0.8 m between the bottom of the panels and the ground to allow small livestock to graze the land between and amongst the panels.

The panels would be dark blue or black. The site would be enclosed by a timber post and wire fence approximately 2 metres in height with pole mounted CCTV cameras at 3 m in height positioned inside and around the site in order to provide security.

The 49.9MWp proposal would provide electricity equivalent to the average electrical needs of 12,209 typical UK homes (approx.) annually and assist towards reducing CO<sup>2</sup> emissions saving approx. 20,690t of CO<sup>2</sup> per annum. Based on similar projects construction is expected to take place over approximately 6 months (up to 26 weeks).

Supporting infrastructure includes:

- 11 Battery Stations located throughout the site including battery units/inverters, DC-DC

- converter boxes and ancillary equipment.
- DNO Substation surrounded by security fencing
- Customer Substation
- 9 Central Inverter Cabins
- Spared Container
- Monitoring and Communication Building
- 3 meter high pole mounted dome security cameras (CCTV)
- 2 metre high wooden post and mesh fencing around the perimeter of the site with gated access points and mammal gates.
- Internal access tracks
- Ground preparation inc. swales
- Cabling via a network of shallow trenches that would be backfilled

Access to the site would be off Brindle Road Farm in the south-eastern corner of the site boundary. The proposed site access would serve the entire site and would be connected to a network of internal roads within the site. Following completion of construction a double width farm gate would be installed at the access point that adjoins the public highway. The solar farm security gate would be setback from the public highway.

Existing public rights of way are proposed to be retained in their existing locations.

Landscaping mitigation and enhancement works are also proposed (mitigation planting, including new and in-filled hedgerow planting, tree planting and enhancement of field margins through proposed species rich grassland).

- Creation of new native species-rich hedgerows and maintenance and enhancement of existing hedgerows including the supplementary infill planting, strengthening existing defunct and gappy hedgerows, totalling 1,262m;
- Creation of an 0.43ha tree belt;
- Creation of 948m of swale habitat;
- Creation of a floristically diverse grassland sward to replace low biodiversity value arable land beneath and surrounding the panels; and,
- Installation of bird and bat boxes on suitable trees around the Site and within the wider landownership area for biodiversity.

Throughout the course of the application, amended plans have been submitted. The applicant has summarised the amendments shown in the submitted plan as follows:

- Removal of proposed panels from land closest to Halloughton village and Conservation Area at the southern end of the easternmost field in the Application Site.
- Planting of a species rich meadow grassland where panels were previously proposed and allowance for the route of a historic footpath to be established across this area.
- Planting of a new native hedgerow along the new southern edge of the panels in the easternmost field and along the northern edge of the access track to further establish separation between the Proposed Development and the village.
- Removal of proposed panels from field in central section of the Application Site, south and east of the Southwell Bridleway 74.
- Removal of proposed hedgerow along southern edge of Southwell Bridleway 74.
- Reinforcement of existing trees and hedgerows along the northern boundary of the southern parcel with planting of further semi-mature trees.
- Reinforcement of hedgerow along western boundary of the Application Site, adjacent to

Public Right of Way footpath Southwell 42, with planting of native trees.

The following documents have been submitted in support of the application (superseded documents not referenced):

- Plans:
  - o Site location Plan – Ref. P18-2917\_02 Rev E
  - o Indicative WPD and Customer Compound Layout – Ref. HLG-01-2001 Rev 01 Sheet 1 of 1
  - o Indicative WPD and Customer Compound Elevations – Ref. HLG-01-2002 Rev 01 Sheet 1 of 1
  - o Tree Protection Plan – Highways Access No. BHA\_665\_03
  - o Typical Fence, Track & CCTV Details – Ref. JBM-HALLOU-SD-02
  - o Typical Trench Section Details – Ref. JBM-HALLOU-SD-03
  - o Typical Inverter Substation Details – Ref. JBM-HALLOU-SD-04
  - o Typical Inverter Substation Details – Ref. JBM-HALLOU-SD-05
  - o Typical Battery Storage Systems Details – Ref. JBM-HALLOU-SD-06 Rev A
  - o Typical Customer Switchgear Details – Ref. JBM-HALLOU-SD-07 Rev A
  - o Site Access Visibility Splays Plan No. P18-2917 FIGURE 1 Rev A
  - o Site Layout and Planting Proposal – Ref. P18-2917\_12 Sheet No: \_ Rev L
  - o Swept Path Analysis: Proposed Site Access 15.4m Articulated Vehicle No. P18-2917 FIGURE 2 Rev A
  - o Typical PV Table Details (showing 3 in portrait orientation) – Ref. Typical PV Table Details 3P Rev A
  - o Typical PV Table Details (showing 6 in landscape orientation) – Ref. Typical PV Table Details Rev A
- Agricultural Land Classification Report, dated 27th November 2020, prepared by Amet Property;
- Arboricultural Impact Assessment, prepared by Barton Hyett Associates;
- Archaeological Evaluation ref: R14340 prepared by Pre-Construct Archaeology Ltd;
- Construction Traffic Management Plan (CTMP), prepared by Pegasus Group;
- Design and Access Statement, prepared by Pegasus Group;
- Ecological Assessment Report, prepared by Avian Ecology (including Biodiversity Metric Calculation, Biodiversity Management Plan, GCN eDNA Survey, Wintering Bird Survey and confidential Badger report);
- Flood Risk Assessment, prepared by Calibro;
- Geophysical Survey Report, prepared by Magnitude Surveys;
- Solar Photovoltaic Glint and Glare Study, prepared by Pager Power;
- Heritage Assessment, prepared by Pegasus Group;
- Landscape and Visual Impact Assessment (LVIA) and LVIA Addendum and Photomontages (dated Dec 2020), prepared by Pegasus Group;
- Letter dated 2<sup>nd</sup> February 2021 setting out amendments, prepared by Pegasus Group;

- Noise Assessment, prepared by LF Acoustics;
- Planning Statement, prepared by Pegasus Group;
- Planting Note dated 21.01.2021 prepared by Pegasus Group;
- Site Access Arrangements Note, dated December 2020, including a Tree Protection Plan – Highways Access No. BHA\_665\_03 and Swept Path Analysis: Proposed Site Access 15.4m Articulated Vehicle No. P18-2917 FIGURE 2 Rev A;
- Site Selection Report, prepared by Pegasus Group;
- Statement of Community Involvement, prepared by Pegasus Group;
- Updated Biodiversity Metric 2.0 Calculation, prepared by Pegasus group, deposited 12.02.21

#### Departure/Public Advertisement Procedure

Occupiers of 63 properties have been individually notified by letter. A number of site notices have also been displayed near to the site and an advert has been placed in the local press. Re-consultation on the amendments to the proposal were also undertaken during the lifetime of the application.

Earliest decision date: 15.01.2021

#### **Development Plan Policies and other Material Policy Considerations**

##### Planning Policy Framework Development Plan Policy

##### *Southwell Neighbourhood Plan (made 11 October 2016):*

Policy SD1 - Delivering Sustainable Development  
 Policy E1 - Flood Risk Assessments and Mitigation  
 Policy E2 - Flood Resilient Design  
 Policy E3 – Green Infrastructure and Biodiversity  
 Policy E4 – Public Rights of Way  
 Policy E6 – Climate Change and Carbon Emissions  
 Policy DH1 – Sense of Place  
 Policy DH3 – Historic Environment  
 Policy TA3 - Highways Impact

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

Spatial Policy 1 – Settlement Hierarchy  
 Spatial Policy 2 – Spatial Distribution of Growth  
 Spatial Policy 3 – Rural Areas  
 Spatial Policy 6 – Infrastructure for Growth  
 Spatial Policy 7 – Sustainable Transport  
 Core Policy 9 – Sustainable Design  
 Core Policy 10 – Climate Change  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 Core Policy 13 – Landscape Character  
 Core Policy 14 – Historic Environment



### *Allocations & Development Management DPD*

Policy DM4 Renewable and Low Carbon Energy Generation

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Policy DM8 – Development in the Open Countryside

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption in Favour of Sustainable Development

### Other Material Planning Considerations

- National Planning Policy Framework (NPPF) 2019
- National Planning Practice Guidance (on-line resource)
- Landscape Character Assessment SPD (Adopted December 2013)
- UK Government Solar Strategy 2014
- EN-1: Overarching National Policy Statement for Energy (July 2011);
- EN-3: National Policy Statement for Renewable Energy Infrastructure (July 2011)
- Written Ministerial Statement on Solar Energy: protecting the local and global environment made on 25 March 2015
- Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (February 2021)

### Summary of Consultations (please see online file for comments in full)

**Halloughton Parish Council** – Object (27 object, 13 Support, 1 Abstain)

**Southwell Town Council** – Object. Concerns raised:

- Excessive Scale and height of the arrays
- Loss of agricultural land
- Lack of an adequate archaeological report
- Impact on amenity – intrusive nature of fencing and CCTV, loss of amenity to well used PRoW, loss of amenity to the people of Halloughton from both the panels and the siting of the access road within the conservation area.
- Many of the shielding features of Woodland and hedges are on other people’s land and the removal of any of these would have a dramatic visual impact on the area and is out of the developer’s control
- Inadequate flood mitigation measures especially in the Halloughton catchment.
- Contrary to Southwell Neighbourhood Plan policies E4, E5 and E6
- Ecological impact: there will be significant loss of established wildlife corridors
- There are no substantive changes to the previous application and this development is using prime 3B agricultural land. Such developments should be reserved for brownfield sites.

**Halam Parish Council** – Object (5 Object, 1 Support, 1 Abstain). Concerns raised: covers a too large area, a scar on the landscape, the run off rain will add to flooding problems, the PC are for green energy but not on this scale here.

**Southwell Civic Society** – Object. Concerns raised:

- Inadequate site selection process, contrary to Solar Industry criteria
- Inadequate public consultation process due to Covid-19 - amendments to the initial proposal following consultation were minimal
- Many factual errors in the application documents
- Landscape Impact – significant effect on the landscape

- Flood Risk – conditions are inadequate and should be pre-determination to allow public scrutiny
- Heritage Impact – the development would have a harmful impact on the setting of the Halloughton Conservation Area and a severe impact on views over Southwell Conservation Area and on the unspoilt countryside around Westhorpe Conservation Area.
- The archaeological survey is inadequate. The limitations of the type of geophysical survey carried out are widely recognised and there is other evidence of potential archaeology on the site.
- Amenity Impacts – loss of amenity to PRow which would be greatly devalued
- The development would result in an alien industrial feature in place of some of the most attractive countryside in Nottinghamshire.
- Community Impact – Whilst this project may provide benefits to the wider community in more sustainable energy and financial gain to the land owner and developer it is difficult to see any direct benefits to Halloughton village or its inhabitants.
- Ecological Impact – Contrary to SNP Policy E3. The ecological assessment report fails to identify the existing biodiversity threatened.
- Loss of Agricultural Land and inaccuracy in the initial ALC survey
- The changes made and the additional information provided do not alter the scheme in any significant way, we therefore continue to strongly object to this wholly unacceptable use of farm land and the destruction of the countryside.

**NSDC Environmental Health** – Support:

- Noise impact would be acceptable subject to conditions
- Glint and Glare – no adverse impact in terms of light pollution identified
- Recommended consultation with Public Health England

**Public Health England** – No comment.

**NATS (National Air Traffic Services)** – Support - no safeguarding objection to the proposal.

**The Environment Agency** – Support

**Nottinghamshire County Council Lead Local Flood Authority** – Support subject to a condition requiring the submission of a detailed surface water drainage scheme.

**Trent Valley Internal Drainage Board** – Support

**NCC Highways** – Support subject to conditions requiring the implementation of the access as per the proposed plans, installation of a vehicular crossing across the highway footway and verge and submission of a tree protection scheme.

**NCC Rights of Way** – Support subject to informatives.

**Ramblers Association** – Object. Concerns raised:

- There is a historical Right of Way (ROW) running through the eastern edge of the site and we will be submitting a claim for its reinstatement as a matter of some urgency as we feel it would result in a valuable addition to the ROW network and would result in walkers being less exposed to traffic on the A612
- Landscape impact - this scheme will be visually intrusive and will impact the enjoyment of PRow

**Ministry of Defence** – Support

**Nottinghamshire Wildlife Trust** – Support subject to conditions. Summary:

- We are generally happy with the methodologies and conclusions made within the report and believe that so long as all mitigations and recommendations are adhered to and implemented (through the use of suitable planning conditions), there should be no detrimental impact to the wildlife and habitats on site. Furthermore, as mentioned in para 4.2.8 of the report (based on the RSPB briefing note on Solar Energy), biodiversity gains are possible where intensively cultivated arable or grazed grassland is converted to extensive grassland and/or wildflower meadows between and/or beneath solar panels and in field margins. Therefore, we believe that through the creation of the above mentioned habitats, biodiversity net gains on site could be achieved.

**Natural England** – Support. Summary: Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

**Tree Officer** – Support subject to conditions regarding tree protection measures and landscaping implementation.

**Landscape Consultant VIA East Midlands** – Object. Summary of initial comments:

- The LVIA has been carried out to the accepted best practice which is the Guidelines for Landscape and Visual Impact Assessment (GLIVA3) Third Edition published by the Landscape Institute and Institute of Environmental Managers and Assessment (April 2013), and the photography practice note – Landscape Institute 2019 Visual Representation of Development Proposals. Technical Guidance Note 06/19, with the exception of the issue noted below concerning the lack of viewpoint photographs when trees and hedgerow are not in leaf.
- The landscape assessment has referred to national, regional and local landscape character assessments. Only negligible landscape impacts have been identified on the national and regional landscape character types, which is agreed by the EMD Team.
- A section of the southern part of the proposed site is within the Mid Nottinghamshire Farmlands Landscape Character Area - Policy Zone 39 –Thurgaton Village Farmlands with Ancient woodlands, information about PZ 39 should be added to this section of the LVIA.
- The location and size of the temporary construction compound should be clarified by the applicant, as this is shown on the key of the layout drawing but not shown clearly on the drawing itself.
- The NCC Highway comments indicate that a mature Poplar at the entrance to Halloughton village will need to be removed, the applicant should confirm whether this tree needs to be removed or not.
- Landscape impact - The EMD Team do not agree with the assessment that there is a minor beneficial change in landcover throughout the site. This assessment has focussed on the biodiversity aspects of the change and not on the perception of the change in the landscape. The applicant should review and revise this assessment to encompass perceived change as part of the overall evaluation and provide an updated revision on this issue.
- Landscape impact - There will be a change in the perception of the landscape character of the village of Halloughton at the construction stage due to the presence of the access road emerging on to Bridle Farm Lane, the main route into the village, caused primarily by visual presence of construction vehicles, and the potential loss of the large poplar at the village entrance. This effect has not been assessed and needs to be considered by the applicant.
- Landscape mitigation - In addition to the landscape proposals drawing and description in the Biodiversity Management Plan, a summary of the enhancement measures should be

- provided in the LVIA document. This is in order that the focus of the description is based on the mitigation of landscape and visual effects rather than purely biodiversity aims.
- Visual assessment - It is recommended that a set of viewpoint photographs is also included in the LVIA that shows the representative views and 3 additional heritage viewpoints when the vegetation is not in leaf.
  - Visual assessment - No visual assessment has been made of the construction stage of the project. The construction stage is predicted to be 14 -16 weeks. The applicant should provide an assessment of impacts during this stage of the development including additional information about the visual impact of the structures which connect with the existing pylons in this section of the LVIA.
  - Visual assessment - The visual impact at the construction stage of vehicles bringing the components of the solar farm to the site should be assessed.
  - Visual assessment - The applicant should confirm if alternative routes for access to the site have already been ruled out, and if so for what reasons.
  - Visual assessment – In year 1 of the development, a major scale of visual effects is recorded for viewpoints 1, 2, 4, 14 and 15 located on existing PRoWs, the EMD Team are in agreement with this assessment. These impacts are significant in terms of the EIA regulations.
  - Visual assessment – Heritage viewpoint B - The EMD Team is in agreement with the conclusions of the visual assessment for year 1 of the proposed scheme for the 18 representative viewpoints, and heritage viewpoints A and C. However, we are not in agreement with the assessment from Heritage viewpoint B from PRoW footpath 209/12/1, looking southwest (Southwell Footpath 11 on the Southwell Heritage trail 2), this point is located on the high ground to the south of Southwell and to the east of the site and there is a distant view of the southern half of the site. We consider the scale of effect for Heritage viewpoint B should be minor adverse for year 1 only.
  - Visual assessment - For Year 10 of the visual assessment for some viewpoints, the change in scale of effect from year 1 to year 10 is large, for example for viewpoint 1 the scale of effect at year 1 is Major and this declines to negligible by year 10. This large scale of change relies totally on the successful establishment of the proposed hedgerows and the effective management of the existing hedgerows. The applicant should reconsider the year 10 impacts and confirm that this degree of change is accurate.
  - Visual assessment - A description of the visual effects on surrounding residential properties should be included in the LVIA, particularly on properties on the north western edge of Halloughton, this information should be added either as a Schedule of Effects or as a written description in the LVIA.
  - Visual assessment - The extent of views from the isolated farms within the study area should also be recorded, even if the views are screened by surrounding mature vegetation.
  - Cumulative effects – the applicant should confirm that there are no cumulative effects with other proposed solar farm projects within the study area, that are registered with the planning authority.
  - Initial Conclusion: The applicant’s submitted information currently has some omissions or is lacking clarity in certain areas identified within this report. Before any final conclusion can be made the applicant should provide the additional information requested and clarify the issues outlined above. Once this information is provided, the EMD Team can then determine if they recommend support for the proposed scheme or not.

### Comments on LVIA Addendum 26.01.2021:

- Pegasus Group have provided most of the additional information requested in the EMD comments of 18th September, this draws out the full landscape and visual impacts of the scheme. Items where further information is still required are:-
  - The applicant should confirm which properties the moderate scale of visual impact described on the northern edge of Halloughton applies to, at the very least the number of properties affected should be detailed.
  - A medium adverse magnitude of change due to the construction stage of the project on the village of Halloughton is described, but the overall scale of visual effect of the construction stage on the eastern end of the village of Halloughton is not fully detailed, this information should be provided by the applicant.
  
- Discussion of Landscape impacts: A moderate adverse landscape impact on landcover of the proposed site for the 40 year lifetime of the scheme – rather than a minor beneficial impact as previously stated when the assessment was biodiversity focussed is described. A major adverse scale of effects on the character of Policy Zones 37.38 and 39 for the 40 year lifetime of scheme is also described.  
The impact of the proposed scheme on the setting of Halloughton Conservation Area and the listed buildings contained within this is covered in detail in the response of Oliver Scott (Conservation advice – NSDC Oliver Scott – NSDC Honor Whitfield – dated 24th September 2020) and is assessed as ‘less than substantial harm ‘ but harm on the setting has been identified by the heritage specialist. The EMD team would reiterate his comments and agree with the designation statement for Halloughton from 1972 which says “In fact it could be said that the visual quality of Halloughton is attributable more to its landscape, than to its buildings” (Notts County Council, 1972). In order to reach the village by Southwell Bridleway 74 and Halloughton Byway 9 for example, the visitor passes through the surrounding landscape before entering the village and this experience will be altered by the substantial change in these surroundings.  
Taking the above into account the EMD Team consider that there are long term impacts on the ‘land cover’ element of the landscape, and long term impacts on the landscape character of the site area, it is accepted that these impacts will diminish with distance from the site. Harm has been identified to the setting of Halloughton Conservation Area and the listed buildings contained within this.
  
- Discussion of Visual Impacts: The following scale of visual effects had been identified:-  
A moderate adverse scale of effects on views from upper levels of some properties on the northern edge of Halloughton (the number of properties and which properties are affected is not detailed)  
A major scale of visual effect on PRoW Southwell 74 represented by VP 1, and 2 at the construction stage and years 1 and 10 has been identified  
A major scale of visual effect on PRoW Southwell 74 represented by VP 3 at the construction stage and moderate scale of visual effect at year 10  
A major scale of visual effect on PRoW Southwell 74 represented by VP 4 at the construction stage and year 1, and moderate – negligible at year 10,  
A major scale of visual effect on PRoW Southwell 43 represented by VP 14 at Years 1 and moderate – negligible at year 10  
A major scale of visual effect on PRoW Southwell 43 represented by VP 15 at the construction stage years 1 and 10.  
A moderate adverse scale of visual effect on New Radley Farm and Stubbins Farm at year 1 in views from upper levels of the properties which will reduce by year 10.

Taking the above into account the EMD Team consider that there are long term impacts on PRoW Southwell 74 particularly for the viewpoints 1 and 2 which last at least until year 10 and probably longer, and long term impacts on PRoW Southwell 43 for the viewpoints 14 and 15 which continue at year 10. These footpaths are well used particularly PRoW Southwell 74 which links Southwell and Halloughton. The visual amenity of these routes will be reduced as views will change from open farmland to views of solar farm infrastructure including the surrounding protective fencing and as described above this will affect the visual perception of the village of Halloughton.

- Conclusion: Due to both the Landscape and Visual Impacts identified by the applicant, the EMD Team do not support the proposals for the construction of a solar farm and battery stations together with all associated works, equipment and necessary infrastructure. The EMD Team recognise the need for the provision of solar farms to achieve renewable energy targets but consider that this location close to the northern edge of the village of Halloughton is not an appropriate setting due to these identified landscape and visual impacts. These impacts should be weighed in the planning balance when considering if the proposed scheme should go ahead.

#### Final Comments on Amended Plans 12.02.2021:

- Discussion of the change in visual effects as a result of the amendments:  
The EMD Team accept that the removal of the area of panels in the central area of the Proposed Development adjacent to PRoW Bridleway Southwell 74, will reduce the magnitude of change at the construction stage and Year 1 of the Proposed Development on the above viewpoints. This reduction will mean that the impacts are now less than the major adverse visual impacts previously identified, we agree that these are now on a scale of effect between major and moderate adverse.

To summarise, the most important visual effects which have been identified are:-

- A major scale of visual effect on PRoW Southwell 74 represented by VP 1, and 2 at the construction stage and year 1, this has been reduced to a moderate scale of effect at construction stage and year 1, and a negligible effect by year 10.  
The EMD Team accept that visual effects are reduced to a range between a major to moderate scale of effect at the construction stage and Year 1. The scale of effect will be less than previously assessed moderate adverse at year 10, but this depends on the success of vegetation establishment.
- A major scale of visual effect on PRoW Southwell 74 represented by VP 3 at the construction stage and moderate scale of visual effect at year 1 and year 10, this has been reduced to moderate scale of effect at construction stage and to negligible by year 1 and 10.  
The EMD Team accept that visual effects are reduced to a range between major to moderate scale of effect at the construction stage. The scale of effect will be less than previously assessed moderate adverse at years 1 and 10, but this depends on success of vegetation establishment.
- A major scale of visual effect on PRoW Southwell 74 represented by VP 4 at the construction stage and year 1, and a range between moderate to negligible at year 10, this has been reduced to major to moderate at the construction stage and year 1, and moderate - negligible by year 10.  
The EMD Team accept that visual effects are reduced to a range between major to moderate scale of effect at the construction stage and Year 1. It is also agreed that

the scale of effect at year 10 will be in a range between moderate adverse and negligible, but this depends on success of vegetation establishment.

- A major scale of visual effect on PRoW Southwell 43 represented by VP 14 at Years 1 and moderate – negligible at year 10.  
Remains unchanged.
- A major scale of visual effect on PRoW Southwell 43 represented by VP 15 at the construction stage years 1 and 10.  
Remains unchanged.
- A moderate adverse scale of visual effect on New Radley Farm and Stubbins Farm at year 1 in views from upper levels of the properties which will reduce by year 10.  
Remains unchanged.
- A moderate scale of effect on a limited number of properties (see below) on the northern edge of Halloughton in the construction stage and at Year 1.

Taking the above into account the EMD Team still consider that there are long term impacts on PRoW Southwell 74 particularly for the viewpoints 1 and 2 which last until year 1 and dependent on the success of vegetation establishment probably longer. The visual effects are reduced by the removal of the relatively small field of panels, but they are still important.

There are long term impacts on PRoW Southwell 43 for viewpoints 14 and 15 which continue at year 10 and these still continue to be major adverse.

As mentioned in the previous comments, the visual amenity of these routes will be altered as views will change from open farmland to views of the solar farm infrastructure including the surrounding protective fencing and as described above this will affect the visual perception of the village of Halloughton when approaching it on foot using the surrounding PRoWs.

- Landscape Impact summary as a result of the amendments:

To summarise the Landscape impacts as detailed in the previous comments

- A moderate adverse landscape impact on landcover of the proposed site for the 40-year lifetime of the scheme.  
Remains unchanged.
- A major adverse scale of effects on the character of Policy Zones 37, 38 and 39 for the 40 year lifetime of scheme is also described.  
Remains unchanged.

Taking the above into account the EMD Team still consider that there are long term impacts on the 'land cover' element of the landscape, and long term impacts on the landscape character of the site area, it is accepted that these impacts will diminish with distance from the site. Harm has been identified to the setting of Halloughton Conservation Area and the listed buildings contained within the area, in the comments of Oliver Scott NSDC.

- Comments on additional information provided:

The applicant has now provided information which shows potentially two properties where views would be theoretically possible – Manor Farm and a property at the westernmost end of the village, and up to 10 properties where any potential views are likely to be filtered by boundary vegetation.

The applicant has now provided information which shows a Moderate Adverse visual effect on the landscape character of the village of Halloughton at the construction stage. It is

accepted that the places where this view will be obtained will be limited and that the removal of panels from the easternmost field of the Proposed Development will reduce visual effects on the churchyard at the Church of St James.

- Conclusion: The EMD Team welcome the reduction in area of panels shown on drawing reference P18 -2917 Revision L and the additional and amended planting shown, and accept that this will lead to the reduction in visual impact on viewpoints 1,2,3 and 4. The additional information provided about the outstanding questions above is also useful in order to clarify landscape and visual impacts on Halloughton village. However, due to both the Landscape and Visual Impacts identified by the applicant, the EMD Team still do not support the proposals for the construction of a solar farm and battery stations together with all associated works, equipment and necessary infrastructure.

**LCC Archaeology** – Support subject to conditions. Summary: The results of the initial evaluation broadly correspond with the geophysical survey, however features have been identified that were not recorded in the survey and pottery dating to the Iron Age and Romano-British periods were recovered. One of the main concepts in archaeology is that 'absence of evidence is not evidence of absence' especially when the evaluation sample is such a small percentage of the site, and further evaluation and potential mitigation is still required for the rest of the site. If permission is granted there should be an archaeological condition for a mitigation strategy to effectively deal with the rest of this site. This will include, but may not be limited to, a trial trench evaluation of the site which should aim to determine the presence, absence, significance, depth and character of any archaeological remains which could be impacted by the proposed development as noted above. Further archaeological mitigation work may be required if archaeological remains are identified in the evaluation.

**Southwell Community Archaeology Group** – Object. Concerns raised:

- Inadequate archaeological survey submitted with the application.
- Correspondence between the developers and SCAG during the consultation process has not been included with the application documents.

**The Thoroton Society** – Object. Concerns raised:

- Loss of agricultural land
- Impact on the local environment, its history, ecology, and the effect it would have on local settlements and people.
- Prominence of the development in the landscape and adverse impact on the character of the area
- Amenity impacts to users of PRow
- Inadequate archaeological survey submitted
- Adverse impact on Halloughton Conservation Area, the Church of St James and Manor Farm.
- There are a large number of objections lodged to the original plans and to this amendment by individuals, local and from further afield, by farmers, by Southwell Town Council and the town's amenity organisations, the latter having deep and well-grounded knowledge of the settlements and countryside around the town, all part of the tourist attraction of the area.

**Southwell Heritage Trust** – Object. Concerns raised:

- The magnitude of the proposal for a solar farm and battery stations with all associated works on 107Ha of undulating farmed countryside, in a wider area of outstanding beauty



and historical interest, will have a major adverse environmental effect on the village of Halloughton and its surrounding landscape. It will, of necessity, impact on the important Halloughton Conservation Area, wildlife, archaeology, and possible aggravation of flooding risk amongst many other aspects that a development of this scale will produce.

- Brownfield land should only be used for these proposals.
- Due to the pandemic, the public consultation has not been as effective and thorough as would normally be required for such a major development and it is, therefore, inappropriate to put forward the application at this time.

#### **Historic England – No Comments**

#### **NSDC Conservation Officer – Object. Summary of concerns raised:**

- The main historic environment issue in this case is what impact the proposals will have on the settings of various designated heritage assets. Conservation recognises that the potential benefits of the scheme, which results in the production of electricity from a renewable source, will need to be weighed against any harmful effects.
- There are no designated heritage assets within the proposals site, but there are a number of listed buildings in proximity, as is Halloughton Conservation Area. In the wider area, the significant national landmark of Southwell Minster (Grade I) and Southwell Conservation Area (CA) which includes a number of significant heritage assets (over 200 listed buildings). The Nottinghamshire Historic Environment Record (HER) also identifies a range of heritage assets nearby.

- Summary of Legal and Policy Framework

- Summary of the significance of heritage asset(s) affected:

Halloughton Conservation Area (CA) covers the entirety of the village, which is small but very charming. It lies within the fold of hills to the south of Southwell, the single linear lane meandering along the valley of a stream. The grass verges, subtly varying in width, high hedges which tightly enclose the lane and many mature trees contribute to the special character of Halloughton CA. Indeed, the landscape surrounding the village is intrinsically linked. The designation statement for Halloughton from the 1970s states: “In fact it could be said that the visual quality of Halloughton is attributable more to its landscape, than to its buildings” (Notts County Council, 1972).

The valley position of the village and its linear plan-form mean that the entrances to the village are very important. From the Southwell Road direction, the funnelled entrance is defined by wide verges, hedges and trees, the view including an attractive stone wall lined with trees on the south side of the lane. At the western entrance to the CA, the transition from very open countryside to enclosed village is attractive.

The CA includes a number of fine historic buildings. The Church of St James is Grade II listed (designated 1961), and comprises the remnants of a medieval church (13th century- the surviving element being the east wall). The significance of the Church lies primarily in its special architectural qualities and historic fabric. The Church also enjoys a status within the parish, and whilst it does not include a landmark tower or spire element, it is nonetheless a prominent feature of the lane.

The Grade II\* listed Manor House is the most significant of the buildings in Halloughton, reflected in its high grading. The house is a prebendal house of Southwell, incorporating a medieval tower house, which is very rare in Nottinghamshire (Pevsner suggest that the only other notable example is the ruin of Beauvale Priory incorporated into Strelley Hall). The earliest fabric of the property is contemporary with the 13th century church remains, evoking group values in the landscape at the eastern end of the village.

The period buildings elsewhere in the village predominantly reflect 18th and 19th century rural vernacular forms, reflecting historic estate architecture seen extensively within the wider landscape.

To the east of the proposal site is the Brackenhurst university campus. The principal building in this complex is Brackenhurst Hall (Grade II). The Hall was designed as a country house and includes an attached former coach house, orangery and extensive garden walls. Associated heritage assets include: Garden walls and potting sheds 100m northeast of Brackenhurst Hall (Grade II listed); Lodge to Brackenhurst Hall (Grade II listed); Gateway and railings to Brackenhurst Hall (Grade II listed); and South Hill House (Grade II listed; designated May 1992). South Hill House sits on the west side of the road, comprising a former farmhouse dating to c1800. Beyond The Hall to the southeast is Brackenhurst Farmhouse, a Grade II listed building.

The Robin Hood Way, which is an important walking route, runs through Southwell Park, also an unregistered park and garden, culminating at its northern end with the landmark Minster building, a nationally significant landmark Grade I listed building. The landscape resonance with these heritage assets is palpable, and those who enjoy the network of lanes and footpaths in this landscape are offered many attractive views which can include the Minster and the spire of the Church of Holy Trinity (typically terminating views on approach to Southwell from Nottingham Road).

The adopted Southwell CA Appraisal (2005) provides a useful assessment of the CA, including its origins, settlement layout patterns and architectural interest. The Nottinghamshire Extensive Urban Survey (EUS) Archaeological Assessment for Southwell (English Heritage; 2001) is also helpful. Southwell CA was first designated in 1968 and extended in 1970 and 1993. The existing CA boundary includes the Minster Church and distinctive Prebendal area, the historic commercial centre of King Street and Queen Street, the Burgage and the former hamlets of Easthorpe and Westhorpe. Key features of the CA are the presence of the Minster church, its well-preserved historic layout, the high proportion of listed buildings and unlisted buildings of quality, its strong character areas, significant archaeological interest and its attractive landscape setting. The Minster is a prominent landmark within the town and can be seen for miles around.

The Appraisal advises that Westhorpe has a high proportion of traditional buildings, most of which are listed or make a positive contribution to the character and appearance of the CA. They are characterised by their generally modest scale and their use of consistent building materials, which are normally brick and pantile. The position of the former hamlet located on the south facing slope of Westhorpe Dumble is considered to be a positive feature of the CA.

Bath Cottage and barn range (both Grade II listed) sit in the southwest corner of the Westhorpe character area. This character area is very distinctive and derives significance from the close-knit village form on the escarpment and the openness of the landscape southwards. Bath Cottage is set in this wider landscape and is an attractive late-18th century house with steep roof pitch and simple vernacular detailing.

The wider landscape contains further heritage assets. Grange Farmhouse on Radley Road sits to the northwest for example, and further along that road to the northeast is Halam, which contains a number of listed buildings.

- Assessment of proposal:

The proposal is for a solar farm with a capacity of 49.9MW for a period of 40 years on land to the north of Halloughton, comprising 13 fields. These fields form a contiguous 'L' plan above the village of Halloughton, and on a northerly line towards the Oxton Road. Conservation **strongly objects** to the proposed development.

The impact of such a large industrial development on the immediate setting of Halloughton Conservation Area (CA) is likely to be significantly adverse. The proposal will be prominent in the landscape, and will have the effect of swamping the historic village of Halloughton. This will be particularly noticeable at the entrance to the CA at both east and west entrances, but also from within the CA and from outside where intervisibility is possible (including from bridleways to the south and east).

Impact on individual heritage assets within Halloughton CA is reduced by the presence of extensive hedge and tree screening. However, this mitigation will be less effective in winter. The solar arrays are within 100m of the Church, and around the CA. The setting of the listed buildings in Halloughton are not limited to the immediate curtilage of those buildings, but includes one's experience of traversing the Main Street and rural setting around the village (there are several tracks and footpaths around the village). The solar panels will be a dominating entity in very close proximity, distracting and fragmenting the intimate rural context of Halloughton.

The proposal site is not part of any formal designated landscape. However, the landscape here has intrinsic character and beauty, and offers attractive walking routes between Halloughton, Halam, Oxton and Southwell. The proposed solar panels and associated infrastructure, as well as access tracks, security fencing and CCTV columns would comprise a significant new element to this landscape. We appreciate that the countryside includes a variety of different forms of development, from traditional farmsteads to modern portal barns. In this case, however, the long rows of panels, internal access tracks and ancillary structures result in a utilitarian form of development that would provide a stark contrast to the unspoilt open qualities of this landscape.

We are also concerned about impact on heritage assets at Brackenhurst, including the Hall and South Hill House which is most prominently exposed to the solar farm proposals. Whilst we accept that there is unlikely to be any intervisibility from the Hall itself, there will be an impact on the experience of travelling along the Nottingham Road to and from Brackenhurst. The applicant has not presented any persuasive evidence that there are no material receptors within and close to the historic parkland surrounding the Hall.

The duration of this development is 40 years. For this entire period, the landscape would be irrevocably changed. Although hedges are retained to fields, and further landscape mitigation might be possible, the complete infilling of the fields on what is an undulating landscape ensures that the solar panels would be highly visible. The array of dark grey panels will disrupt the historic field pattern which contributes so positively to the setting of Halloughton CA. The industrial shape and finish of the panels would be very discordant with the patchwork of arable fields and greenery. This area is extremely popular with walkers, and includes the significant Robin Hood Way (which passes in close proximity to Brackenhurst via Westhorpe). Their enjoyment of this landscape and the experience it offers in proximity to heritage assets in Halloughton, Brackenhurst and Southwell will therefore be diminished.

The proposal will have some impact on the rural setting of Stubbins Farm, a non-designated heritage asset. Tree cover and landscaping offers some mitigation in this context.

Notwithstanding the above concerns, we have found no harm to any other identified heritage assets, including listed buildings at Westhorpe and Halam.

- Conclusion:

Overall, we find the proposal to be harmful to the setting and experience of Halloughton CA, as well as to the setting of listed buildings within the CA, notably the Church of St James and the Manor House. Whilst we accept some of the arguments presented by the applicant with regards to tree and hedge buffers, the solar farm proposal remains a dominating and alien feature to this attractive rural landscape.

Some harm will potentially be caused to the setting of heritage assets within the Brackenhurst complex, as well as South Hill House. Further landscape assessment is required to demonstrate conclusively the assumptions made in the applicant's heritage statement.

In this context, the harm to the setting of any listed building is contrary to the objective of preservation required under section 66 of the Act. The proposal is also contrary to heritage advice contained within the Council's LDF DPDs and section 16 of the NPPF. For the purposes of paragraphs 193-195 of the NPPF, the harm identified to the setting of Halloughton CA and listed buildings therein is less than substantial. In their heritage statement, the applicant also accepts that this is the case. However, whilst they argue that this is at the lower end of less than substantial harm, we feel that this is at the higher end.

Harm to non-designated heritage assets such as Stubbins Farm requires a balanced judgement. We appreciate that the perceived environmental benefits of the proposal may prove to be compelling when judged against the relative significance of heritage assets such as Local Listings."

Summary of Comments on Amended Plans: The amendments made are not sufficient to remove the CO's objection. The tweaks to the scheme are relatively minor and only offer very modest mitigation. It is not agreed that this is simply a balancing exercise. The public benefits of the scheme must be decisive. This is consistent with recent High Court decisions. However, this is a matter for the decision-maker. The applicant agrees that harm is caused to the setting of several designated heritage assets as a result of the proposed development and has sought to mitigate those impacts (short of significantly reducing the quantum of development). There is a difference in opinion with the applicant on the scale of the harm within the 'less than substantial harm' bracket, but it is not possible reconcile their conclusion of *lower end* unless the development to the north of Halloughton is substantially reduced, or even removed from the scheme. The sheer size of the proposal in the context of a small, idyllic rural conservation area with many attractive period buildings should not be underestimated. The proposal, if permitted, would adversely change the setting and context of the settlement for the duration of its life, a not inconsiderable period of time.

**Comments have been received from 40 interested parties (39 against, 1 for) that can be summarised as follows:**

- Procedural Matters:

- Concerns regarding inability to access comments or responses to the community consultation process undertaken prior to the submission of the application.
- The application should not have been submitted during a global pandemic as this has had implications on the ability of people in the community to meet, discuss and for community involvement with the project. The whole application should have been deferred until proper public consultation and scrutiny was possible.

- Suitability of the location:
  - The application does not use previously developed land, brownfield land, contaminated land, industrial land or low classification agricultural land.
  - Objection to the loss of good quality agricultural land to industrial use
  - The size of the solar farm is disproportionate to the surrounding area and would be on a largely undulating agricultural landscape which would have an undue impact on the visual and experiential amenity of the area
  - The agricultural land classification of Grade 4 is incorrect - no weight should be given to the applicant's agricultural land classification report
  - The amended agricultural land classification re-classifies the land as 3b, however there are errors in this submission and NSDC should obtain its own independent assessment of the site
  - The planning balance between the need for Newark & Sherwood to meet its climate change obligations as set out in the Government Renewable and Low Carbon Energy Guidance (<https://www.gov.uk/guidance/renewable-and-low-carbon-energy>) and the protection of the local environment and communities is not met by this Application.
  - The applicant has failed to show adequately that its search for this site was rational and not atypical for the industry as a whole.
  
- Flooding:
  - The supporting documents fail to identify known flood events that have occurred in Halloughton and adequately appraise surface water flooding risks
  - The proposal will increase the risk and likelihood of flooding and surface water run-off in Halloughton. The proposed entrance to the site is in a hollow that fills with water frequently.
  - NCC Flood risk team have suggested mitigation measures must be controlled via condition – given this information has not been provided upfront, Committee members cannot make an informed decision
  - Attenuation ponds should be built into the design of the solar farm to mitigate flood risk and to provide ecological enhancements
  - The proposed swales and attenuation basins are not clearly shown on the plans and it is unclear how these would be managed/maintained to prevent flooding
  - The amendments do not correct the omissions in the original planning application which failed to meet the mandatory requirements of Policy E1 and E2 of the Southwell Neighbourhood Plan
  
- Landscape Impacts
  - The development will conflict with the Landscape Character Assessment for the area, in addition to policies within the Core Strategy and Allocations and development management DPD.
  - The development will be a blight on the landscape and elements which are to be permanent would be permanent industrial feature within the countryside
  - The landscaping proposals will not screen this development given the undulating nature of the landscape and will detrimentally impact the landscape and visual amenity of the countryside which residents of Halloughton fought hard to maintain when they opposed the erection of wind turbines at Brackenhurst in 2014
  - There are a number of omissions and inaccuracies within the LVIA.
  - The solar farm would actively deter walkers and riders from the important landscape and heritage trails in the local area which are important for the tourism of the site.

- The solar farms will be intrusive and alien in this rural landscaped setting and will result in significant harm to the character of the area.
  - The fencing, CCTV and compounds surrounding the solar farm will be oppressive in the landscape and degrade the user experience of ramblers/footpath and bridleway users.
  - The additional winter views in the LVIA Addendum confirm the considerable adverse impact this proposal would have on the landscape.
  - A site visit is necessary to validate the photomontages (as many appear not to correspond with the map locations) and other more critical viewpoints to fully see the size of the development.
- Heritage Impacts
- The development would give rise to less than substantial harm to the Halloughton Conservation Area without an adequate justification contrary to Policy CP14 Core Strategy, DM9 Allocations and Development Management DPD and the NPPF.
  - There is inadequate evidence to determine whether the development would give rise to harm to any potential archaeological resource contrary to DM9 Allocations and Development Management DPD.
  - The creation of a new access at the entrance to Halloughton will result in substantial harm to the CA. The current approach into Halloughton has great conservation value which will be wholly eroded.
  - Photos and statements contained within the Heritage Survey are inaccurate resulting in omissions in inter-visible views between the proposal solar farm and heritage assets.
  - The impact on Halloughton CA will be considerable, with the southern boundary of the development only 200m distant from the nearest property. Virtually every property, as shown in the ZTV, will have sight of the solar panels and sub- station, as will walkers and riders from the Bridle Road Farm bridleway and the Halloughton Wood byway which will impact visual amenity and the setting of the Conservation Area.
  - There will be a negative impact on the setting of the Grade 2\* listed Manor Farm whose curtilage lies directly opposite the proposed tarmac access road to the construction site, and on that of the Grade 2 listed St James Church with its graveyard almost adjacent to this construction site access road.
  - The scheme would result in harm to the setting of a number of listed buildings, the Conservation Area and the rural landscape setting - the public benefit of the proposal would not outweighing the significant damage to the CA and its rare heritage assets.
  - There would be an unacceptable impact on Southwell CA, especially on the Westhorpe area's footpaths and bridleways, with the ZTV showing the extensive nature of the views of the development. Given that the trees and hedgerows shielding the site are deciduous, this will be especially the case for 6 months of the year. The Applicant's Viewpoint photos only show full-leaf views.
  - There will be harm to the significance of Southwell and its important heritage assets. There will also be views from Halam, Edingley, Thurgarton and Bleasby parishes and Normanton which will cause harm.
  - There are omissions within the Archeological Assessments indicating that the site has been insufficiently surveyed. Should the construction of the solar farm go ahead this could lead to the wholesale destruction of a range of archaeological sites.
  - It has been accepted nationally, that while the public benefit of renewable energy schemes is important, the preservation of both heritage assets and their surroundings carries considerable weight and importance. The 40-year life span for this development

makes it an even less acceptable proposition for sustaining the agricultural landscape which makes Southwell so special.

- The application site has unimpeded views of Belvoir Castle 20 km to the south. Harlaxton and Belton Folly can also be seen to the E of Belvoir making this landscape very sensitive.
- The amendments do not address that the entrance to the solar farm will degrade the rural, historic access to Halloughton. It also remains the case that the development will have a negative impact on the Halloughton Conservation Area, listed buildings within it and the rural setting of the village.

- Impacts on Amenity

- Noise from the battery stations and inverters will affect the closest residential receptors. External noise levels will be great and will impact on the enjoyment of outside spaces.
- The important amenity for Southwell and the surrounding area of the footpaths and bridleways will be compromised which have proven to be important during the Covid-19 pandemic. Riding or walking will be made difficult during the construction phase and then a greatly devalued experience thereafter. For the lifetime of most in the community: 40 years, this development will negatively change the setting and constrain the leisure pursuits of walking and riding
- The Environmental Health Officer states 'Both the physical and mental health impacts of the development need to be considered in the consultation process' and that there will be a visual impact in terms of amenity user perception.
- Enclosure of the surrounding footpaths and bridleways will significantly impact the amenity value of the area and user experience. The new Agriculture Bill 2020 designates rights of way as "Public Goods" and encourages the planning of new ones. To the south and west of Southwell there is an extensive network of byways, bridleways and footpaths. These have huge amenity value not only for Halloughton and Southwell residents but also, given the link to the long distance path, the Robin Hood Way, to people across Nottinghamshire and beyond – the enjoyment of which will be significantly reduced.
- The CCTV cameras will breach GDPR and the privacy of footpath users

- Impacts on Habitats

- There are several omissions within the survey: Wintering bird species only were identified but the submitted survey but raptors were ignored – however local people cite presence of barn owls nesting, kestrels, sparrow hawks, buzzards and red kites. The presence of these raptors demonstrates the richness of the small mammal population in the development site which have been undervalued. No hares were identified but are common in the area – as are roe deer, which will be severely impacted by the development, as will the protected badgers in the area.
- Surveys were not undertaken at the optimum times of year.
- The Arboricultural Impact Assessment acknowledged that sectional removals of trees will be needed, each of approximately 4-5 meters across to allow for the new access road. The hedgerow at the entrance to the site will also be removed. This is considered 'very minor' by the Applicant but will have a considerable impact on the entrance to the CA and the setting of the heritage assets.
- The proposal will create a barrier to a large animal movement from surrounding land. The proposed solar farm will create a barrier to large animal movement between the

two areas. The frequency of gaps in the security fencing “at several locations” is not specified.

- The mitigation measures are inadequate but would not be necessary without this intrusion into the natural landscape.
- Further greening of the project should include extensive planting of wildflower meadows within the arrays. This would actively significantly increase the biodiversity of the site to insects, plants and small mammals.
- The solar farm would dwarf the Dumble, which is a unique feature of the area.
- Fencing will prevent the interconnectivity of species and the impede the districts green corridor network
- The amendments do not correct the omissions in the original application which would still be contrary to SNP policies E3 and E4

- Construction, Access and Highways Safety

- The proposed access to the site from the narrow village street in Halloughton for at least 6 months during the construction phase would create a huge traffic problem for all of the residents and businesses in Halloughton
- The Solar Photovoltaic Glint and Glare Study shows there will be impacts on road users and residents
- There have been a number of minor accidents at the junction of the A612 with the Main Road through Halloughton making this access unsafe for increased HGV movements
- The proposed entrance would be between the tree and the lamp post. The tree, is of historic interest as it was planted by the villagers of Halloughton to commemorate the Queen’s Silver Jubilee and alternative access’ should be explored to retain this as a feature for the village.
- There are a number of errors and inaccuracies within the Construction Traffic Management Plan
- The main road through Halloughton is a no through road, it is narrow (two cars cannot pass) and there will be an increased risk to highway safety with construction traffic vehicles being introduced to this road.
- There should be clear stipulations placed on the developers to reinstate any construction damage to verges/the highway
- Historical Footpaths would need to be legally diverted and have not been accurately shown on proposed plans.
- An existing Bridleway is shown as being moved from one side of the hedge to the other. This will need a legal diversion.

- Other matters

- The supporting documents refer to stock fencing but this is incorrect as security deer fencing is proposed
- Concerns that the Glint and Glare study has not considered private airfields
- Many of the surveys rely on landscaping to screen views, but these will only be in leaf for six months of the year
- There is no mention of the decommissioning plans, concerns that this will become a greenfield site that is lost to potential future brownfield redevelopment
- There would be no direct benefits to Halloughton or Southwell – the energy produced will not benefit the district



- The Planning Committee have already determined that Halloughton needs to be protected from unacceptable development
- This solar farm would be one of the largest in the country and would have a destructive impact on the environment
- The submitted information with this application fails to adequately assess the scheme against the Southwell Neighborhood Plan
- The application does not take proper account the detrimental health and wellbeing effects this proposal would have on residents and users of the landscape
- There are errors on the application form
- The Statement of Community Involvement is flawed as many questions raised by the community were left unanswered. It is not clear what, if any, changes were made to the scheme following the public consultation.
- The promotion of green energy should not be at a wider environmental cost.
- Halloughton village is almost entirely powered for heating by oil burning boilers which after 2025 will need to be replaced by cleaner energy sources. Some help from the developers could be forthcoming to assist in some small way for homeowners to adopt cleaner/greener alternative heating.
- Many people in Halloughton are not able to use the computer and during the pandemic have not been able to adequately access the documents relating to this application.
- Lack of comments from Notts Wildlife Trust is alarming
- Loss of such a large amount of agricultural land will threaten food production
- This is not a Community-led scheme, as preferred by NSDC for green/clean energy projects
- Access to this landscape is very important for mental health and well-being and this will be eroded if the application is approved
- The proposal will impact tourism as the benefits to both visitors and locals would be severely affected by the installation of such a large industrial-scale power generation site in close proximity to the town.
- The £200,000 business rates JBM Solar Ltd will pay to NSDC if it goes ahead at this scale will be tempting in a cash-strapped economy but will come at an unacceptable cost to this rural area
- No evidence has been provided regarding the carbon off-setting of this development after balancing the gain of solar energy against the carbon cost of installation
- It is not clear whether the panels used would be the recyclable type or will add to landfill when obsolete
- The attraction of Brackenhurst Campus is based on its rural character, which will be harmed by such a large solar farm being built almost next-door
- The solar farm will attract thieves and vandals
- 40 years is more than one generation. For most local people this will be a permanent change of use
- This application will set a dangerous precedent
- The Amendments submitted were intentionally deposited before Christmas to ensure local people would be unable to comment on the amendments
- The Amendments submitted do not address previous concerns raised
- The owner of the land does not farm the land themselves and does not live in the area so perhaps underestimates how much the land in question contributes to the well-being of local communities
- The Glint & Glare Assessment is inadequate

- Comments in support (1 no.)
  - We are facing a local, national and global climate emergency and must plan for future generations, this application would help provide a green energy source. Some years ago, Halloughton village successfully fought off proposals for wind turbines which would have overshadowed the district and especially the historic Minster. At that time the young people of Southwell ran a campaign called "If not, what?" which is particularly relevant again in this case.

*Please note: All consultee comments in full can be found on the online planning file.*

### Comments of the Business Manager

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

Following public consultation and independent examination, at its council meeting on 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 above and are considered against the relevant aspects of the proposal in the assessment below.

### *Principle of Development*

The site is located within the open countryside. Policy DM8 of the ADMDPD is silent on the appropriateness of renewable energy in the open countryside. However, the District Council's commitment to tackling climate change is set out in Core Policy 10. This provides that we will encourage the provision of renewable and low carbon energy generation within new development. Policy DM4 provides that permission shall be granted for renewable energy generation schemes unless there are adverse impacts that outweigh the benefits and this is reflected in Policy E6 of the SNP. This approach is also echoed by the NPPF. Given the significant land take involved, this utility installation requires a countryside location. In determining an application of this nature, it is necessary to balance the strong policy presumption in favour of applications for renewable technologies against the site-specific impacts.

The Planning Practice Guidance outlines a number of factors that local planning authorities will need to consider in the assessment of large-scale ground-mounted solar farms. The stance of the Guidance is to encourage the effective use of land by focusing large-scale solar farms on previously developed and non-agricultural land. Paragraph 13 goes on to qualify that where a proposal involves greenfield land, the local planning authority will need to consider whether the proposed use of agricultural land has shown to be necessary and where it has, that poorer quality land has been used in preference to higher quality land, and that the proposal allows for continued agricultural use (see Loss of Agricultural Land section below for further commentary on this point).

In determining this application, it is necessary to balance any recognised positive or negative effects against the strong presumption in favour of promoting renewable energy provision and the views of the local community. The wider environmental and economic benefits of the proposal are a material consideration to be given significant weight in this decision. Site-specific considerations including further consideration of Paragraph 13 of NPPG which outlines a number of factors which local planning authorities need to consider in the assessment of large-scale ground-mounted solar farms, are set out below.

#### *Loss of Agricultural Land/Alternative Sites*

Policy DM8 states that *'proposals resulting in the loss of the most versatile areas of agricultural land, will be required to demonstrate a sequential approach to site selection and demonstrate environmental or community benefits that outweigh the land loss'*.

Paragraph 170 of the NPPF states that *'Planning policies and decisions should contribute to and enhance the natural and local environment by: recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'*

The stance of the NPPG is to encourage the effective use of land by focusing large-scale solar farms on previously developed and non-agricultural land. Paragraph 13 goes on to qualify that *'where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays'*.

The NPPF defines *'Best and most versatile agricultural land as being land in Grades 1, 2 and 3a of the Agricultural Land Classification'* and at paragraph 171 requires that where significant development is demonstrated to be necessary LPAs should seek to use areas of poorer quality land rather than areas of higher quality. The application has been supported by an (amended) Agricultural Land Classification (ALC) report undertaken by qualified experts in this field. The initial ALC report classified the land as Grade 4 (poor quality); however this was disputed by a number of local farmers and residents. From reviewing the Natural England MAGIC database, the land is broadly classified as Grade 3, with some surrounding areas identified as Grades 2 and 3 and none identified as Grade 4. Having discussed concerns with the applicant an additional ALC survey has been undertaken. The new report confirms that the proposal would utilise 98 Ha of Grade 3b land.

The principle physical factors influencing agricultural production are climate, site and soil and the interactions between them, which together form the basis for classifying land into one of 5 grades. The amended ALC report explains that while no one factor limits the grade of the land, the interaction between climate and soil in this case results in a wetness assessment that limits the land to Grade 3b. Sub-grade 3b is described as *"moderate quality agricultural land capable of producing moderate yields of a narrow range of crops, principally cereals and grass or lower yields of a wider range of crops or high yields of grass harvested over most of the year"*.

Natural England is a statutory consultee on development that would lead to the loss of over 20ha of 'best and most versatile' (BMV) agricultural land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system. However, as the entire site is classified as 3b the proposal would not have significant adverse impacts on Best and Most Versatile Agricultural Land and I note that

Natural England have raised no objection to the proposal. I note comments have been received from interested parties requesting the Council undertakes its own ALC study to corroborate the applicants findings, however, this is not considered necessary given the report submitted to accompany this application has been undertaken by a suitably qualified professional within the relevant field and the results conform with the Natural England MAGIC database.

However, it is still necessary to consider whether the proposal represents effective use of land in line with planning practice guidance that encourages the siting of large-scale solar farms on previously developed and non-agricultural land in line with Paragraphs 170 and 171 of the National Planning Policy Framework (NPPF).

The applicant has provided a Site Selection Report, upon request, which justifies why the application site was chosen and why other sites were considered. I am mindful of the scale of the proposal, which relates to just over 106 hectares of land take. Clearly, this is a substantial site area. The location of Solar PV is constrained by the requirement to be close to a suitable grid connection point. An overhead line with sufficient capacity to cater for the proposed solar farm (132kV) crosses the site, allowing for on-site/infield connection. The submitted Site Selection Report explains that a detailed site search exercise was undertaken and the results of this search are summarised within this document. I am not aware of any alternative brownfield sites that could accommodate the scale of development proposed that could be utilised in order to access this connection point in the vicinity. Overall, I am satisfied with the reasons why the site has been selected in principle.

I do however note that objectors make the point that previously developed land and land in less sensitive attractive locations should be utilised in preference to 'greenfield' sites such as this one and object on the basis that the proposal would result in the loss of agricultural land. I appreciate the concerns of local residents; however, I am mindful that the proposal would not lead to significant long-term loss of agricultural land, as a resource for future generations, given the solar farm would be in situ for a temporary period. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the development is undertaken to a high standard. Although some components of the development, such as construction of the sub-station and other buildings, may permanently affect agricultural land this would be limited to small areas. I am also mindful that it is proposed that the land between the rows of solar panels would be grassland which could be used for grazing and that this would allow for continued agricultural use as supported by NPPG.

In addition, the 49.9MWp proposal would provide electricity equivalent to the average electrical needs of 12,000 typical UK homes (approx.) annually. As such, this would result in a substantial benefit of the scheme in terms of energy production. The Framework supports renewable and low carbon development, with Paragraph 154 stating that authorities should approve such applications if the impacts can be made acceptable. Overall, I consider it would be difficult to justify refusal solely on the grounds that the proposal would be on agricultural land as the proposal is considered to comply with the aims of national planning policy in this regard.

#### *Impact on Visual Amenity Including Setting of Heritage Assets and Public Rights of Way*

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Core Policy 13 requires the landscape character of the surrounding

area to be conserved and created. Policies Core Policy 14 and DM9 also, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

### Heritage

There are no designated heritage assets within the proposals site, but there are a number of listed buildings in proximity, including (but not limited to):

- Halloughton Manor Farmhouse (Grade II\*)
- Church of St James (Grade II)
- Barn at Halloughton Manor Farm (Grade II)
- Pigeoncote, granary and stable block at Manor Farm (Grade II)
- Barn at Bridle Road Farm (Grade II)

*Which are situated within Halloughton Conservation Area.*

- South Hill House (Grade II)
- Brackenhurst Hall (and associated estate elements such as the gateway, lodge, walled gardens) (all Grade II)

In the wider area, there is also the significant national landmark of Southwell Minster (Grade I) and Southwell Conservation Area (CA), which includes a number of significant heritage assets (over 200 listed buildings). The closest listed buildings to the proposal site within Southwell CA include Bath Cottage (Grade II) and associated barns at Bath Cottage (Grade II).

The Nottinghamshire Historic Environment Record (HER) identifies a range of heritage assets, including:

- Stubbins Farm (Local Interest)
- Halloughton Wood Farm (Local Interest)
- Features with potential archaeological interest

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In addition, section 72 of the Act requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area (CA). In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. The duties in s.66 and s.72 of the Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight and there should be a strong presumption against planning permission being granted.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF). Section 16 advises, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset

(from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of designated heritage assets when considering new development (paragraph 200).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the PPG advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Setting is not itself a heritage asset, nor a heritage designation, although land comprising a setting may itself be designated. Its importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance.

Paragraph 13 of the renewable and low carbon energy section of the PPG also advises that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset.

A Heritage Impact Assessment has been submitted with the application, which concludes that the development *“would have the potential to result in a very small degree of harm to the heritage significance of the Halloughton Conservation Area, though there would be no harm to the individual significances of its inherent Listed buildings and non-Listed historic structures. The level of such harm would fall at the lowest end of the scale of 'less than substantial'.*

*The proposals would not be anticipated to result in any change to the setting of Grade II Listed South Hill House, the Grade II Listed buildings at Brackenhurst College, or the Southwell Conservation Area (including Southwell Minster). Development within the site on the scale proposed would result in no harm to the significance of those assets, and no change to the ability to appreciate that significance. The proposals would not result in any harm to any other heritage assets as a result of changes to setting.”*

The comments of the Conservation Officer disagree with this assessment of the level of harm set out in this document. The Conservation Officer (CO) has set out the significance of the heritage assets that could be affected by this development and their assessment of the proposal, which I do not intend to repeat, however they have highlighted that the landscape surrounding Halloughton village is intrinsically linked to the special character of Halloughton Conservation Area. Indeed, the designation statement for Halloughton from the 1970s states: *“In fact it could be said that the visual quality of Halloughton is attributable more to its landscape, than to its buildings”* (Notts County Council, 1972).

The CO concludes *“[...] the impact of such a large industrial development on the immediate setting of Halloughton Conservation Area (CA) is likely to be significantly adverse. The proposal will be*

*prominent in the landscape, and will have the effect of swamping the historic village of Halloughton. This will be particularly noticeable at the entrance to the CA at both east and west entrances, but also from within the CA and from outside where intervisibility is possible (including from bridleways to the south and east).*

*Impact on individual heritage assets within Halloughton CA is reduced by the presence of extensive hedge and tree screening. However, this mitigation will be less effective in winter. The solar arrays are within 100m of the Church [Church of St James, Grade II listed], and around the CA. The setting of the listed buildings in Halloughton are not limited to the immediate curtilage of those buildings, but includes one's experience of traversing the Main Street and rural setting around the village (there are several tracks and footpaths around the village). The solar panels will be a dominating entity in very close proximity, distracting and fragmenting the intimate rural context of Halloughton.*

*The proposal site is not part of any formal designated landscape. However, the landscape here has intrinsic character and beauty, and offers attractive walking routes between Halloughton, Halam, Oxtun and Southwell. The proposed solar panels and associated infrastructure, as well as access tracks, security fencing and CCTV columns would comprise a significant new element to this landscape. We appreciate that the countryside includes a variety of different forms of development, from traditional farmsteads to modern portal barns. In this case, however, the long rows of panels, internal access tracks and ancillary structures result in a utilitarian form of development that would provide a stark contrast to the unspoilt open qualities of this landscape."*

The CO also raised concerns about the potential impact on heritage assets at Brackenhurst (to the east), including the Hall and South Hill House which is most prominently exposed to the solar farm proposals. The CO highlighted that the applicant had not presented any persuasive evidence that there are no material receptors within and close to the historic parkland surrounding the Hall. Since these comments, the applicant has presented further justification (included within the LVIA Addendum) which states that the SZTV identifies that there would be limited opportunities to experience views towards the Site from within the Brackenhurst College complex. In addition, it is argued that existing dense vegetation along the A612 Nottingham Road and South Hill House in combination with the plantation woodland alongside the Site's southeastern boundary, *"heavily filters, and restricts view towards the Site from locations within the Brackenhurst College complex"*. It is also argued *"Inter-visibility between the Site and the South Hill House is restricted by the tree plantation that encircles the south-eastern boundary of the southern part of the Site, and trees within the gardens of the house. The façade of South Hill House faces southwards rather than directly towards the Site which is located to the southwest and as a result the Site is not anticipated to be visible in any designed views from South Hill House."*

The CO and I have considered these further arguments; however, we remain unconvinced that there would be negligible impact on the setting of South Hill House and the general group within the former Brackenhurst estate despite the mitigating circumstances argued by the applicant. The CO has advised that they remain of the view that there would be some harm caused to the setting of designated heritage assets within the Brackenhurst complex, as well as South Hill House as a result of the development. For the purposes of the NPPF, this level of harm would be at the lower end of less than substantial, but this is harm nonetheless.

I am also mindful that in their comments the CO goes on to conclude that *"[...] the duration of this development is 40 years. For this entire period, the landscape would be irrevocably changed. Although hedges are retained to fields, and further landscape mitigation might be possible, the*

*complete infilling of the fields on what is an undulating landscape ensures that the solar panels would be highly visible. The array of dark grey panels will disrupt the historic field pattern which contributes so positively to the setting of Halloughton CA. The industrial shape and finish of the panels would be very discordant with the patchwork of arable fields and greenery. This area is extremely popular with walkers, and includes the significant Robin Hood Way (which passes in close proximity to Brackenhurst via Westhorpe). Their enjoyment of this landscape and the experience it offers in proximity to heritage assets in Halloughton, Brackenhurst and Southwell will therefore be diminished.*

*The proposal will have some impact on the rural setting of Stubbins Farm, a non-designated heritage asset. Tree cover and landscaping offers some mitigation in this context. Notwithstanding the above concerns, we have found no harm to any other identified heritage assets, including listed buildings at Westhorpe and Halam.*

*Overall, we find the proposal to be harmful to the setting and experience of Halloughton CA, as well as to the setting of listed buildings within the CA, notably the Church of St James and the Manor House. Whilst we accept some of the arguments presented by the applicant with regards to tree and hedge buffers, the solar farm proposal remains a dominating and alien feature to this attractive rural landscape. Some harm will potentially be caused to the setting of heritage assets within the Brackenhurst complex, as well as South Hill House. Further landscape assessment is required to demonstrate conclusively the assumptions made in the applicant's heritage statement."*

The CO explains that harm to non-designated heritage assets such as Stubbins Farm requires a balanced judgement and highlights that the perceived environmental benefits of the proposal may prove to be compelling when judged against the relative significance of heritage assets such as Local Listings. However, in the context of the CO's overall conclusion as set out above, harm to the setting of any listed building is contrary to the objective of preservation required under section 66 of the Act. The proposal would also be contrary to heritage advice contained within the Council's LDF DPDs and section 16 of the NPPF. For the purposes of paragraphs 193-195 of the NPPF, the CO explains that the harm identified to the setting of Halloughton CA and listed buildings therein would be *less than substantial*. In their heritage statement, the applicant also accepts that this is the case. However, whilst they argue that this is at the lowest end of the scale of *less than substantial harm*, the CO considers this would be at the higher end - I would concur with the latter conclusion. The CO has also concluded that there would be *less than substantial* harm to the setting of designated heritage assets within the Brackenhurst complex, as well as South Hill House as a result of the development.

Whilst the applicant disputes our assessment, they have chosen to amend the plans throughout the course of the application. A summary of the amendments in full can be found in the description of the proposal; however, it is important to note that the main amendments are the removal of two parcels of panels which results in just a 4 Ha reduction in overall land take from the solar panels (see below) which would now be 76Ha overall.





*the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*

- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges. (PPG Paragraph: 013 Reference ID: 5-013-20140306).*

I also note that Historic England (HE) have recently published an advice note (Advice Note 15, Feb 2021) which discusses commercial renewable energy development and the historic environment. This note explains that HE recognise that some renewable energy technologies have the potential to cause serious damage to irreplaceable historic sites, which are themselves an integral part of the wider environmental and sustainability agenda. A truly sustainable approach to renewable energy generation needs to secure a balance between the benefits it delivers and the environmental costs it incurs.

Whilst the proposal to increase landscaping buffers and planting is noted, the solar farm would remain a dominating and alien feature to this attractive rural landscape, which is a fundamental quality to the appreciation of Halloughton CA and the listed buildings therein. User enjoyment and experience of this landscape in the setting of the abovementioned heritage assets would be greatly diminished as a result of this proposal. We therefore conclude that the development would result in *less than substantial harm* (at the higher end of the scale) to the setting and experience of Halloughton CA, as well as to the setting of listed buildings within the CA, notably the Church of St James (Grade II) and the Manor House (Grade II\*). It is also concluded that the development would result in *less than substantial harm* to the setting of designated heritage assets within the Brackenhurst complex (Grade II), as well as South Hill House (Grade II). The application is therefore contrary to the objective of preservation required under section 66 of the Act, heritage advice contained within CP14 and DM9 and the provisions of the SNP, in addition to section 16 of the NPPF.

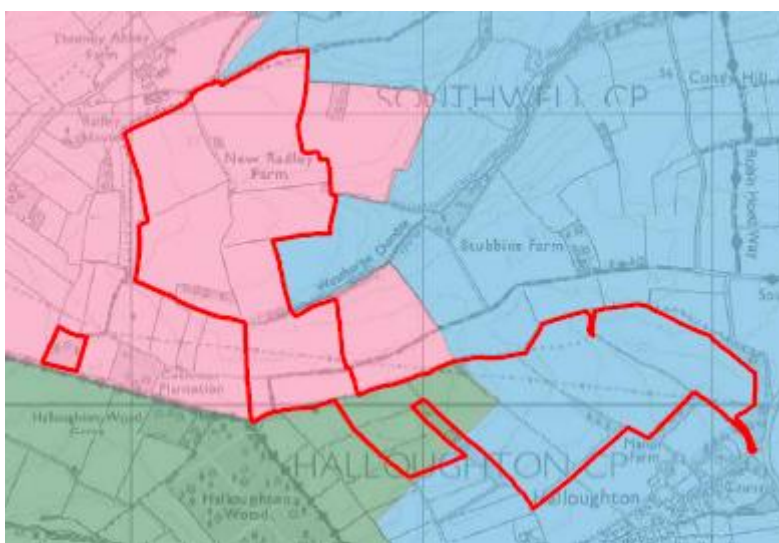
Paragraph 196 of the NPPF is clear that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal – this exercise will follow in the overall planning balance and conclusion. However, I am mindful that concluding there would be harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The harm identified must be given considerable importance and weight and can only be outweighed by material considerations powerful enough to do so. In conducting this balancing exercise, one must be conscious of the statutory presumption in favour of preservation and demonstrably apply that presumption to the proposal under consideration. For these reasons, the harm resulting from this development as identified above will carry considerable negative weight in the overall planning balance.

### Landscape

Core Policy 13 requires the landscape character of the surrounding area to be conserved and created. In terms of the visual impact of the proposed development, the NPPG advises that one of the factors LPA's will need to consider is *'...the effect of glint and glare and on neighbouring uses and aircraft safety'* and that there is *'potential to mitigate landscape and visual impacts through, for example, screening with native hedges'*. Modern solar panels are designed to absorb sunlight and, as such, glint and glare impacts resulting from reflection from the panels is minimal. The

application is accompanied by a report in this respect. In addition, it is well established that solar panels do not adversely affect aircraft safety.

At a national level, the proposed site is located in Natural England National Character Area 48 – Trent and Belvoir Vales. At a regional level, the site is located in Regional Landscape Character Type group 5 Village farmlands and division 5b wooded Village farmlands, of the East Midlands Regional Landscape Character Assessment. At the local level, the site is located within the Mid Nottinghamshire Farmlands Landscape Character Area in the Newark and Sherwood Landscape Character Assessment (2013). The site spans across Policy Zones MN PZ 37, 38 and 39 and the receiving landscape is therefore likely to exhibit characteristics of all of these. For each Policy Zone, the Landscape Character Assessment sets out an assessment of landscape condition and landscape sensitivity, and a 'landscape action'. The map extract below shows the application site and the relevant policy zones within it:



Policy Zone MN 37 (Pink): Halam Village Farmlands with Ancient Woodlands (approx. 50% of the site area) is described as an area of rolling and undulating topography, resulting in views being medium to long distance throughout most of the area with frequent wooded skylines interrupted intermittently by pylons and power lines running east-west to the south of the area. The landscape sensitivity is defined as 'high' and condition is defined as 'very good'. The specific landscape actions within this policy area include a requirement to maintain existing historic field patterns, conserve and infill hedgerows, prevent fragmentation, to conserve and enhance the ecological diversity and setting of the designated Local Wildlife Sites and conserve and enhance tree cover and landscape planting generally to improve visual unity and habitat across the Policy Zone.

Policy Zone MN 38 (Blue): Hallowington Village Farmlands (approx. 40% of the site area) is described as gently undulating and rounded, resulting in views being medium to long distance throughout most of the area with frequent wooded skylines. The landscape sensitivity is defined as 'moderate' and condition is defined as 'good'. The specific landscape actions within this policy area include a requirement to maintain existing historic field patterns, conserve and infill hedgerows, prevent fragmentation, to conserve and reinforce the ecological diversity and setting of the designated Local Wildlife Sites and conserve and enhance tree cover and landscape planting generally to improve visual unity and take account of medium and longer views across the shallow ridgelines around Southwell which allow views across to the Minster and landscape beyond. An important action for new built features is to recognise the contribution of existing heritage assets

within Southwell, visible from the northern part of this policy zone, to the wider landscape character.

Policy Zone MN 39 (Green): Thurgarton Village Farmlands with Ancient Woodland (approx. 10% of the site area) is described as having a predominantly rolling and undulating topography, with some areas of relatively flat landscape, views are often medium to long distance with frequently wooded skylines. Some areas are enclosed to some extent due to woodland vegetation and hedgerows along tracks and lanes. The landscape sensitivity is defined as 'high' and condition is defined as 'very good'. The specific landscape actions within this policy area include a requirement to conserve permanent pasture and seek opportunities to restore arable land to pastoral. Conserve, reinforce and enhance hedgerow planting along roadsides. To conserve and seek to enhance the biodiversity and setting of designated LWS's and woodland/plantation blocks with an aim to seek to reinforce green infrastructure as appropriate to improve visual unity and habitat across the Policy Zone.

It is noted that the proposed panels in combination with the ancillary infrastructure including substations, security fencing, CCTV cameras on security poles and various structures could have an adverse visual impact on the openness of the countryside and that many of the comments submitted by local residents raise concerns in this regard. A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application to identify and assess the likely significance of the landscape visual effects of the proposed development on the surrounding area. For clarity, *landscape impact* is the effect of a proposed development on the fabric, character and quality of the landscape and concerns the degree to which a proposed development will become a significant or defining characteristic of the landscape. Cumulative *visual impacts* concern the degree to which the proposed development will become a feature in particular views (or sequences of views), and the impact this has upon the people experiencing those views.

It is important to note that there is a network of PRoWs within the vicinity of the application site – see the map extract below. Within the site itself, Southwell Footpath 43 is located within the northern extent of the site and continues in an easterly direction towards Southwell. Southwell Bridleway 74 also crosses the central portion of the site, and continues past Stubbins Farm towards Cundy Hill Road.



The methodology employed in preparing an LVIA 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 initial response of the appointed consultant, VIA East Midlands (VIA), is available to view in full on the planning file. A total of 21 viewpoints were assessed as part of the July 2020 LVIA and re assessed in light of the initial comments made by VIA. Firstly, I note that comments made by local residents dispute the findings of the LVIA and the extent of the study area used therein, however VIA have accepted that a study area of 3km is sufficient considering the scale and type of development proposed.

VIA's initial response raised a number of issues, disputing the following points and requesting further information:

- The impact on the landscape features (landcover) and the character of the landscape policy zones should focus on the perception of change in the landscape rather than the biodiversity aspects/alleged enhancements of the scheme;
- The impact of the proposed development on the landscape character of the Policy Zones should be described as leading to a *high magnitude of change* on an area of *high or medium sensitivity to change*, which would will lead to a **major scale of effect** on the Policy Zones. VIA state that this will only be in an area close to the site within the actual zone of visual influence as outside of this area the effects on the local landscape will decrease to negligible rapidly. An assessment defining the area over which these adverse effects would occur should be provided;
- An assessment of the landscape and visual impacts of the construction stage should be submitted;
- A summary of the proposed enhancement measures should be included within the LVIA in order to separate the mitigation of landscape and visual effects from biodiversity aims;
- Viewpoint photographs taken when vegetation is not in leaf (showing seasonal changes) should be provided in accordance with the Guidelines for Landscape and Visual Impact Assessment (GLIVA3) viewpoint photographs;
- Additional information about the visual impact of the structures which connect with existing pylons within the site should be provided;
- Information on whether alternative access routes have been considered should be provided;
- Visual impact from Heritage viewpoint B (from PRow footpath 209/12/1, looking southwest (Southwell Footpath 11 on the Southwell Heritage trail 2) has been underestimated and should be described as *minor* for year 1 rather than *negligible*;
- Year 10 visual impact conclusions should be reconsidered as they rely completely on the successful establishment of proposed hedgerows and the effective management of existing hedgerows;
- An assessment of the visual impact on residential properties in Halloughton should be made in addition to the extent of views from isolated farms (New Radley Farm, Stubbins Farm, Halloughton Wood Farm and Thorney Abbey Farm) within the study area;
- An assessment of cumulative impact should be made.

The concluding paragraph of VIAs assessment explains that the additional information requested above was required before any final conclusions could be drawn. An addendum to the LVIA was provided in December 2020 in addition to winter photomontages which were both independently assessed by VIA. Notwithstanding the criticisms of the LVIA and addendum made by local residents, VIA and I are satisfied that the visuals and information provided within the LVIA are sufficient to enable the impact of the proposed development to be fully considered. The



conclusions of this addendum (in addition to the amendments made to the scheme) and the assessment undertaken by VIA are as follows:

### Landscape Impact

In terms of Landscape Impact, the scheme is concluded to have a negligible scale of effect on topography because there are no physical changes to topography as a result of the proposed works. With regard to Hedgerows and Trees a *minor-moderate scale of effect* is identified because there is no major removal of trees and hedgerows required as a result of the proposed works. In terms of Land Cover, the initial LVIA argued that whilst the magnitude of change would be high this would be offset by biodiversity inputs. VIA disagreed that a low sensitivity x high magnitude of change would lead to a *minor beneficial effect* on Land Cover and asked the applicant to reassess this. The LVIA addendum now accepts that there would be a **moderate adverse scale of effect** on Land Cover as opposed to a minor beneficial impact, during the 40 year lifetime of the scheme.

With regard to the effect on Landscape Character the LVIA addendum concludes that the magnitude of change would be high, which translates into **major adverse effects on Policy Zones 37, 38, and 39** for the 40 year lifetime of the scheme. It is accepted that these impacts are localised to the site area and will diminish rapidly with distance for the site, but nevertheless a substantial change to the Landscape Character of these policy zones within the site area is accepted by the applicant.

In terms of the construction impact on the landscape character of the policy zones, VIA have concluded from the LVIA addendum that the proposal would result in at least a **medium to high adverse scale of effect** on the policy zones at the construction stage. It is accepted that these impacts are localised to the site area and will diminish rapidly with distance for the proposed site, but nevertheless a substantial change to the landscape character of these policy zones within the site area can be extrapolated from the LVIA addendum.

With regard to the construction impact on the village of Halloughton the LVIA addendum explains that the presence of the access road and visual presence of construction vehicles would result in a **medium magnitude of change** to the perceptible landscape character of the village of Halloughton, however this would be localised and limited to the construction period. VIA contested that the overall scale of visual effect of the construction stage on the eastern end of the village of Halloughton was not fully described and the applicant has addressed these comments in a letter dated 2<sup>nd</sup> Feb 2021. This confirms that a *medium magnitude of change* combined with a *medium sensitivity* would result in a **moderate adverse effect** on the perception of the landscape character of the village of Halloughton. However, this effect is based on the introduction of construction machinery accessing the Application Site at the eastern end of the village rather than views of the construction activities taking place across the Application Site. The effects are therefore considered to be localised and transient in nature. VIA have not disputed this assessment.

In their discussion of the landscape impacts VIA reference the impact of the proposed scheme on the setting of Halloughton Conservation Area and the listed buildings contained therein as identified by the Conservation Officer (less than substantial harm for the purposes of the NPPF, see previous appraisal section). VIA have highlighted how they agree with the designation statement for Halloughton from 1972 which explains that the visual quality of Halloughton is attributable more to its landscape, than to its buildings. In particular, they note that in order to reach the village by Southwell Bridleway 74 and Halloughton Byway 9, for example, the visitor passes through the surrounding landscape before entering the village and this experience will be altered by the substantial change in these surroundings. This will also result in the harm that has

been identified to the setting of Halloughton Conservation Area and the listed buildings contained therein. To add to this, I also note how most comments received by local residents specifically reference the impact this development would have on changing the landscape and user experience of the countryside and PROWs.

The amendments made to the scheme have removed panels from a field in the central section of the site to the south and east of the Southwell Bridleway 74. Consequently, the proposed hedgerow along the southern edge of the Bridleway has been omitted but there is now proposed reinforcement of the existing trees and hedgerows along the northern boundary of the southern parcel with planting of further semi-mature trees. VIA have reviewed these amendments and have advised they still consider that there are long term impacts on the 'land cover' element of the landscape and long term impacts on the 'landscape character' of the site area - noting that the abovementioned landscape impacts remain unchanged in this latest information.

Taking the above into account, overall it is concluded that there would be long term impacts on the 'land cover' element of the landscape, and long term impacts on the 'landscape character' of the site area as a result of the development. It is accepted that these impacts will diminish with distance from the site, however, there would still be a **moderate adverse landscape impact** on land cover and a **major adverse scale of effects** on the character of Policy Zones 37, 38 and 39 for the 40-year lifetime of the scheme.

### Visual Impact

In terms of visual impact, the addendum included the additional viewpoint photographs requested by VIA in addition to an assessment of the visual impact of the construction phase of the development. Following receipt of amended plans a further update to the LVIA conclusions has been supplied in the letter dated 2<sup>nd</sup> Feb 2021. The conclusion is drawn that there would be a **major adverse scale of visual effect** for viewpoints (VP) 12, 14 and 15 and a **major to moderate adverse scale of visual effect** for VP4. The amendments to the plans have resulted in visual effects being reduced to a range between *major to moderate scale of effect* at the construction stage for VP1-3. Nevertheless, the above visual effects are still significant for 4 of the viewpoints at the construction stage.

VIA requested additional information regarding the selection of the site access and the submitted Highways Note (Dec 2020) best covers this. VIA accept that Options 1 (main farm entrance to the west within Halloughton) and 2 (via Stubbins Lane) are not preferable to the access chosen, due to the impact on the visual amenity of the residents of Halloughton village, and also the loss of vegetation on western side of the A612. The second option would also involve substantial loss of mature hedgerow to Stubbins Lane, as well as additional impact on the entrances to Brackenhurst College. However, VIA have noted that whilst in terms of vegetation loss the option chosen is preferable, it still alters the visual perception of the eastern end of the village of Halloughton close to listed buildings such as the Grade II listed church of St James. VIA have referenced the conclusions of the Conservation Officer in terms of the impact this would have on the setting of Halloughton Conservation Area and listed buildings therein (see heritage section above).

Turning now to the visual impacts of the development from years 1-10 the amendment to the LVIA concludes that in year 1 of the development, a **major scale of visual effect** is recorded for viewpoints 14 and 15 and a **major to moderate scale of visual effect** is recorded for viewpoint 4, all located on existing PROWs. VIA are in agreement with these conclusions and highlight that these impacts are significant. As a result of the amendments to the plans the visual effects on VP1-3 are reduced to a range between a *major to moderate scale of effect* at Year 1. The scale of effect is less than previously assessed on these viewpoints, but will continue to be dependent upon the

success of vegetation establishment. The original addendum also reconsidered the schedule of effects summary in accordance with VIAs original comments and for heritage viewpoint B (View from PRoW footpath 209/12/1, looking southwest) a range between a **moderate to negligible scale of effect** has been identified for year 1, **with a negligible scale of effect** in year 10. VIA have concluded that they still consider that there would be a minor scale of visual effect which is within this range, therefore this amendment is accepted.

In terms of the long term visual impact, the applicant has reconsidered the schedule of effects summary and now concludes that VP 4 and 14 have a **major adverse scale of effect** reducing to a range between **moderate to negligible** in year 10 which remains unchanged and is accepted by VIA. For VP15 there would continue to be a **major adverse scale of visual effect** continuing from the construction phase to year 10. The year 10 scale of effects for VP 1 ,2 and 3 (which have a **moderate** adverse scale of effects in year 1) have been amended to show a **negligible adverse scale effect** at year 10. Overall, these conclusions are accepted by VIA but remain reliant upon the establishment and future maintenance of vegetation/hedgerows. It is also worthy to note that even after 10 years there would still be a **major adverse effect** from VP15 which is on PRoW Southwell 43.

With regard to the visual effects on surrounding residential properties in Halloughton the LVIA addendum explains that at year 1 and in the construction phase there is a **moderate adverse scale of effect** from upper floor windows of some properties on the northern edge of Halloughton. The letter submitted by the applicant dated 2<sup>nd</sup> Feb 2021 clarifies which properties this impact applies to (see the image below). On this image the red pins identify where views of the site would be restricted (15 no.). The yellow pins identify where views of the site are anticipated to be heavily filtered by boundary vegetation or the properties are single storey making the potential to experience views of the construction phase and proposed development unlikely (10 no.). Finally, the green pins indicate the two storey properties from which views of the site would theoretically be possible (2 no.). VIA have not disputed this assessment.



The LVIA addendum in paragraphs 4.3 comments on the lack of inter-visibility between the representative viewpoints close to Halloughton (viewpoints 7,8,9,10,11 and 12) and the Conservation Area. However, VIA highlight that in order to reach the village by Southwell Bridleway 74 and Halloughton Byway 9, for example, the visitor passes through the surrounding



landscape before entering the village and this experience will be altered by the substantial change in the surroundings on the approach to the village.

In terms of physical impacts to the PRoW, I note that those that cross the site will remain in their current positions. The proposed site plan also shows the line of a historic PRoW will be unimpeded by the proposed development. Reinforcement of existing hedgerows is proposed along part of the western boundary of the site, in addition to a new hedgerow along the western side of the north-easternmost parcel of panels as mitigation for the scheme for footpath 42-43. Infill planting is also proposed along the northern boundary of the southern portion of the site as mitigation for bridleway 74. The PRoW that cross the site will remain open during the construction, operation and decommissioning phases. However, with respect to the impact upon user experience, the conclusions of VIA are noted, so too is the volume of comments from third parties that use these PRoW and attest to the physical and mental wellbeing benefits that accessing the countryside by these networks brings. I note that physical access to these networks would be unchanged; however, having visited the site and walked these routes they are of open aspect for the most part. There is no doubt that these footpaths and routes are greatly valued by the local community and visitors. Recreational users are considered to have high sensitivity to solar development and whilst it is true that individual attitudes to solar farms vary, the adverse visual impacts identified above would still represent a noticeable significant change to the character of the countryside and the setting of Halloughton Conservation Area for such users.

In the letter dated 2<sup>nd</sup> Feb 2021 the applicant argues that the removal of the panels in the central portion of the Site provides a clear buffer in excess of 100m between the two blocks of development. The removal of the panels from the field adjacent to the Bridleway 74 is also argued to ensure that the journey experienced by users passing through this section of the Application Site, who currently experience views of an agricultural landscape, would be retained. The implementation of additional semi-mature trees along the northern boundary of the southern parcel of the Site is argued to further reinforce and strengthen the character of Policy Zones 37, 38 and 39 in line with the landscape actions detailed in the Landscape Character Assessment. In addition, the introduction of semi-mature trees and removal of two areas of panels is argued to lower the Magnitude of Change and subsequent Scale of Effects of bridleway users on route 74. It is therefore argued, in light of these amendments, that there would not be substantial change in the surroundings experienced by the bridleway users on route 74 on their approach to the village. VIA have advised that they accept that the removal of the area of panels in the central area of the development, adjacent to PRoW Bridleway Southwell 74, will reduce the magnitude of change at the construction stage and Year 1 on viewpoints 1-4. This reduction will mean that the impacts are now less than the major adverse visual impacts previously identified, however they are still on a scale of effect between **major and moderate adverse** and are dependent upon the establishment and future maintenance of vegetation/hedgerows.

In terms of the extent of views from the isolated farms within the study area, a **moderate adverse scale of visual effect** from upper levels of New Radley Farm is identified at the construction stage, year 1 and year 10 which is accepted by VIA. For Stubbins Farm a **moderate adverse scale of visual effect** from upper levels of the property is identified at the construction stage and Year 1 which will diminish by Year 10 once the proposed vegetation along the Site's boundaries mature. For Halloughton Wood Farm and Thorney Abbey Farm **negligible visual effects** are identified, all of which are accepted by VIA.

Taking the above into account VIA have concluded that there would be *“long term impacts on PRoW Southwell 74 particularly for the viewpoints 1 and 2 which last until year 1 and dependent*

*on the success of vegetation establishment probably longer. The visual effects are reduced by the removal of the relatively small field of panels, but they are still important".* They have also concluded that there would also be long term impacts on PRoW Southwell 43 for viewpoints 14 and 15 which continue at year 10 and would be **major adverse**. These footpaths are well used, particularly PRoW Southwell 74 which links Southwell and Halloughton. The visual amenity of these routes will be reduced as views will change from open farmland to views of solar farm infrastructure including the surrounding protective fencing and as described above this will affect the visual perception of the village of Halloughton.

The concluding paragraph confirms that, whilst they welcome the reduction in area of panels and the additional and amended planting shown, due to both the Landscape and Visual Impacts identified by the applicant (as explored above), VIA are unable to support the proposed scheme. Their conclusions note that whilst they recognise the need for the provision of solar farms to achieve renewable energy targets they consider this location, close to the northern edge of the village of Halloughton, is not an appropriate setting due to the abovementioned landscape and visual impacts.

The LPA have specifically sought independent advice in order to allow a robust assessment of the proposal. Having taken account of the applicant's case, Officers concur with the independent assessment. In the context of the identified landscape and visual impacts, Officers have identified landscape and visual harm, which would result in the proposal being contrary to Core Policies 9 and 13 and the policy actions identified within the corresponding Landscape Character Assessment in addition to policy E6 of the SNP. Clearly, the landscape and visual impacts of the scheme are not to be taken lightly and the harm identified will be weighed in the overall planning balance.

#### *Impact on Highway Safety*

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which are 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, Policy E4 of the Southwell Neighbourhood Plan states that developers must ensure that existing PROWs including footpaths, cycle routes and bridle ways, which cross their sites, are retained wherever possible and enhance the Green Infrastructure in Southwell parish.

Access would be provided in the south-eastern corner of the site boundary in the form of a double width traditional farm gate from Bridle Farm Road, an adopted no through road which adjoins with the A612 Highcross Hill, approximately 45-50m east of the proposed site access. Further to the Highways Authorities original comments regarding the retention of the mature Poplar Tree adjacent to the proposed access the Council has received an application from Via EM ref. 20/02428/TWCA for the removal of this tree due to its declining health and it is understood VIA intend to carry out this work by the end of March 2021. NCC Highways have advised that in the meantime, if the solar farm works were to commence, the tree protection plan is acceptable. Notwithstanding this, the Highways Authority have also confirmed that the amended access position assists in protecting the watercourse and improving vehicle swept paths and raise no objections to the scheme subject to conditions.

I appreciate that there is local concern relating to the suitability of this access location and potential highways safety risks as a result of increased HGV movements. It is estimated that the construction phase of this development could typically generate up to 12 HGV movements per day

and the statements submitted with the application explain that construction is expected to take place over a period of approximately 6 months (up to 26 weeks). It is typical with schemes of this nature that as the construction progresses the number of deliveries decreases and once installed, the solar farm would require infrequent visits for the purposes of maintenance or cleaning of the site during the operational phase. Such work typically requires 10-20 visits per year, for the most part the facility would be unmanned, being remotely operated and monitored. Ultimately, the Highways Authority raises no objection subject to conditions relating to access construction and provision of a vehicular crossing of the highway footway & verge. I am therefore satisfied that the proposal would not amount to a detrimental impact on highway safety in accordance with Spatial Policy 7 and Policy DM5 of the DPD.

I note the Highways Authority request to condition the Tree Protection Scheme be implemented in accordance with the details submitted with this application, however, given the tree has consent for removal due to its declining health I do not consider this condition would be reasonable or necessary in order to make the development acceptable.

In terms of physical impact on PRow - VIA Rights of Way team have been consulted on this application and have advised that they raise no objection to the application and require no conditions given the amendment to the plans. Their initial comments queried the GDPR compliance of the proposed CCTV cameras, however it has been confirmed that these are standard security cameras that would be compliant. Impact upon user experience of the PRow has been considered in the previous section, however VIA have raised no objection to the scheme given there is no proposed closure or alteration to the PRow that cross the site.

#### *Impact on Flood Risk*

The NPPF directs development away from areas at highest risk of flooding employing a sequential approach. Core Policy 9 requires new development proposals to pro-actively manage surface water. The land is classified as being within Flood Zone 1. As such, it is not at risk from flooding from any main watercourses. However, given the size of the development site a Flood Risk Assessment is required to accompany the application. I also note that a number of interested parties have commented on the application in relation to flood risk, citing past flood events and raising concerns relating to the impact the solar farm could have on exacerbating flood risk in Halloughton and Southwell.

A Flood Risk Assessment (FRA) has been submitted with the application which has been reviewed by the Environment Agency and Nottinghamshire County Council as the Lead Local Flood Authority (LLFA). The solar panels would be raised above the existing ground allowing a permanent grass sward to be maintained underneath the panels. Rainfall falling onto the photovoltaic panels would runoff directly to the ground beneath the panels and infiltrate into the ground at the same rate as it does in the site's existing greenfield state, and access tracks will be permeable in nature. The extent of impermeable cover as a result of the Solar Farm would also be minimal in terms of a percentage of the total site area.

The FRA explains that any impermeable areas associated with the substation and infrastructure required is proposed to be mitigated by a sustainable drainage strategy, involving the implementation of SuDS in the form of swales, bunded storage and an attenuation basin which will manage the disposal of surface water runoff from the proposed development on the site. The SuDs proposed have been agreed in collaboration with the Southwell Flood Forum members in order to provide some downstream betterment to flood risk, with a particular focus on the rate of

discharge into the Westhorpe Dumble watercourse. The submitted FRA does not appear to show the precise extent of this betterment, as such it is difficult to qualify this statement, however it is accepted that some betterment could arise from the proposed scheme.

No objection has been raised by either the Environment Agency or the LLFA subject to a condition to ensure the development would comply with a submitted and approved detailed surface water drainage scheme based on the principles set in the FRA. I have discussed local residents concerns with the LLFA; however, they have explained that the impact on flood risk from solar farms is negligible. The concentration of runoff from solar panels is spatially localised at the micro-level and the scheme put forward in the FRA proposes to exceed the level of flood mitigation that the scheme would require. Comments from some interested parties state that the proposal would be contrary to policies E1 and E2 of the SNP however, I would not agree with this conclusion. Essentially policies E1 and E2 seek to ensure development proposals and planning applications take account of the most appropriate hydraulic models, flood risk assessments and strategic flood mitigation plans for Southwell and that proposals requiring a FRA must be designed to avoid increasing the risk of flooding both on and off site. This proposal has taken account of appropriate flood modelling and has been designed to mitigate and reduce flood risk.

Taking the above into account I am satisfied that the applicant has adequately demonstrated that the development will not adversely impact on flooding or drainage in accordance with the aims of Core Policy 9 and Core Policy 10 of the Core Strategy, Policy DM5 of the DPD, Policies E1 and E2 of the SNP and the provisions of the NPPF, subject to conditions.

#### *Impact on Archaeology*

Core Policy 14 sets out that the Council will seek to secure the continued preservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment including archaeological sites. Policy DM9 states that development proposals should take account of their effect on sites and their settings with potential for archaeological interest.

The application has been accompanied by a desk-based assessment (DBA), a geophysical survey and, at the request of the Councils Archaeological consultant, a report of an Archaeological Evaluation which summarises the results of trial trenching that has taken place at the application site. Initially the Councils Archaeological consultant recommended that the whole site required evaluation in one go prior to determination. However, given the initial survey results, size of the site and relative costs involved it was agreed, at the applicant's request, that limited trenching prior to determination could be followed by a programme of more intensive evaluation post determination if consent is granted.

The results of the initial evaluation broadly correspond with the original geophysical survey, however features were identified during the trial trenching that were not recorded in the survey and pottery dating to the Iron Age and Romano-British periods were recovered. The applicant's findings go on, however, to conclude that further archaeological work is not required. Our Archaeological consultant has explained that one of the main concepts in archaeology is that 'absence of evidence is not evidence of absence' especially when the evaluation sample is such a small percentage of the site, and further evaluation and potential mitigation is therefore still required for the rest of the site. The Archaeological consultant has explained that, whilst they have strongly advised that this should have been done prior to determination (not only to protect the archaeological resource, but to allow the applicant to assess the viability of the site based on any future mitigation required) they have recommended that the remaining work could be undertaken

as a condition of consent if granted. It would be expected that, in line with industry standards and as a common approach for sites of this size, at least a total of 3% of the whole redline boundary would need to be evaluated, minus the trenches already excavated.

Overall, despite concerns raised by local residents relating to archaeological potential, the Archaeology Officer raises no objection to the application subject to conditions. On this basis, and subject to conditions, the proposal is not considered to result in any adverse impact upon archaeological remains in accordance with Policies CP14 and DM9.

### *Impact on Ecology including Trees*

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Policy E3 of the Southwell Neighbourhood Plan states that development proposals must aim to protect and enhance Local Wildlife Sites and policy E4 requires PRoW to be considered as wildlife corridors to be protected.

There are no Sites of Special Scientific Interest (SSSI) within the study area, however Newhall Reservoir Meadow SSSI lies approx. 1.7 km to the north west of the site. The Site does fall within a SSSI Impact Risk Zones but at this location, the development type does not meet the criteria to require consultation with Natural England. Nevertheless, I note that Natural England have raised no objection to the proposed development, advising that they consider the proposal will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

For non-statutory designated sites, I note that there are a number of Local Wildlife Sites (LWS) within the application site and within 3 km of the site. A detailed Ecological Assessment and Phase 1 Habitat Survey has been undertaken which identifies ecology impacts during construction including habitat loss and disturbance of species and recommends pre-construction survey work and / or mitigation measures. A Biodiversity Management Plan has been submitted which sets out how the site would be managed for the duration of the operational life of the Solar Farm and battery stations, alongside measures to be implemented during construction, to ensure the enhancement of ecology and biodiversity as part of the scheme of landscaping and ecological improvement is secured.

Specific consideration has been given to species such as (but not limited to): Bids, Bats, Otter, Water Vole, Hazel Dormouse, Amphibians, Reptiles alongside other species and invasive species. I note comments have been received from local residents which contest the findings of the ecology surveys, however the surveys have been independently reviewed by Nottinghamshire Wildlife Trust (NWT) who has advised that whilst the Extended Phase 1 Habitat Survey was carried out in January 2020 (which is out of the optimal survey season April-September) they do not have any concerns relating to the reliability of results obtained from the survey at this time of year.

The surveys conclude that no adverse impact upon protected species has been identified albeit enhancement measures are recommended. A Biodiversity Management Plan has also been submitted and recommends a number of wildlife enhancement measures including the provision of bird and bat boxes, creation of new hedgerows, tree belts, swales, grassland, field margins and species rich seed mixes to provide favorable habitats for a range of species. NWT have reviewed the application and raise no objection to the proposal, concluding that so long as all mitigations and recommendations are adhered to and implemented (through the use of suitable planning

conditions), there should be no detrimental impact to the wildlife and habitats on site. They have also highlighted that, as mentioned at para 4.2.8 of the applicants report (based on the RSPB briefing note on Solar Energy), biodiversity gains are possible where intensively cultivated arable or grazed grassland is converted to extensive grassland and/or wildflower meadows between and/or beneath solar panels and in field margins. Therefore, NWT consider that through the creation of habitats as set out within the applicants reports, biodiversity net gains on site could be achieved.

An Arboricultural Impact Assessment and Protection Plan has been submitted with the application. The tree constraints plan submitted with this application indicates that the proposal can be achieved with minimal loss of existing green infrastructure if suitable protection measures are incorporated during construction activities. No trees, tree groups or hedgerows will require removal in their entirety, however sectional hedgerow removals (each of approximately 4-5m) will be required to allow the new access track through the site to be constructed and allow access between fields, as well as minor sections (each of 1m) to allow the new perimeter fence to be installed. The submitted landscape scheme includes details of hedgerows and trees to be protected and retained and overall the surveys conclude that this loss can be adequately mitigated through additional planting as demonstrated by the Biodiversity Management Plan, which shows there could be a net gain on site in terms of tree and hedgerow planting.

In terms of Biodiversity Net Gain (BNG) the Ecology Assessment details that a net gain calculation has been undertaken to provide quantified evidence of the change in biodiversity with the implementation of the proposed layout and landscape planting (as amended in the revised layout). This calculation considers land take, habitat loss/change and habitat creation that will accompany the proposed development, assessed using the Defra Metric Biodiversity Net Gain Calculator (version 2.0) the calculation has adopted precautionary assumptions in relation to build area, cropping and grassland quality and demonstrates that an overall net gain of 36.78% in habitat units could accompany the proposed development, as amended (23.68% net gain in hedgerow units). This net gain could be achieved through the proposed landscape planting, habitat enhancements and long-term management as set out in the BMP and Site Layout and Planting Proposals Plan.

The proposed access utilises an existing farm track which currently has a low level use. As the location of this track is adjacent to high-quality (category A) tree group G7 and moderate-quality (category B) tree group G1, there is potential for soil compaction to occur when upgrading the existing track. Therefore, within this area (approximately 100 linear metres), a 'no-dig' cellular confinement construction method has been proposed to ensure impacts to the root systems of these trees will be prevented during construction.

The Tree Officer raises no objection to the application subject to conditions requiring tree/hedgerow protection measures. It is recommended that a further condition be imposed to require the submission, approval and implantation of a detailed scheme which builds upon the aims of the site masterplan and BMP.

I note comments received by local residents raising concerns about the potential ecological impacts of this development, however, having discussed the proposal with NWT they have commented raising no objection to the proposed development, subject to conditions. I note comments that the proposal will impede movement within the natural landscape and that the development would be contrary to policies E3 and E4 of the SNP, however the proposals do incorporate measures for biodiversity enhancement and buffers to LWSs to support potential

biodiversity net gains on the site. Given the conclusions of NWT and subject to conditions, I consider the proposed development to comply with the aims of Core Policy 12 and Policy DM5 of the DPD in addition to the provisions of the SNP and the NPPF which are material considerations.

### *Impact on Amenity*

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

Residential properties lie to the north of the site (off the B6386), within the northern parcel of the application site (New Radley farm) and to the south of the site in Halloughton off the Main Street. In respect of noise the submitted assessment concludes that the operation of the solar farm, battery stations and associated equipment would generate low noise levels during operation. The solar PV panels themselves do not generate noise, noise is however attributable to the associated plant, equipment and substation. Mitigation measures are proposed for the closest inverters to Halloughton to further limit noise effects. Whilst the associated infrastructure would give rise to a slight hum during operation this would be contained to within the site boundary with the panels themselves silently converting solar irradiation to electricity. HGV movements and construction/decommissioning may also generate noise for a temporary period.

The Environmental Health Officer has reviewed the application advising that they raise no objection to the proposal on amenity grounds subject to imposing a condition requiring the submission of a Noise Attenuation Scheme to demonstrate that during the operational phase of the proposed development, the noise level arising from the development, as measured outside the nearest sensitive receptors would not exceed 5dB below the existing background levels. The agent has argued that this condition is considered to be too restrictive as it fails to specify a lower limit – essentially this would require a noise limit of 25 dB LAeq to be achieved which is 10 dB(A) below what the scheme has been designed to achieve.

Current BS4142 guidance advises that it is more important to consider absolute noise levels where background noise levels are low than the difference between the background and rating level of noise. Noise levels were therefore assessed in the submitted Noise Assessment against WHO guidance to ensure the operation will remain at least 5 dB(A) below the Lowest Observed Adverse Effects Level as specified in the WHO night noise guidance. A condition based on BS4142 would ensure the operational noise does not result in any unacceptable noise effects and the agent has put forward that a condition reflecting these limits would be accepted. The EHO has advised that a suitably worded condition based on BS4142 methodology would be acceptable and overall raise no objection to the proposal.

Given the low level nature of the development and the limited output in terms of noise emissions, subject to conditions, it is not considered that the proposal would have a significant adverse impact on neighbouring land uses in accordance with the aims of the NPPF and Policy DM5 of the DPD.

## *Other Matters*

### Length of Temporary Consent

The solar farm would be a *temporary use* of the land as the equipment would be removed and the land returned to its former condition (with the exception of the DNO Substation which will remain on site permanently as it will become part of the local electricity distribution network) when the development is decommissioned following 40 years from the date of the first export of electricity to the electrical grid. In the past, 25 year permissions have ordinarily been sought for solar farm developments. There is no government imposed limit on the lifetime of solar farms as far as I am aware set out in national guidance. It is understood that a 25 year permission was ordinarily imposed as this was the typical warranty period offered by manufacturers at the time and therefore used for modelling the viability of projects by developers. My understanding is that solar farms are more efficient for longer than previously anticipated which is extending warranties and hence improving the business models for companies that maintain solar farms. Whilst this in its own right is not necessarily a material planning consideration, the economic and environmental benefits of increasing the length of operation of the solar farm are and the benefits of renewable energy production would be a benefit for longer as a consequence. Nevertheless, 40 years is more than a generation and therefore should not be regarded as an insignificant amount of time.

### Public Consultation and the Impacts of COVID-19

I note that a number of comments from interested parties make reference to the pandemic and how this is perceived to have impacted the consultation process of the planning application. However, for clarity the applicant's submission details the community engagement undertaken prior to submission. Following postponement of the planned public consultation event, a website-based consultation approach was undertaken. To advertise the proposed development and the online consultation approach, leaflets were distributed to c. 1,140 properties and businesses within a defined area in April 2020. The website, which showed initial plans, provided an email and postal address for any comments to be sent to in addition to an online form included on the website. Consultation was also undertaken with Halloughton Parish and Southwell Town council in addition to notifying local ward members.

Whilst I appreciate that the pandemic has greatly impacted people's lives and normal procedures, the Government has been clear that the planning system and process is to continue as usual. Parish and Town Councils have adapted to non face-to-face consultation processes and notification letters and site notices have been undertaken as usual to informal local residents of the development proposal. Overall, I do not consider the pandemic has impeded or prejudiced this planning application process.

### Planting undertaken throughout the course of the application

A letter was received from the agent dated 21<sup>st</sup> January 2021 detailing additional planting that has been undertaken at Manor Farm in the vicinity of the application site. The letter states that planting has been undertaken in January 2021 which will further reduce any landscape, visual or heritage harm. It states *"[...] the planting will impact on the visibility of the proposed development from public vantage points and is therefore relevant to the consideration of visual amenity effects undertaken in the Landscape & Visual Impact Assessment (LVIA) dated July 2020 and LVIA Addendum dated December 2020 and heritage effects considered in the Heritage Desk Based Assessment dated July 2020 [...]"*.



For clarity, I have queried why this planting has been undertaken prior to the determination of this application and the agent has advised, “[the] planting referenced in this Note has not been undertaken by the Applicant and is not planting pursuant to the solar farm scheme shown on the proposed plans. It is instead separate planting which has been undertaken by the landowner, who has a keen interest in wildlife and biodiversity and is always looking at enhancing his property in this regard. There is obviously a dual benefit to the proposed development, should it be granted permission, and the Note was provided for your information to demonstrate this. There are some areas of proposed planting on the layout in the SW and SE corner where new hedgerow lines will be formed, but these will only be planted if the solar scheme is granted planning permission.” I am satisfied that the planting undertaken does not materially alter the assessments carried out in previous sections of this report as it would form part of the overall landscaping plans for this site which have been considered in both the Conservation Officer and VIA’s assessments of the scheme.

### *Planning Balance and Conclusion*

The development supports the Government’s policy for the UK’s transition to achieving a low carbon economy and assists in meeting the pressing need for deployment of renewable energy generation in the UK to meet legally binding obligations for renewable energy consumption and more challenging targets in 2030 and onwards to net-zero emissions by 2050. Both national and local planning policy place great emphasis on the creation of energy through renewable schemes where the impacts of the development are (or can be made through appropriately worded conditions) acceptable.

The 49.9MWp proposal would provide electricity equivalent to the average electrical needs of 12,000 typical UK homes (approx.) annually and would result in significant savings of carbon dioxide emissions during its anticipated lifetime (approx. 20,690t of CO<sup>2</sup> per annum). Any renewable energy production is to be welcomed and this is a substantial benefit of the scheme in terms of energy production. In accordance with the provisions of the NPPF, significant weight attaches to this aspect of the proposal.

The application has been found to be acceptable concerning impact on residential amenity, archaeology, highway safety and would not result in any increased flood risk. The proposal would also be acceptable regarding impact on ecology and could, through the biodiversity enhancements and the creation of habitats as set out within the applicants reports, result in biodiversity net gains being achieved across the site. The proposed ecological mitigation, management and enhancement reflects common practice in the development of solar farms. It also accords with the expectations of local and national planning policy for developments to contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains where possible. As such, this potential for biodiversity net gain on site attracts moderate weight.

In terms of additional environmental benefits, the proposal would also provide for net betterment to downstream flood risk (with a particular focus on the rate of discharge into the Westhorpe Dumble watercourse). I am mindful that use of a sustainable drainage strategy is common practice in the development of solar farms to mitigate and offset the impermeable areas associated with the substation and infrastructure required but nevertheless, some downstream betterment would arise from the scheme. Moderate weight attaches to this.

In terms of socio-economic benefits, the approx. £30m of private capital investment in renewable energy infrastructure would provide employment during the short construction phase and

thereafter in the management and maintenance of the site (estimated creation of 70-80 jobs during construction) in addition to the creation of jobs within the supply chain. Overall, the proposal would contribute to the government's commitment to securing economic growth whilst meeting the challenge of a low carbon future. In addition, the scheme would result in a business rates contribution to the District of approx. £190,000. Moderate weight attaches to these socio-economic benefits.

The proposed development would be for a duration of forty years and the agricultural land would be returned to its former condition at the end of the permitted period (with the exception of the DNO Substation which will remain on site permanently as it will become part of the local electricity distribution network). However, the scheme would have a marked impact on the locality over a considerable number of years – forty years is more than a generation and therefore should not be regarded as an insignificant amount of time. As such, the argument that the development is temporary and reversible, and thus any impact is mitigated, does not merit material weight in the overall planning balance.

It is to be noted that the proposal would not result in the loss of best and most versatile agricultural land, which is a factor of neutral weight insofar as planning decisions should favour the effective use of brownfield land and land of poorer agricultural quality in preference to that of a higher quality. In terms of the search for alternative sites, the applicant has demonstrated the absence of appropriately sized and available previously developed land/brownfield sites within the search area identified. Although that might lead to the conclusion that there is no better site in the immediate locality, it remains incumbent to consider the application site on its merits in light of the main issues that I have identified. Moreover, whilst there is a need, generally, to increase electricity generation from renewable sources, there is no specific target for the District, and thus no reconcilable basis to determine the importance or otherwise of a lack of alternative sites therein. Accordingly, no more than limited weight is afforded in the planning balance.

In the context of landscape impacts, the scale of this scheme should not be underestimated. At 49.9MW this proposal is only just below the 50MW installed capacity threshold of being considered a nationally significant infrastructure project. It has been concluded that the scheme would result in a *moderate adverse landscape impact* on land cover and a *major adverse scale of effects* on the local landscape character (Mid Nottinghamshire Farmlands Policy Zones 37, 38 and 39) for the forty-year lifetime of the scheme. There would also be long-term visual impacts on public rights of way (PRoW Southwell 74 and PRoW Southwell 43) which would last at least until Year 10 of the development and probably longer. These rights of way are well used and the visual amenity of these routes will be reduced which consequently will affect the visual perception of the village of Halloughton. In summarising the overall level of harm, the degree to which the proposal would have an adverse impact on the character and appearance of the countryside merits significant weight.

Whilst it would be possible to minimise the impacts of the scheme by allowing supplemented hedgerows to grow and to retain existing and add new trees, it is relevant to note that any new planting would be unlikely to achieve the desired level of mitigation in anything less than a period of ten years and well into the lifespan of the development. Given the nature of the topography, the landscape and visual character of the area and the close proximity of the proposal to Halloughton village, the proposal would nevertheless continue to have a looming and incongruous impact on the enjoyment of the countryside. In terms of appreciating the setting of Halloughton, irrespective of the planting proposed, the proposal would remain a dominating and alien feature

to this attractive rural landscape, which is also a fundamental quality to the appreciation of the Halloughton Conservation area and designated heritage assets within the vicinity.

Special regard is to be given to the desirability of preserving the setting of Halloughton Conservation Area and the listed buildings within it and great weight is to be given to these assets' conservation commensurate with their importance. It has been concluded, and agreed by the applicant, that the development would result in *less than substantial harm* to the setting of Halloughton Conservation Area and the Grade II listed buildings therein, notably the Church of St James (Grade II) and the Manor House (Grade II\*). It has also been concluded that the development would result in *less than substantial harm* to the setting of designated heritage assets within the Brackenhurst complex (Grade II), as well as South Hill House (Grade II). Even with intervening planting, the extent, elevation and quasi-industrial nature of the proposed solar farm would remove the characteristic context of the Halloughton Conservation Area and the listed buildings within it. User enjoyment and experience of this landscape in the setting of the abovementioned heritage assets would be greatly diminished. It has therefore been concluded that the proposal would result in *less than substantial harm* to the significance of the abovementioned designated heritage assets. This gives rise to a strong presumption against planning permission being granted and carries significant negative weight.

However, paragraph 196 of the NPPF is clear that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. However, the harm identified must be given considerable importance and weight and can only be outweighed by material considerations powerful enough to do so.

Addressing climate change is in itself a public benefit and renewable energy is also sustainable by definition. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The development of renewable energy is important to the future energy security of the country and cannot be underestimated. However, the considerable weight and importance placed on the desirability of preserving designated heritage assets and their setting; and the special attention to be given to the desirability of preserving or enhancing the character or appearance of conservation areas, leads to a strong presumption against the grant of planning permission for development which causes harm.

When all of the above matters are weighed together, it is my judgement that the proposed development would cause harm of a weight and magnitude, which would tip the balance and outweigh the benefits of the development. This in itself conflicts with Policies CP10 and DM4 of the Development Plan which promote renewable and low carbon energy generation to address climate change. These policies are supportive of renewable energy where benefits are not outweighed by detrimental impact upon (amongst others) heritage assets and settings, and landscape character. The proposal would therefore be contrary to the objective of preservation required under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in conflict with the development plan with particular reference to policies CP9, 10, 13, 14 of the Amended Core Strategy (2019), policies DM4, 5, 9 and 12 of the Allocations and Development Management DPD (2013) in addition to the provisions of the Southwell Neighbourhood Plan (2016), Landscape Character Assessment SPD (2013) and the NPPF (2019) when read as a whole.

I therefore recommend, on balance, that planning permission is refused.

## **RECOMMENDATION**

### **That planning permission is refused for the following reason**

#### **01**

In the opinion of the District Council the proposed development, by virtue of its sheer scale, siting and close proximity to Halloughton Conservation Area and designated heritage assets therein would have a long-term detrimental impact on the landscape character and visual amenity of the area. The proposal would result in a *moderate adverse landscape impact* on land cover and a *major adverse scale of effects* on the local landscape character (Mid Nottinghamshire Farmlands Policy Zones 37, 38 and 39) for the forty-year lifetime of the scheme. There would also be long-term visual impacts on well used public rights of way (PRoW Southwell 74 and PRoW Southwell 43) which would last at least until Year 10 of the development and likely longer. The proposal would also fail to conserve and enhance landscape character and visual amenity and therefore would be harmful to the character, appearance and visual perception of the area. The proposed development would also result in less than substantial harm on the setting and experience of Halloughton Conservation Area, as well as to the setting of listed buildings within the Conservation Area, notably the Church of St James (Grade II) and the Manor House (Grade II\*) in addition to resulting in less than substantial harm to the setting of designated heritage assets within the Brackenhurst complex (Grade II) and South Hill House (Grade II). This level of harm would result in loss of significance to these designated heritage assets.

Although the proposal would undoubtedly bring meaningful environmental and economic benefits to the District, in the context of paragraph 196 of the NPPF and in the overall planning balance, these are not considered sufficient to outweigh the harm identified on the setting of the abovementioned designated heritage assets or the landscape character and visual amenity of the area by the sheer scale and siting of the proposal. The proposal would therefore be contrary to the objective of preservation required under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in conflict with the development plan with particular reference to policies CP9, 10, 13, 14 of the Amended Core Strategy (2019), policies DM4, 5, 9 and 12 of the Allocations and Development Management DPD (2013) in addition to the provisions of the Southwell Neighbourhood Plan (2016), Landscape Character Assessment SPD (2013) and the NPPF (2019) when read as a whole.

### **Informative Notes to the Applicant**

#### **01**

Refused drawing numbers:

- Site location Plan – Ref. P18-2917\_02 Rev E
- Indicative WPD and Customer Compound Layout – Ref. HLG-01-2001 Rev 01 Sheet 1 of 1
- Indicative WPD and Customer Compound Elevations – Ref. HLG-01-2002 Rev 01 Sheet 1 of 1
- Tree Protection Plan – Highways Access No. BHA\_665\_03
- Typical Fence, Track & CCTV Details – Ref. JBM-HALLOU-SD-02
- Typical Trench Section Details – Ref. JBM-HALLOU-SD-03
- Typical Inverter Substation Details – Ref. JBM-HALLOU-SD-04
- Typical Inverter Substation Details – Ref. JBM-HALLOU-SD-05
- Typical Battery Storage Systems Details – Ref. JBM-HALLOU-SD-06 Rev A
- Typical Customer Switchgear Details – Ref. JBM-HALLOU-SD-07 Rev A
- Site Access Visibility Splays Plan No. P18-2917 FIGURE 1 Rev A

- Site Layout and Planting Proposal – Ref. P18-2917\_12 Sheet No: \_ Rev L
- Swept Path Analysis: Proposed Site Access 15.4m Articulated Vehicle No. P18-2917 FIGURE 2 Rev A
- Typical PV Table Details (showing 3 in portrait orientation) – Ref. Typical PV Table Details 3P Rev A
- Typical PV Table Details (showing 6 in landscape orientation) – Ref. Typical PV Table Details Rev A

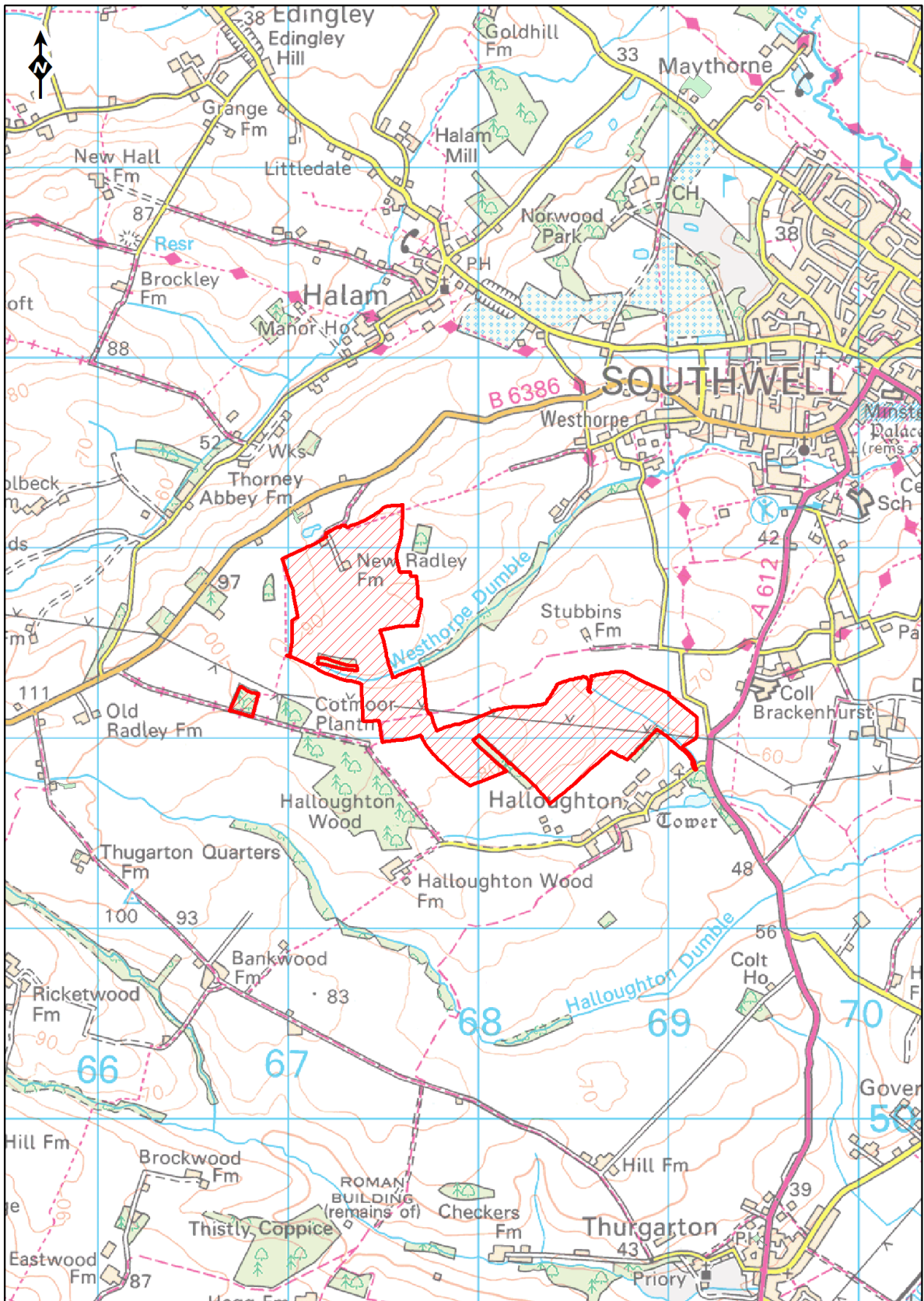
### BACKGROUND PAPERS

Application case file.

For further information, please contact Honor Whitfield on ext 5827

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

**Lisa Hughes**  
**Business Manager – Growth and Regeneration**



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## PLANNING COMMITTEE – 2 MARCH 2021

<b>Application No:</b>	<b>20/02484/S73M</b>	
<b>Proposal:</b>	<b>Application to vary conditions 8, 24 and 25 attached to planning permission 18/02279/OUTM to amend the timescale for completion of the conditions</b>	
<b>Location:</b>	<b>Yorke Drive And Lincoln Road Playing Field, Lincoln Road, Newark On Trent</b>	
<b>Applicant:</b>	<b>Mrs Cara Clarkson, Newark &amp; Sherwood District Council</b>	
<b>Agent:</b>	<b>N/A</b>	
<b>Registered:</b>	<b>04 January 2021</b>	<b>Target Date: 05 April 2021</b>
<b>Link to Application Documents:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QLFZEWLBKZA00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QLFZEWLBKZA00</a>	

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

### The Site

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

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

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

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

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

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

### Relevant Planning History

18/02279/OUTM Selective demolition and redevelopment of parts of the existing Yorke Drive Estate and the erection of new mixed tenure housing, community and recreational facilities on the adjoining Lincoln Road Playing Field site, resulting in the development of up to 320 homes – permission 06.11.2019

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

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

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

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

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

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

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

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

01880966 Erection of elderly person's bungalows – permission 31.01.1989

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

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



01840639 Erect portable sports changing unit – permission 07.08.1984

01830080 27 bungalows for the elderly, 1 wardens house, 1 day centre – permission 22.03.1983

0182579 Residential development housing for older people – permission 08.09.1982

### The Proposal

The application seeks planning permission for the variation of conditions 8 (playing field provision), 24 (Lincoln Road access) and 25 (Lincoln Road visibility splays) attached to 18/02279/OUTM to amend the timescales for compliance with the conditions.

Condition 8 attached to 18/02279/OUTM states:

*Linked to the requirements of Condition 3, the reserved matters application(s) shall include a detailed plan for the management and phasing of the development, including the provision of the temporary and permanent playing field area. The management and phasing plan details shall ensure that the works which result in the loss of playing field area are not commenced before the works to temporarily or permanently replace those playing field areas are available for use. The development hereby permitted shall not be carried out other than in accordance with the approved details.*

*Reason: To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures continuity of use [phasing provision] and to accord with Spatial Policy 8 of the Core Strategy.*

The Covering Letter submitted with the application states that a ‘*detailed assessment of the playing field area, to ascertain the necessary works to achieve FA Good, indicate that intrusive supplementary drainage will not be required. This provides the opportunity therefore to condense the length of time to undertake necessary works and to complete the field works in one phase. A single regrading of the pitch rather than phased will allow for a better final product in terms of pitch level and quality.*’ As such, the condition needs rewording to enable some potential temporary loss of on-site provision albeit this would only be in the event that this is done in agreement with all bodies concerned.

Condition 24 attached to 18/02279/OUTM states:

*No development shall commence on any part of the application site unless or until a suitable access has been provided at Lincoln Road as shown for indicative purposes on drawing 70045283-SK-003-P03 to the satisfaction of the Local Planning Authority.*

*Reason: In the interests of highway safety.*

Condition 25 attached to 18/02279/OUTM states:

*No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 90m at the new junction with Lincoln Road are provided in accordance with drawing 70045283-SK-004-P02. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.*

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

The Covering Letter submitted with the application states that *'the Councils commitment to residents directly impacted by the regeneration proposals through the demolition of their home has been to decant each household once only, as far as it practicably possible. The intention of the phasing strategy allows for the development of new homes on the Lincoln Road playing fields before demolition is required to the majority of the estate. Requiring the access at Lincoln Road to be provided in advance of development will result in the demolition of homes before new properties have been built in which to rehouse residents. This goes against the original intention of the Council and commitment to residents'*. As such, it is proposed that the conditions 24 and 25 be reworded so that access onto Lincoln Road and required visibility splays are provided at a later phase as opposed to prior to the commencement of development.

The masterplan submitted with application no 18/02279/OUTM indicated that development would take place in 4 phases. As the more detailed scheme has been progressed, the phases have been partly subdivided and partly reordered. The main changes include:

- the delivery of the playing fields and pavilion all in one go in the first phase - Phase 1A (as opposed to being implemented more gradually through the duration of the estate regeneration works by ensuring at least 3 full size pitches, in which a number of junior pitch sizes can be cross marked to be retained at all times)
- Phase 1B would see the delivery of the first new dwellings (affordable dwellings to enable early decanting) within the north east corner as opposed to the north west corner of the existing playing fields.
- a temporary access to serve Phase 2A from Yorke Drive would be created;
- the main new access off Lincoln Road would be provided at Phase 2B.

All development (other than access) within each of the phases will need to be subject of reserved matters application to approve siting, layout, landscaping and design. The originally approved and revised phasing plans are both shown below for comparison purposes:





Amended phasing proposed by 20/02484/S73

The application is accompanied by the following:

- Application Form
- Covering Letter
- Latest Phasing Diagrams/Plans
- Archaeological Evaluation (September 2020)
- Geoenvironmental Appraisal Phase 1A (February 2021)
- Geoenvironmental Appraisal Phases 1B, 2A and 4 (February 2021)

### Public Advertisement Procedure

Occupiers of 648 properties have been individually notified by letter (which includes residents both within and near to the application site). A site notice has displayed around the site and an advert has been placed in the local press.

### Planning Policy Framework

#### The Development Plan

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

- Spatial Policy 1 Settlement Hierarchy
- Spatial Policy 2 Spatial Distribution of Growth
- Spatial Policy 6 Infrastructure for Growth
- Spatial Policy 7 Sustainable Transport
- Spatial Policy 8 Protecting and Promoting Leisure and Community Facilities
- Core Policy 1 Affordable Housing Provision
- Core Policy 3 Housing Mix, Type, and Density
- Core Policy 9 Sustainable Design
- Core Policy 10 Climate Change
- Core Policy 12 Biodiversity and Green Infrastructure
- NAP1 Newark Urban Area
- NAP3 Newark Urban Area Sports and Leisure Facilities

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

- Policy DM1 Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM2 Development on Allocated Sites
- Policy DM3 Developer Contributions and Planning Obligations
- Policy DM5 Design
- Policy DM7 Biodiversity and Green Infrastructure
- Policy DM10 Pollution and Hazardous Materials
- Policy DM12 Presumption in Favour of Sustainable Development
- NUA/Ho/4 Newark Urban Area – Housing Site 4 – Yorke Drive Policy Area

### **Other Material Planning Considerations**

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

### Consultations

**Newark Town Council** - No objection

**Sport England** - Support the principle of the rationale for the re-wording of condition 8.

It should be made clear that the off-site temporary arrangement is just that - temporary. The condition is now different to that originally envisaged as the temporary arrangement were originally to be on site.

**Environment Agency** - no comments.

**Trent Valley Internal Drainage Board** - no comments.

**Network Rail** – no objection.

**Highways England** – no objection.

**NCC Highways Authority (Highway Safety)** – Conditions 24 & 25 need rewording to allow phase 1 to be built prior to the demolition of existing homes, to allow local residents to decant. However, the applicant's suggested condition seeks provision of the new junction at Lincoln Road "prior to the **final phase**". I think it could and should occur earlier than this; definitely prior to phase 3, and probably before the start of phase 2B. To delay the new junction will mean more lorries passing down existing residential streets.

**NCC Lead Local Flood Risk Authority** – no objection.

**NSDC Environmental Health (Reactive)** – no comments.

**NSDC Environmental Health (Contaminated Land)** – Comments on the two separate Geoenvironmental Appraisal reports in support of the planning application provided. Further investigation is required. Continued use of the full phased condition is therefore recommended

**NSDC Tree Officer** – no comments.

**NSDC Archaeology Officer** - There is no need for further archaeological work in the Phase 1 area and there is no objection on archaeological grounds to development proceeding as detailed for Phase 1. For completeness, they should still undertake the trenching for Phase 4.

**2 letters of representation have been received from neighbours/interested parties** which can be summarised as follows:

- Where will new footpaths be located? New footpaths should not be lit and should not be a rat run for people behind existing dwellings.
- There is no justification for building new houses on valuable green space.
- Community presentations have shown various access options with no mention of mass demolition. Can't see why perfectly good homes are being demolished.
- It seems to me that the council has been telling lies to the tenants at these presentations. The reason for the demolition of ONLY half of the estate and building new houses leading to the new estate is purely window dressing to make it not look like a council estate, to make it look more attractive to buyers and the latest plan.
- Not enough council houses to replace the ones being demolished.
- Plans made by or on behalf of any council should be approved by the government or another independent council or the council can approve whatever plans it wants.

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

#### **The Principle of Development**

This application is made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact.

If the application is acceptable a decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, as appropriate. As a Section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

The principle of the development has already been established through the granting of the outline permission for the development in November 2019. There has been no significant material change in the Development Plan context since this time. The proposal site is located in Newark, a Sub Regional Centre, allocated for development in the Core Strategy (adopted 2019) under Spatial Policy 1 and Spatial Policy 2. The site forms Housing Site 4 as identified in Policy NUA/Ho/4 of the Allocations and Development Management DPD (adopted 2013).



Policy NUA/Ho/4 sets out a detailed approach for the bringing forward of the site. This approach requires the proposals to be presented as part of a Masterplan which will:

- i. Include proposals for improved linkages between the policy area and the wider Bridge Ward including Lincoln Road and Northern Road Industrial Estates;*
- ii. Include proposals for phasing and delivery methods for the redevelopment;*
- iii. Meet the general policy requirements in the Core Strategy and the Development Management Policies in Chapter 7, with particular reference to DM Policy 2 Allocated Sites and Policy DM3 Developer Contributions and Planning Obligations; and*
- iv. Facilitate pre-determination archaeological evaluation and post-determination mitigation measures.*

*Within the existing Yorke Drive Estate the Master Plan will provide for the following:*

- i. Removal of poorer quality housing and replacement of new dwellings;*
- ii. Change of housing type to increase mix of tenure and range of housing; and*
- iii. Improvements to the layout and public realm of the estate;*

*Within the Lincoln Road Playing Field the Master Plan will address the following:*

- i. Suitable playing pitches are retained to meet the requirements of Spatial Policy 8; and*
- ii. Additional access is provided to the site via Lincoln Road.*

*In allocating this site for housing development it is anticipated that approximately 230 net additional dwellings will be developed.*

The DPD confirms the site is allocated for regeneration and redevelopment and outline planning permission has secured a comprehensive scheme of regenerating existing housing and developing new stock in a coordinated and sustainable manner. The main issue to consider is whether it is appropriate to allow the variation of the conditions attached to this outline consent to enable the amended timescales and phases for the delivery with particular regard to the delivery of the Lincoln Road access at a later phase and the delivery of the reconfigured playing fields at an earlier phase (resulting in some temporary loss of on-site provision) than originally envisaged. As such, the main issues to consider relate to the impact on the existing open space/playing fields and the impact on highways.

#### Impact on Existing Open Space / Playing Fields

Policy NUA/Ho/4 requires '*suitable playing pitches are retained to meet the requirements of Spatial Policy 8*'. Spatial Policy 8 is broadly consistent with the more detailed guidance specifically in relation to planning fields contained within the Sport England Playing Fields Policy and Guidance Document (March 2018). This states that Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of a playing field unless the development meets one or more of five exceptions. Sport England raised no objection to the granting of the outline consent on grounds that they considered the proposal to meet the following exception:

E1 A robust and up-to-date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted, and the site has no special significance to the interests of sport.

And in part Exception 4 which states:

E4 The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- of equivalent or better quality, and
- of equivalent or greater quantity, and
- in a suitable location, and
- subject to equivalent or better accessibility and management arrangements.

The current condition 8 is worded such that it was originally envisaged that the playing fields would be delivered in a phased manner throughout the course of the overall development. The suggested amended wording provides the opportunity to condense the length of time to undertake necessary works and to complete the field works in one phase. A single regrading of the pitch rather than phased would allow for a better final product in terms of pitch level and quality. Given the rationale provided, Sport England raises no objection to the proposed variation of Condition 8. Some potential temporary loss of on-site provision may result, albeit this would only be in the event that this is done in agreement with all bodies concerned including Fernwood Foxes FC. The proposed variation does not alter the overall quantum of playing pitch provision approved by the outline consent.

Overall, it is considered that the proposed variation of Condition 8 is acceptable and complies with the requirements of Policy NUA/Ho/4 to provide suitable playing pitches subject to a revised condition which also requires the submission and approval of a management plan to include details of the provision of the temporary and permanent playing field area.

#### Highway Matters

Policy NUA/Ho/4 requires *'improved linkages between the policy area and the wider Bridge Ward including Lincoln Road' and Northern Road Industrial Estates and 'additional access is provided to the site via Lincoln Road'*. Spatial Policy 7 of the Core Strategy seeks to ensure that the vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The indicative masterplan submitted at outline stage complies with the requirement of Policy NUA/Ho/4 to provide an additional access via Lincoln Road, a key part of the overall masterplan proposals. Details of the access were approved by the outline consent in the form of a priority junction with right hand turning lane for access and egress from the junction.

Conditions 24 and 25 of the outline consent require the provision of this access prior to the commencement of development. However, it is now proposed that temporary construction access would be provided to the north of the existing playing fields area off Telford Drive (through Brunel Business Park) as shown in the Phase 1A: Access diagram below.

Phase 1A: Access

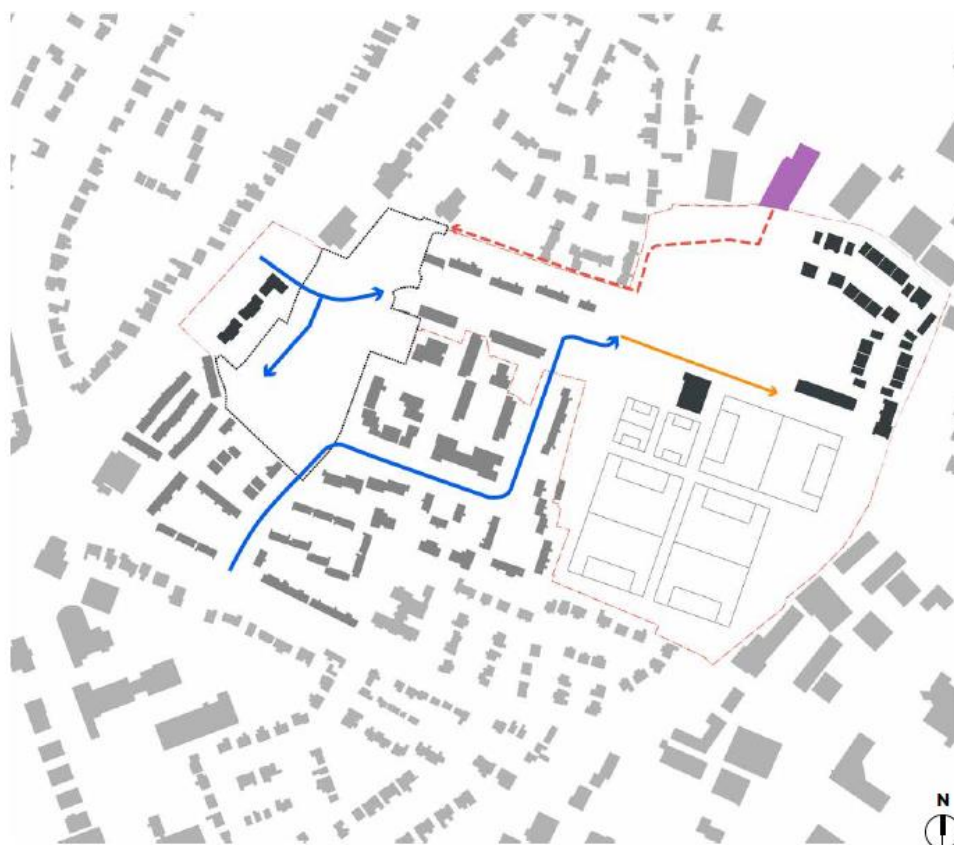


This would enable the development proposed in Phases 1A and Phase 1B of the amended phasing plan to be built without construction traffic using Yorke Drive. The houses to be built in Phase 1B would enable the decanting of residents within houses proposed for demolition. Temporary residential access to serve these new dwellings would be provided via Yorke Drive.

Some of the existing dwellings proposed for demolition would be in Phase 2A. Construction access for this demolition would also be via Telford Drive. The Phase 2B: Access Diagram below shows whilst construction access would continue to be via Telford Drive, the new access off Lincoln Road would also be provided prior to the erection of new dwellings proposed by Phase 2B in order for a new separate residential access off Lincoln Road to be provided.



Phase 2B: Access



The Highways Officer accepts the reason for rewording Conditions 24 and 25 provided that the amended wording states that the Lincoln Road access is provided prior to the erection of dwellings in Phase 2B of the amended phasing plan.

Overall, I am satisfied that the proposed variation of Conditions 24 and 25 to enable later provision of the proposed access off Lincoln Road would still meet the requirements of Policy NUA/Ho/4 and would not result in any adverse impact upon highway safety in accordance with Spatial Policy 7 of the Core Strategy.

The relevance of other conditions attached to Application Number 18/02279/OUTM

Outline planning consent	18/02279/OUTM Requirement	Suggested Change via 20/02484/S73M
Condition 1	Timescales	Date for commencement of development needs to refer to five years from the date of the original outline consent.
Condition 2	Appearance, landscaping layout and scale	To remain – no change proposed.
Condition 3	Programme and phasing	Amend to refer to latest Phasing Plan and to require submission of updated phasing plans with each subsequent reserved matters application (as opposed to prior to commencement of each phase as previously worded).
Condition 4	S106 requirements	To remain but with a minor amendment to exclude demolition and construction of the pavilion as an exception to the pre-commencement requirement of this condition. This is because

		the contributions are triggered by the construction of new dwellings only.
Condition 5	Compliance with illustrative masterplans and parameter plans	To remain – no change proposed.
Condition 6	Quantum of dwellings	To remain – no change proposed.
Condition 7	Heights	To remain – no change proposed.
Condition 8	Loss to playing fields	To amend in accordance with wording recommended by Sport England to refer to on-site provision or the submission and approval of an alternative scheme for temporary off-site provision made by agreement with the (contracted) users of the pitches until such time as the improved playing field area is available for use.
Condition 9	Pitch improvement strategy	Minor amendment to make clear that the strategy is required on reserved matters application(s) that relate to development on the existing playing fields only.
Condition 10	Playing Field Management and Maintenance Scheme	To remain – no change proposed.
Condition 11	Design and layout of the new pavilion	Minor amendment to make clear that approval in writing by the LPA should be through the submission and approval of a reserved matters application.
Condition 12	Archaeology	No archaeological remains have been found in the Phase 1A or 1B area in accordance with the Archaeological Evaluation dated September 2020 and subsequent trial trenching undertaken in February 2021. Further investigation in the Phase 4 area is still required. As such, an amendment to relate the condition to the outstanding investigation of the phase 4 area only is required.
Condition 13	Arboricultural info	Minor amendment to make it clear that arb info is required for each phase.
Condition 14	Landscape scheme details	To remain – no change proposed.
Condition 15	Construction hours	To remain – no change proposed.
Condition 16	CEMP	Minor amendment to make it clear that CEMP is required for each phase.
Condition 17	Ground investigation reports	To remain – no change proposed.
Condition 18	Ecology plan	Minor amendment to make it clear that an ecology mitigation plan is required for each phase.
Condition 19	FRA & Drainage strategy	Minor amendment to make it clear that drainage plans are required for each phase.

Condition 20	Site clearance	Minor amendment to allow scope for development to take place within a phase during the bird nesting season if first inspected by a suitably qualified ecologist and a report submitted and approved in writing by the local planning authority prior to such works taking place.
Condition 21	Affordable Housing Statement with timetable for rehousing	Minor amendment to take out requirement to provide the statement if the development phase does not include the demolition of existing dwellings or erection of new dwellings.
Condition 22	Confirm design and spec of Public Right Of Way	Minor change to wording to make clearer/refer to phases.
Condition 23	Highways details	To remain – no change proposed.
Condition 24	Lincoln Rd Access	Amend so no longer a pre-commencement condition. The Lincoln Road access should be provided before the erection of dwellings in Phase 2B, Phase 3 or Phase 4 on the revised Phasing Strategy and plan (received 09.02.21).
Condition 25	Lincoln Rd Visibility Splays	Amend so no longer a pre-commencement condition. The Lincoln Road visibility splays should be provided before the erection of dwellings in Phase 2B, Phase 3 or Phase 4 on the revised Phasing Strategy and plan (received 09.02.21).
Condition 26	Travel Plan	To remain – no change proposed.
Condition 27	Construction traffic plan	Minor amendment to enable a construction management plan to be submitted in relation to each phase as opposed to the entire development.
Condition 28	Bat mitigation	To remain – no change proposed.
Condition 29	Noise Survey	Minor amendment to make it clear that a noise survey is only required for phases which include the erection of new dwellings.

### **Other Matters**

Letters received from interested parties raise issues in relation to the loss of green space and the acceptability of the proposed demolition and erection of new dwellings. These are issues relating to the principle of development and were fully addressed at the time of determining the outline planning permission (application no 18/02279/OUTM).

Queries in relation to existing and proposed footpaths have also been raised. It is understood that the parts of the route of the existing rights of way would require diversion. Details of these diversions would need to be shown on the layouts submitted as part of any subsequent reserved matters applications and formal diversion needs to be applied for under a separate process. Condition 22 requires details of the diversion to be approved prior to the closure or obstruction of any existing public rights of way.

The Town and Country Planning General Regulations 1992 enable local planning authorities to determine their own development proposals on land in which they have an interest. This is provided that the application is advertised and decided in public by Planning Committee.

### **Conclusion**

Overall, the proposed variations are considered to be acceptable. The delivery of the playing fields in one earlier phase is considered acceptable subject to the submission and approval of a management plan to include details of the provision of the temporary and permanent playing field area. The provision of the Lincoln Road access at a later phase would not result in any adverse impact upon the highways safety. It is not considered that there are any other changes to circumstances which affect the consideration of this application.

Therefore, subject to the attachment of the relevant conditions addressed earlier in this report, the proposed variation is considered to be acceptable and is recommended for approval.

### **RECOMMENDATION**

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

#### **Conditions**

01

The development hereby permitted shall be begun either before 06.11.2024, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved on any phase, whichever is the later.

The reserved matters application for the first phase or sub phase of the development shall be made to the Local Planning Authority before the expiration of five years from the date of this permission and all subsequent reserved matters applications shall be submitted before the expiration of eight 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

Details of the appearance, landscaping, layout and scale ('the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before development begins and the development shall be carried out as approved.

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

03

The development hereby approved shall be implemented substantively in accordance with the revised Phasing Strategy and plan (received 09.02.21). Each reserved matters application for any phase or sub phase, shall include the submission of an up to date Phasing Plan and Programme. The submitted details shall include the provision of the playing field area, children's play areas, community facilities comprising pavilion, amenity open space, access and shared parking areas.

Development of each phase shall accord with the latest Phasing Plan and Programme unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the site is developed in a satisfactory manner and for the avoidance doubt.

04

No development other than the demolition and construction of the pavilion shall commence on any phase pursuant to Condition 3 until a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 relating to the land subject of this consent has been entered into and completed by all parties with an interest in the land and has been lodged with and executed by the Council. The said obligation is to provide the following:

Reason: In order to secure the necessary infrastructure and contribution requirements in accordance in the interests of achieving a sustainable development.

	<b>Contribution Based on up to 320 Dwellings Total/190 Net Additional Dwellings</b> (NB Some contributions cannot be fixed until final overall numbers are known. The S106 would therefore be set out, where relevant, as a series of formulas to be applied to each separate obligation dependent on details submitted in the reserved matters stage).
<b>Open Space / Children's Play Area</b>	On site provision & maintenance of amenity green spaces and provision for children and young people including:  Amenity Green Space = Wildflower Meadow + Public Open Space + Informal pitch run off space and 600m fitness trail with equipment = 1.6 ha (16,000 m <sup>2</sup> ).  Provision for children and Young people: LEAP + LAP's = 0.14 ha (1400m <sup>2</sup> ).
<b>Outdoor sports facilities</b>	190 dwellings x (£737.72 provision + £1148.05 maintenance) = £358,296 + indexation
<b>Education</b>	£380,960 to provide 20 additional primary places (based on build cost) + indexation
<b>Community Facilities</b>	On site provision and maintenance of improved replacement pavilion with a minimum 450m <sup>2</sup> area including: <ul style="list-style-type: none"> <li>• Minimum 200 m<sup>2</sup>/ mixed use hall</li> <li>• Minimum 136 m<sup>2</sup>/ changing and shower facilities (4 changing rooms + additional facilities)</li> <li>• Lockers</li> <li>• Minimum 20 m<sup>2</sup>/ kitchen facility</li> <li>• Minimum 30 m<sup>2</sup>/ Equipment storage</li> </ul>
<b>Transport (for 65+ dwellings)</b>	Bus Stop Improvements contribution £40,000 + indexation.

05

Reserved matter submissions for any phase or any use shall be substantively in accordance with the Illustrative Masterplan (reference number 40 Rev B) and Design and Access Statement (revised Feb 2019) including parameter plans contained within this document as amended by the Sport England Response Addendum (March 2019) unless otherwise agreed in writing by the Local Planning Authority. For the avoidance of doubt, the parameter plans include the following:

- 40 Rev B Illustrative Masterplan
- 30 Rev A Developable Area Parameter Plan
- 31 Rev A Land Use Parameter Plan
- 32 Rev A Vehicular Access Parameter Plan
- 33 Rev A Non-Vehicular Access Parameter Plan
- 34 Rev A Building Heights Parameter Plan
- 35 Rev A Open Space Parameter Plan
- 36 Rev A Proposed Levels Illustrative Overlay

Reason: To ensure that the site is developed in a satisfactory manner and for the avoidance doubt.

06

The development hereby permitted authorises the erection of no more than 320 dwellings (comprising 130 replacement dwellings and 190 net additional dwelling).

Reason: To define the planning permission and in line with the applicants submissions.

07

Notwithstanding the submitted Building Heights Parameter Plan 0032 Rev A (also referred to in Condition 5), the proposed building adjacent to the Lincoln Road frontage shall not exceed 3 storeys in height.

Reason: In the interests of visual and residential amenity.

08

Linked to the requirements of Condition 3, the reserved matters application(s) which include any development on the exiting playing fields only, shall include a detailed plan for the management and phasing of the temporary and permanent playing field area. The management and phasing plan details shall ensure that the works which result in the loss of playing field area are not commenced before the works to temporarily or permanently replace those playing field areas are available for use, or a scheme for alternative temporary off-site provision is made by agreement with the (contracted) users of the pitches and by agreement in writing by the Local Planning Authority. The plan should also include details of timescales for the temporary provision which for the avoidance of doubt shall be for the minimum period necessary to allow the establishment of the improved playing field area. The development hereby permitted shall not be carried out other than in accordance with the approved details.

Reason: To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures continuity of use [phasing provision] and to accord with Spatial Policy 8 of the Core Strategy.

09

The reserved matters application(s) which include any development on the exiting playing fields only, shall include the submission of a pitch improvement strategy comprising:

- a. A detailed assessment of ground conditions of the land proposed for the new/retained/replacement playing field land as shown on drawing number 40 B (Illustrative Masterplan) shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and

b. Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The works shall be carried out in accordance with the approved scheme in accordance with the detailed phasing and management plan required by Condition 8.

Reason: To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with Spatial Policy 8 of the Core Strategy.

010

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

Reason: To ensure that new facilities are capable of being managed and maintained to deliver a facility which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport (National Planning Policy Framework (NPPF) para 97) and to accord with Spatial Policy 8 of the Core Strategy.

011

No development shall commence until details of the design and layout of the pavilion to include a community-hall and changing rooms has been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England] in the form of a reserved matters application. The community hall/changing rooms shall not be constructed other than in accordance with the approved details.

Reason: To ensure the development is fit for purpose and sustainable and to accord with Spatial Policy 8 of the Core Strategy.

012

No development on the area labelled phase 4 on the revised Phasing Strategy and plan (received 09.02.21) shall take place within the application site until details of a Scheme of Archaeological Works in accordance with a written scheme of investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme should be drawn up and implemented by a professional archaeologist or archaeological organisation. For the avoidance of doubt, this should involve trial excavation which should then inform an appropriate mitigation strategy for further archaeological work, should this be required. Thereafter the scheme shall be implemented in full accordance with the approved details.

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

013

The reserved matters application(s) shall be accompanied by an arboricultural method/impact statement and scheme for the protection of retained trees/hedgerows for each phase. The application(s) shall be designed to retain existing trees on site where possible and where trees are to be removed justification for their loss shall be provided. Scheme details shall include:

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

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

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

014

The reserved matters submission for the landscaping of each phase (as required by condition 3) shall include the submission of full details of both hard and soft landscape works for that phase and a programme for their implementation. This submission shall include:

- o Hard landscaping details shall include car parking layouts and materials, materials for other vehicle and pedestrian access and circulation areas, minor artefacts and structures for example, furniture, refuse or other storage units, signs, lighting etc.
- o Soft landscaping details shall include planting plans, written specification (including cultivation and other operations associated with plant and grass establishment) and schedules of plants, including species, numbers and densities together with clear annotations as to existing trees and hedgerows that would be retained plus proposed finished ground levels or contours. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

The approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of each phase of the development, whichever is soonest, unless otherwise agreed in writing with the 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: In the interests of visual amenity and biodiversity, to ensure that trees and hedgerows to be lost as a result of development is properly and commensurately mitigated with replacements.

015

No construction work, including site clearance and delivery of materials, shall be carried out except between the hours of 07.30 -18.00 Monday to Friday and 08.30 - 13.00 on Saturdays and at no time on Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with the aims of the NPPF and Policy DM5 of the DPD.

016

No development on any phase pursuant to condition 3 shall take place within the application site, until a Construction Environmental Management Plan (CEMP) for each phase has been submitted to and approved in writing by, the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction period. The CEMP shall include the submission of a plan detailing routing of construction traffic and mitigation measures required by Section 6 of the submitted Air Quality Assessment and shall set the overall strategies for:

- i. the parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v. wheel washing facilities;
- vi. measures to control the emission of dust and dirt during construction;
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of residential amenity.

017

Unless otherwise agreed in writing by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence on any phase pursuant to Condition 3 until parts 1 to 4 (below) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

#### 1. Site Characterisation

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

be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

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

## 2. Submission of Remediation Scheme

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

## 3. Implementation of Approved Remediation Scheme

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

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

## 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of 2., which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with 3.

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

018

No development shall be commenced in respect of each phase pursuant to Condition 3 until a scheme for ecological enhancements in respect of that particular phase has been submitted to and approved in writing by the Local Planning Authority. This could include (but shall not be limited to) bird and bat boxes at appropriate points within the site. This shall also include details of a timetable for implementation of the enhancements. The scheme shall thereafter be implemented and retained in accordance with the approved scheme.

Reason: In order to provide ecological enhancements in line with the Core Policy 12 of the Development Plan and the advice contained in the NPPF.

019

Notwithstanding the submitted details, no part of the development for each phase pursuant to Condition 3 shall be commenced until drainage plans for the disposal of foul sewage have been submitted to and approved in writing by the Local Planning Authority in respect of that particular phase. The scheme shall thereafter be implemented in accordance with the approved details before the development in each phase is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of foul sewage disposal.

020

No site clearance, including the removal of any hedge or tree that is to be removed, lopped, topped, felled or otherwise removed as part of the development, shall be undertaken during the bird nesting period (beginning of March to end of August inclusive). This is unless any hedge or tree is first inspected by a suitably qualified ecologist and a report submitted and approved in writing by the Local Planning Authority prior to such works taking place.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site in accordance with Core Policy 9 of the Core Strategy and Policies DM5 and DM7 of the DPD.

021

Linked to the requirements of Condition 3, any reserved matters application(s) which includes the demolition of existing dwellings or erection of new dwellings shall include a detailed schedule including details of the housing mix and tenure need and a broad timetable outlining the approach to the re-housing of existing residents and demonstrating how this has been integrated into delivery of the scheme. The development of each phase shall be implemented in accordance with the approved schedule and timetable unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that there is adequate provision of dwellings/accommodation to support residents displaced as part of the development.

022

No development shall commence in respect of each phase pursuant to Condition 3 until details to divert/stop up any necessary public rights of way affected by that phase have first been submitted to and approved in writing by the Local Planning Authority. The stopping up/diversion shall be carried out in accordance with the approved details for that phase.

Reason: To retain a safe and sustainable pedestrian route.

023

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

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

024

No development other than demolition shall commence on the areas labelled Phase 2B, Phase 3 or Phase 4 on the revised Phasing Strategy and plan (received 09.02.21) unless or until a suitable access has been provided at Lincoln Road as shown on drawing 70045283-SK-003-P03 to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety

025

No part of the development on the areas labelled Phase 2B, Phase 3 or Phase 4 on the revised Phasing Strategy and plan (received 09.02.21) hereby permitted shall be brought into use until the visibility splays of 2.4m x 90m at the new junction with Lincoln Road are provided in accordance with drawing 70045283-SK-004-P02. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

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

026

Notwithstanding the submitted details, no part of the development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the Local Planning Authority And shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the local planning authority.

Reason: To promote sustainable travel.

027

No development shall commence in relation to each phase (pursuant to Condition 3) unless or until a suitable construction traffic management plan, including access arrangements and lorry routing in respect of each phase, has first been submitted to and agreed in writing by the Local Planning Authority, and thereafter each respective phase shall be implemented in accordance with that plan.

Reason: In the interests of highway safety.

028

The submission of each reserved matters application for any phase pursuant to Condition 3 (Phasing), shall be accompanied by an up to date Bat Mitigation Strategy (BMS) (that builds upon the Bat Mitigation Plan (by WSP December 2018) and Further Bats Surveys (by Emec September 2019) reports already submitted and the requirements of Condition 18) for approval in writing as part of that reserved matters application. The approved BMS for each phase shall be implemented in full prior to any development (including demolition) taking place on site and shall be retained on site for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority. The BMS shall include:

- o Details of compensatory bat boxes/roost features to be installed on site and other compensatory features (such as roof voids etc), including their design, quantum and precise positions including the height and timings of installation;
- o Use of Bitumen felt 1F (or similar) only;
- o Methods for removal of existing roost structures to be timed outside of the bat roosting period;
- o A methodology of soft demolition/removal of roof tiles by hand;
- o Details of any external lighting which shall be designed so as not impact the installed bat features or bat foraging around the site.
- o The monitoring of new roosts.

Reason: In order to afford appropriate protection to bats in line with Policies DM7, CP12 and the NPPF.

029

The submission of each reserved matters application for any phase involving the erection of new dwellings located adjacent to Brunel Park Business Park pursuant to Condition 3 (Phasing), shall be accompanied by an up to date Noise Assessment which shall include updated background noise modelling data where appropriate (such as there being a change in circumstance since the original noise modelling was undertaken) and where necessary, a Noise Attenuation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved attenuation scheme shall be implemented on site prior to first occupation of any dwelling in that phase and retained thereafter or to an alternative implementation timetable as may be agreed in writing by the Local Planning Authority. For the avoidance of doubt, this condition also relates to the construction phase of the development.

Reason: To ensure that noise levels and vibration, specifically from the business park are appropriately mitigated and that the mitigation measures are implemented in a timely manner in the interests of residential amenity.

## **Notes to Applicant**

01

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

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

02

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

### **Considerations in relation to gas pipeline/s identified on site:**

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required. All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) Tel: 0800 688 588

04

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

05

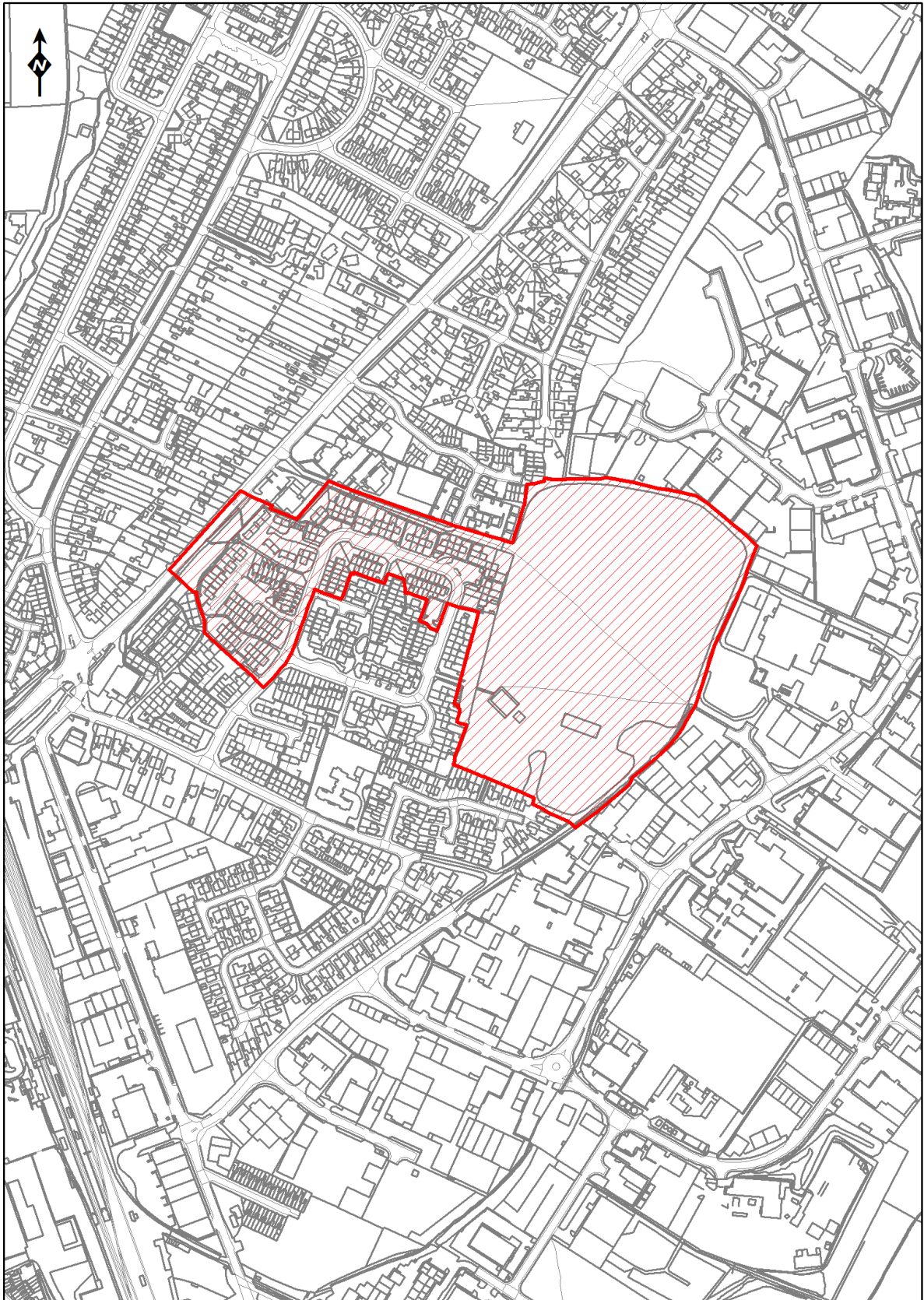
In order to carry out the new junction works at Lincoln Road you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact [david.albans@nottscc.gov.uk](mailto:david.albans@nottscc.gov.uk) for details.

BACKGROUND PAPERS

Application case file.

For further information, please contact Helen Marriott on extension 5793

Lisa Hughes  
Business Manager – Planning Development



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## PLANNING COMMITTEE – 2 MARCH 2021

<b>Application No:</b>	20/02279/FULM		
<b>Proposal:</b>	Change of use of land for the siting of 5 no. holiday lodges, erection of timber decking structures, formulation of new internal access tracks and creation of new vehicular access from Gainsborough Road.		
<b>Location:</b>	Land Adjacent 2 Gainsborough Road, Winthorpe, Newark-on-Trent		
<b>Applicant:</b>	Bentley Homes		
<b>Agent:</b>	Mr James Rigby - Globe Consultants Limited		
<b>Registered:</b>	30.11.2020	Target Date:	01.03.2021
	Extension of Time Agreed Until 05.03.2021		
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QK3IVWLBKJI00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QK3IVWLBKJI00</a>		

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Winthorpe with Langford Parish Council have objected to the application which differs to the professional officer recommendation.

### The Site

The application site relates to a broadly rectangular plot of land just under 2 hectares in extent to the north-west of Gainsborough Road on the edge of the village of Winthorpe. The site is within the same ownership as the residential dwelling known as High Leas to the south west as well as additional open agricultural land to the north east. The site is currently in agricultural use and is in part used for grazing horses with an associated manège. There is an existing locked field gate onto the B1186 Gainsborough Road.

The site is within Flood Zone 1 according to the Environment Agency maps albeit the boundary to Flood Zone 2 is close to the North western boundary of the site.

There is a local site of nature conservation approximately 110m to the north-west of the site boundary, The Fleet, recognised as, '*a notable mosaic of aquatic, marginal and marshy grassland habitats*'.

### Relevant Planning History

The following planning history relates to the site itself:

**20/00362/AGR** - Erection of agricultural storage building. *Prior approval not required.*

**14/01686/AGR** - Erection of a steel frame agricultural building. *Planning permission not required.*  
However there is also planning history related to the host dwelling to the south and its associated

curtilage:

**20/00678/FUL** - Householder application for proposed domestic garage and workshop. *Application approved.*

**19/02277/S73** - Application to vary condition 2 attached to planning permission 19/01129/FUL to amend the approved plans for plot 1. *Application approved.*

**19/01129/FUL** - 2 No. detached dwellings with integral garages. *Application approved.*

**17/00478/FUL** - Householder application for erection of a triple garage (re-submission of 16/01970/FUL). *Application approved.*

**14/01803/FUL** - Householder Application for Side and Rear Extension and Alterations to existing dwelling and new Gates and entrance walling. *Application approved.*

### The Proposal

The application seeks full planning permission for the change of use of the land and the siting of 5 holiday lodges arranging in a semi-circular orientation towards the north-western end of the site around 150m from Gainsborough Road. Each lodge would provide 2 en-suite bedrooms with an open plan kitchen / living area. Externally the lodges would be accessed by steps and a ramped access and would also have a raised decking area. Each lodge would be just under 60m<sup>2</sup> in footprint designed with a mono-pitched roof with a maximum height of around 4.4m (taking account of gradient changes). Material finishes proposed are horizontal timber or composite boarded with timber fascia's and barge boards. A total of 10 car parking spaces would be provided between the lodges.

A new access road is proposed from Gainsborough Road including passing spaces.

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

- Site Location Plan – reference 2939 2<sup>nd</sup> revision dated 09/12/20;
- Topographical Survey 1 of 2 – 18 – 122 – 01 Rev. B;
- Topographical Survey 2 of 2 – 18 – 122 – 03;
- Ecological Constraints Survey – 20-0897.01 dated 15/07/2020 Rev. 2;
- Site Plan (unreferenced);
- Site Layout – 804H-02C;
- Proposed Lodges (floor plans)– 804H-03;
- Proposed Lodges (elevations) – 804H-04;
- Site Entrance Details – 804H-05;
- Supporting Planning Statement by globe consultants – 2939 dated November 2020 Rev. Version 1.1;
- Flood Risk Assessment & Outline Sustainable Drainage Strategy - RLC/0388/FRA+OSDS01 by Roy Lobley Consulting dated 18/11/2020;
- Preliminary Ecological Appraisal by deltasimons 20-0897.01 dated January 2021;
- Access Technical Note dated January 2021.

## Departure/Public Advertisement Procedure

Occupiers of 11 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 3 – Rural Areas

Spatial Policy 7 - Sustainable Transport

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 6 – Shaping our Employment Profile

Core Policy 7 – Tourism Development

Core Policy 9 -Sustainable Design

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

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

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM8 – Development in the Open Countryside

DM9 – Protecting and Enhancing the Historic Environment

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

- National Planning Policy Framework 2019;
- Planning Practice Guidance (online resource);
- D2N2 Visitor Accommodation Strategy prepared for D2N2 Visitor Economy Advisory Group dated June 2017;
- Nottinghamshire County Council's Visitor Economy Strategy 2019-2029;
- Destination Management Plan for Newark on Trent 2018.

#### **Consultations**

**Winthorpe with Langford Parish Council** – Concerns relating to recent removal of hedgerow and installation of gate for proposed access. Note the allowance for a 5m wide tarmacked entry but wholly inappropriate visually and from a safety perspective. The road survey was limited (the parish council have included detail from Nov 2020 and Jan 2014). The Parish is having to deal with the potentially highly damaging impact of the changes to the A46.

**NCC Highways Authority** – Original comments requesting that speed readings be taken in accordance with CA185 (Highways England). The readings have been undertaken demonstrating the visibility splay distances. The submitted information is satisfactory to demonstrate safe access and therefore no objections subject to conditions.

**NCC Flood** – No objections.

**Trent Valley Internal Drainage Board** – No Board maintained watercourses in close proximity to the site.

**Nottinghamshire Wildlife Trust** – Original comments recommend further ecological work should be submitted. No further comments received to date to re-consultation requests.

**Representations have been received from 13 local residents/interested parties which can be summarised as follows:**

#### *Principle of Development*

- There is already camping and caravanning available on the cricket club;
- There is no demand for these holiday homes;
- Not enough is being done to protect the over development of land around Winthorpe;
- There are already air b&b lets in the village;
- Once erected there is concern the use will be changed to residential;
- These may become more permanent residences for people of a semi-transient basis;
- The site is outside the village envelope – there is concern of the longer term plan for permanent dwellings which would be easier if the site has structures on it;
- There is no information in the application as to whether the applicant is looking for full residential use or just seasonal.

#### *Impact on Character*

- The development will spoil the rural approach to the village;
- The design of the lodges is not in keeping with the general architecture in the rest of the village;
- Winthorpe has a conservation area and many historical buildings and prides itself in the open fields which surround it;
- There are neighbouring Grade II and II\* listed properties.

#### *Impact on Highways*

- The section of road can be very busy during the day for access to the school;
- The school does not benefit from dedicated parking so traffic is reduced to a single lane;
- There have been near misses and multiple incidents that have been experienced to date;
- One time visitors would not be aware of the local risks;
- There will be numerous cars at the property with the building of the two new properties;
- The proposed access is close to the road bend at the village entrance;
- The Planning Statement suggests the holiday homes may service events at the showground which often involve large vans and lorries;
- The access has only existed for several weeks created to facilitate the application;
- The village is potentially going through significant changes due to the proposed changes to the A46 which will potentially increase road noise and pollution.

### *Impact on Amenity*

- The proposal will lead to noise pollution.

### *Impact of Flooding*

- The land is at risk of flooding and not suitable for development.

### *Other Matters*

- The owner of the land is a property developer with business interests rather than a connection to the community;
- Other fields around the village have been illegally occupied and there is concern that this will give a signal to others than this is acceptable;
- There have been 7 planning applications in the past 6 years – a longer term future for the site would help inform considerations;
- The application indicates there is only 1 house on the plot where 2 more are to be built;
- No allowance has been made for waste storage or collection.

### Comments of the Business Manager

#### Principle of Development

Although the site is adjacent to the residential curtilage of High Leas (which also has extant permission for further residential development) the site is very clearly distinct from the residential curtilage and marks the transition between the built form of the village and the open countryside beyond. The site is therefore considered to fall within the open countryside albeit at the very edge of the village boundary.

In accordance with the requirements of Spatial Policy 3, development in the open countryside is strictly controlled and limited to certain types listed in Policy DM8. Of these types of development, there is an in principle allowance for tourist accommodation where it is necessary to meet identified tourism need and can support local employment, community services and infrastructure.

The D2N2 Visitor Accommodation Strategy 2017 aims to provide a robust assessment of the future opportunities for visitor accommodation development across Derbyshire & Nottinghamshire and the requirements for public sector intervention to support and accelerate visitor accommodation. In addition to considering and analysing existing provision, the study looked at new provision of accommodation across the above area. The report shows that there is a significant interest in, and market potential for, the development of all forms of non-serviced accommodation (holiday cottages, holiday lodges and lodge parks, golf lodges, fishing lodges, eco lodges, holiday resorts, holiday parks, caravan and camping sites, camping pods, glamping, treehouses, hostels, bunkhouses and outdoor education centres) across the D2N2 area. Nottinghamshire County Council's Visitor Economy Strategy 2019-2029 acknowledges that more accommodation is required for visitors to stay in the countryside.

Core Policy 7 outlines that the District Council recognises the economic benefits of tourist accommodation and in doing so will view such proposals positively. In the context of countryside setting however, there is a need to meet a number of criteria as discussed further below.

### Impact on Tourism

The submitted Planning Statement has assessed the proposal against the criteria of local policy and presents a case that the proximity of the site to the Newark Urban Area means that the “Destination Management Plan for Newark on Trent” is a pertinent document. There is no dispute that this document notes the visitor economy to be a core contributor to the economic wellbeing of the town given the known correlation between increased spending and overnight stays. Reference is also made to the D2N2 Visitor Accommodation Strategy 2017 which it is noted specifically states:

*“From talking to these types of accommodation operator in the D2N2 area, the appeal of a holiday cottage, holiday lodge, caravan or camping holiday in the area appears to be largely about getting away from it all to spend a relaxing break in the countryside.” (para. 4.2.12.)*

Holiday lodge parks are identified as achieving 75-92% occupancy with the national chain Centre Parcs reporting much higher occupancy rates (pre-Covid 19 restrictions).

Core Policy 7 accepts that countryside locations can meet an identified tourism need not provided for through existing facilities of the main built up area of villages. It is considered that the proposal would achieve such a requirement in providing a countryside appeal but in close proximity to the village and its associated facilities but also the wider Newark Urban Area which would be readily accessible from the site.

I concur with the stance of the application that the development would positively contribute towards the tourism offer of the District in an area of the District specifically capable of supporting the economy of the Newark Urban Area. This weighs positively in the overall planning balance and renders the proposal compliant with Core Policy 7 and Policy DM8 subject to the assessment of other material considerations outlined below.

### Impact on Landscape

The site is within the East Nottinghamshire Sandlands Policy Zone 4: Winthorpe Village Farmlands as defined by the Landscape Character Assessment for the District. Characteristic features include a flat landscape with occasional undulating landform around the village and a mixture of intensive arable fields with strongly trimmed hedges and some low intensity farming. The landscape condition and sensitivity is defined as moderate with the landscape action to conserve and create. In terms of built features one of the policy actions is to conserve what remains of the rural landscape by concentrating new development around existing settlements. The positioning of the site at the edge of the village would meet this requirement.

The built form associated with the proposal would be discretely positioned at the north western edge of the site some 150m set back from Gainsborough Road. There is a natural land and level change to this part of the site meaning that the proposed lodges would be between 11-12m AOD compared to the road at around 17m AOD. This will naturally reduce the landscape impact of the lodges given their modest proposed height of approximately 4.4m. Land to the south west (within the applicant’s ownership) is also heavily vegetated which will further screen the lodges, as will proposed additional planting which could reasonably be secured by condition. There would need to be some hedgerow cut back to create the visibility splays at the site access but this would be minimal in the context of the entire hedgerow along the site frontage.

The Planning Statement details that the siting of the lodges at a low point within the wider landscape is a deliberate intervention to reduce the overall zone of visual influence and associated landscape impacts. When taken in the context of the proposed additional landscaping, I concur that the application, *“is not considered to have any negative or unacceptable impact on the Landscape Character Zone within which the Site is located, nor on the character or appearance of the area which immediately surrounds the Site”*.

### Impact of Design

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. 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 five lodges would all follow the same design set in a crescent arrangement with external terraces facing broadly towards the north western boundary of the site. The construction with external cladding is typical of a development of this nature albeit the plans leave some ambiguity to the precise materials proposed which has been queried with the agent during the life of the application. The agent has agreed that precise material details could be agreed by condition.

In the context of the aforementioned section in respect to landscape impacts, the design of the buildings would also be relatively well screened from the surrounding area and no specific harm has been identified against the relevant criteria of Policy DM5. .

### Impact on Ecology and Trees

Policy DM7, consistent with the requirements of Core Policy 12, establishes that new development *“should protect, promote and enhance green infrastructure to deliver multi-functional benefits and contribute to the ecological network”*.

The Planning Statement included details of an ecological constraints survey. The site is largely laid to grass with scattered trees and shrubs predominantly around the boundaries of the site. There are existing fences within the site owing to the use of the land for grazing horses. Notwithstanding the details contained within the Planning Statement, the original comments of Nottinghamshire Wildlife Trust requested further ecological assessments of the site be undertaken given the habitats in and adjacent to the site. These comments were passed to the agent and a Preliminary Ecological Appraisal was received during the life of the application.

The report details the potential on-site habitats for a variety of species including birds; reptiles; bats; badgers; otters and great crested newts. It concludes that the existing grassland habitat which dominates the site offers limited ecological value where it has been grazed albeit there is a smaller proportion of longer grassland in the north which may provide increased opportunities. Moreover, the hedgerow, scattered trees and scrub may offer potential for nesting birds. Equally the site provides foraging and commuting habitat for bats, particularly around the boundaries.

A number of recommendations are made for the construction and operational phases of the development both in respect to habitat protection and enhancement. Crucially, no further survey work is deemed necessary from the outcome of the initial survey.

Nottinghamshire Wildlife Trust have been invited to comment on the document noting their original request for further works to be undertaken. Unfortunately no further comments have been received to date. Nevertheless, the preliminary appraisal provides a robust means on which to assess the ecological impacts of the proposal and subject to the protection / enhancement measures being secured by condition, the proposal does not create conflict with Core Policy 12 or Policy DM7.

### 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 lodges would all be accessed from one access from Gainsborough Road which would require the creation of visibility splays but would also include passing bays along the access road. It is noted that works to create the site access have been undertaken without the benefit of planning permission as referred to within the comments of the Parish Council. The planning enforcement team have been made aware of these works but given the pending application, no formal action has been taken. The proposed access arrangements include the removal of the existing field gate and the widening of the first 25m of the access to 5m site before narrowing to 3.7m but with passing bays.

The Planning Statement details an expectation that the majority of check in and check out journeys will be outside of peak highways hours. There is also a detailed analysis of the sustainability of the site detailing nearby footpaths, cycle routes and bus stops to demonstrate that the occupiers of the lodges could access Winthorpe's modest range of local amenities or at a wider level the full range of services within the Newark Urban area.

The proposal has been assessed by Nottinghamshire County Council as the Highway Authority. The original comments acknowledged that the applicant had entered pre-application discussions but nevertheless acknowledged that the access is positioned on a piece of land that sits between the existing built up area of the village and the start/end of the 30mph restriction. The concern being that the actual vehicle speeds may exceed the 30mph limit as vehicles enter or leave the built up area. The comments requested speed reading to be taken which have since been received during the life of the application.

The speed survey was undertaken on 6<sup>th</sup> January 2021 at the location of the proposed access to the development site. The results showed the following:



Table 2-1 Speed Survey Results

Direction	Average Speed	85 <sup>th</sup> Percentile Speed
Northbound	26 mph	31 mph
Southbound	26 mph	29 mph

Based on the 85<sup>th</sup> percentile speed recorded, visibility splay requirements were calculated and demonstrated on the latest drawing.

The latest comments of NCC Highways conclude that the submitted information is satisfactory to demonstrate that safe access can be achieved and raise no objection subject to the inclusion of conditions. It is noted that the site access and highways safety continues to be of concern to the Parish Council. Reference is made to the future A46 works which may cause disruption to the village but clearly this would not be within the scope of the current application to address.

The Parish Council comments reference a request recently made to NCC Highways for a speed survey to be undertaken at broadly the same location as the applicant has undertaken given the local concern of vehicles speeding at this part of the highway which is close to the Primary School; bus stop and the bend approaching the A1133. Speed data from November 2020 and January 2014 has been provided. The 2014 data shows that one of the locations of the survey was broadly at the location of the site access and recorded an 85<sup>th</sup> percentile average of 37mph. No specific location is shown for the 2020 data but assuming the locations were similar then again the 85<sup>th</sup> percentile averages are higher than that presented by the applicant at 38mph on average.

It is considered fair to discount the 2014 data given the passage of time since that survey. However, there is a clear discrepancy between the data of two surveys just 2 months apart. Officers have invited NCC Highways to comment on the data provided by the Parish Council but at the time of agenda print are awaiting a response. It is not considered that this will amount to a fundamental objection to the proposal, it may mean however that the visibility splays need to be further increased as a precaution on the basis of an average between the data sets but this could be achieved within the site location plan. Any response and indeed updated visibility plans will be shared with Members at the meeting.

#### Impact on Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development.

Owing to the countryside location of the site, there are limited neighbouring receptors which would be affected by the development. The closest would be the dwelling known as High Leas which falls within the same ownership of the site. It is also notable that permission has been granted for two additional dwellings to the west of the dwelling also shown within the same ownership. However, there remains a possibility that the ownership of the site may be separated at a later date and therefore matters of amenity still require a thorough and careful consideration.

The lodges would be single storey and given the intervening vegetated boundary treatment, the proposal is unlikely to have any visual amenity impacts such as overbearing or loss of privacy. The greatest potential impact would be a general increase in noise and disturbance. However, the orientation of the lodges is such that their outdoor amenity areas would face north westwards towards a wooded area beyond the site. This would limit the amount of sound carried to neighbouring properties as the physical built form of the lodges would act as a partial barrier. Even if all 5 lodges were to be occupied at the same time, the level of activity created externally is unlikely to be a nuisance to existing neighbours given the distance between the lodges and neighbouring built form (around 100m) but also the existing and proposed landscaping.

On the basis of the above, there would be no justifiable reason to resist the application on amenity grounds.

### Drainage and Flooding

The site is within Flood Zone 1 according to the Environment Agency maps. The site is at very low risk of surface water flooding. However, the extent of Flood Zone 2 lies at the north western boundary of the site. The application has nevertheless been accompanied by a Flood Risk Assessment (given that the site area is over 1hectare) which confirms the following:

*The lodges will be raised approximately 0.60m above the existing ground level.*

*It is proposed that the surface water runoff from the access road, hardstanding, and roofs will mimic the existing greenfield drainage so as not to increase the volume of water entering the watercourse system.*

*The access road and hardstanding areas will be constructed from permeable material such as gravel which will allow infiltration into the ground. Any remaining surface water will be discharge onto the surrounding grass areas to drain naturally through the sub-soil which will provide attenuation.*

*The surface water from the roofs of the five lodges will discharge directly onto the existing surrounding grassland to soak into the ground and mimicking the existing natural drainage pattern.*

Nottinghamshire County Council as the Lead Local Flood Authority have confirmed that there are no objections to the proposal. The development would be sequentially appropriate falling within Flood Zone 1 and taking account of the intentions details above, there is no further information required in relation to flooding or drainage issues.

### Impact on Economy

Core Policy 6 seeks to expand the District's employment base in line with the economic aims of the NPPF. The Planning Statement deals with the development impact on the economy estimating (using VisitBritain data) that *"it is possible to show that the Application could generate c.£160,000 in visitor spending based on an assumed year round occupancy rate of 80% and 2 no. economically active adults staying in each lodge per stay"*.

There is clearly the opportunity for increased spend in the area through the users of the lodges using local facilities or even just local shops for the convenience of self-catering.

The application form stated that the development would not create any jobs. This has been clarified with the agent who has confirmed that the figure should in reality read as unknown albeit based on previous applications of a similar nature, 1 no. full time employee is created by every 309 visitors. The response goes on to confirm that based on the development being shown to attract 470 visitors per year, it would be reasonable to estimate between 1-2 FTEs would be supported by the development (albeit in reality it is more likely that the employment will be made up of various part time roles).

In addition to this, the construction of the development would create short term construction jobs. All of these factors can be weighed positively in the overall balance.

### Other Matters

Although the site does not relate to permanent occupations, there will still be an expectation from occupiers that they will enjoy a certain level of privacy. The original submission did not identify the boundary treatments between the lodges. These details have been sought during the life of the application however the agent has confirmed that they would be satisfied for these details to be sought be condition.

### Overall Balance and Conclusion

Despite being within the open countryside, the proposal relates to a tourism use which is in principle acceptable under the development types of Policy DM8. The applicant has demonstrated that the proposal would contribute towards much needed overnight accommodation close to the Newark Urban Area. This and the economic benefits of the proposal are deemed as strong factors in favour of the development.

The lodges would be modest in their height and positioned at a natural low point in the site which will assist in their assimilation into the open countryside. The nearest neighbouring property, despite currently being within the same ownership would be some distance from the nearest lodge and moreover this distance would be intervened by both existing and proposed landscaping. No other harm has been identified in respect to ecological impacts; impacts on the highways network or in respect to matters of flooding and drainage. The economic and tourism benefits therefore hold positive determinative weight and the proposal is recommended for approval subject to the conditions outlined below.

### **RECOMMENDATION**

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

#### Conditions

01

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

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

02

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

- Site Layout – 804H-02C;
- Proposed Lodges (floor plans)– 804H-03;
- Proposed Lodges (elevations) – 804H-04;
- Site Entrance Details – 804H-05.

Reason: So as to define this permission.

03

The development hereby permitted shall be used for holiday accommodation and for no other purpose including any other purpose within Class C3 'Dwelling Houses' of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any purpose permitted through the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order). No part of the accommodation hereby approved shall be used by any person as their sole or main residence.

Reason: To avoid the creation of a separate residential unit in a location which would not be considered sustainable for such and in acknowledgement of the intentions of the application.

04

The owners/operators of the visitor accommodation hereby approved shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the Local Planning Authority, at any time, and a copy of the register shall be supplied to the Local Planning Authority at the end of each calendar year.

Reason: The proposed visitor accommodation would be situated in the open countryside, outside any defined settlement boundary where new residential development will be strictly controlled. The proposed accommodation is only acceptable as a tourism development. To grant permission without such a condition would be contrary to policies Core Policy 7 of the Core Strategy and Policy DM8 of the Allocations and Development Management DPD.

05

The development hereby permitted is for use as holiday accommodation and no unit shall be occupied by the same person or persons, for a total period exceeding 28 days in any calendar year.

Reason: To ensure that the units are not occupied for residential purposes in a location where new residential development would not normally be permitted in accordance with Core Policy 7 of the Core Strategy and Policy DM8 of the Allocations and Development Management DPD.

06

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.

07

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 District 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 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 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.

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

08

Notwithstanding the details shown on plan reference Site Layout – 804H-02C, no development shall be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall thereafter be carried out as approved. These details shall include:

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities.
- The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species and shall take account of the advice within Section 6.2 'General Site Enhancement' and associated Appendix F of the Preliminary Ecological Appraisal by deltasimons 20-0897.01 dated January 2021.

Reason: In the interests of visual amenity and biodiversity.

09

The approved soft landscaping shall be completed during the first planting season following the occupation 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. The approved hard landscaping shall be implemented on site prior to first occupation.

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

10

To avoid negative impacts to nesting birds, any clearance works of vegetation on site should be conducted between October to February inclusive, outside the bird breeding season. If works are conducted within the breeding season, between March to September inclusive, a nesting bird survey must be carried out by a qualified ecologist prior to clearance. Any located nests must then be identified and left undisturbed until the young have left the nest.

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

11

The development hereby approved shall be carried out in accordance with the mitigation measures outlined by the submitted Preliminary Ecological Appraisal by deltasimons 20-0897.01 dated January 2021 specifically Section 6.2 which includes but is not limited to:

- Lighting on site to be functional and directional in order to minimize the impact on bats;
- No excavations or trenches to be left uncovered overnights during the development works (or inclusion of ramps);

Reason: In order to protect biodiversity in the District in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2019).

12

No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local Planning Authority. The approved boundary treatment for each individual plot on site shall be implemented prior to the first occupation of each individual unit and shall then be retained thereafter for the lifetime of the development.

Reason: In the interests of residential and visual amenity.

13

Details of any external lighting to be used in the development shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution. 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.

Reason: In the interests of visual and residential amenity.

14

No part of the development hereby permitted shall be brought into use until the access to the site has been provided in accordance with drawing 804H-02C and surfaced in a bound material for a minimum distance of 25 m from the public highway.

Reason: In the interests of highway safety, and; to reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

15

No part of the development hereby permitted shall be brought into use until the visibility splays shown on drawing no. 403.11633.00001-01 (Appendix 3 of the document Access Technical Note dated January 2021) 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.

Reason: In the interests of highway 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/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

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

02

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

03

The development makes it necessary to construct an access within part 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 agree details and arrange for these works to be Page No. 2 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/licencespermits/temporary-activities>

#### BACKGROUND PAPERS

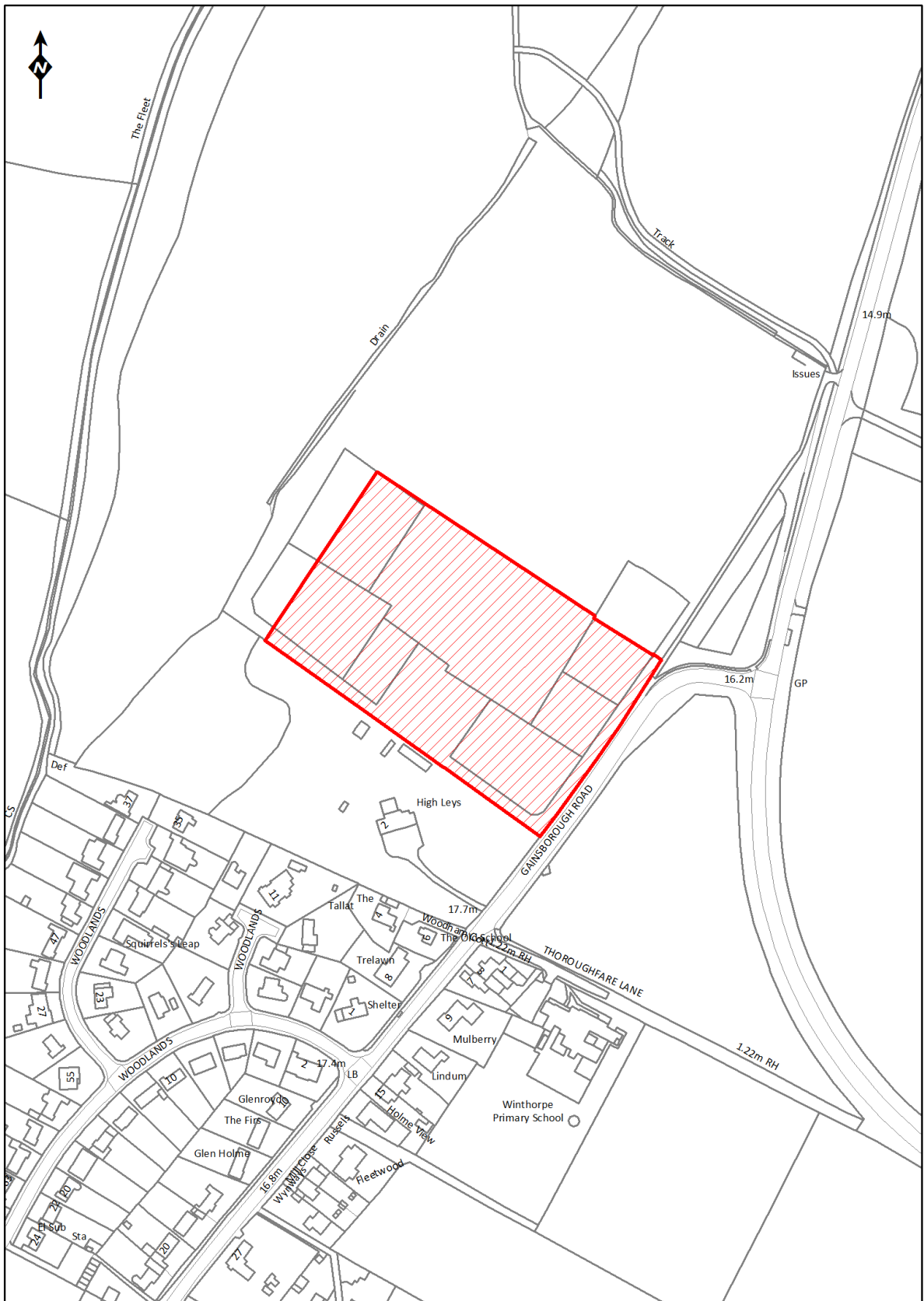
Application case file.

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 - 20/02279/FULM



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## PLANNING COMMITTEE - 2 MARCH 2021

Application No:	20/01405/FUL
Proposal:	Material change of use of land for stationing of caravans for residential occupation with associated development (new access, hard standing, utility block) – part retrospective
Location:	Land off Main Street, Balderton
Applicant:	Mr Patrick Doherty
Agent:	Heine Planning Consultancy – Mrs Alison Heine
Registered:	3 August 2020                      Target Date: 28 September 2020
	Extension of time agreed until 5 March 2021
Website link:	<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>

### Background

Members will recall that the above application was presented at the meeting of 3 November 2020. Members resolved to approve the application for a temporary period of 3 years, subject to the completion of a S106 legal agreement within 3 months of the date of the Planning Committee to secure two off-site footways either side of Hollowdyke Lane (failure to do so would result in a refusal on highway safety grounds). The full resolution is set out at Appendix A attached to this report. Members should note that the estimated cost for the construction of the two footpaths was accepted to be approx. £7,850 when the application was previously considered in November.

The previous officer report is repeated below with additions indicated in bold and underlined to assist with clarity.

### Additional Information Submitted

Prior to the end of the stated 3 month period, the agent submitted the additional information which is summarized below:-

- A quote of £23,183.39 for the total cost of the provision of the two footways either side of Hollowdyke Lane;
- In addition to the above cost, a bond for the same financial amount would also be required up-front, as an insurance-like deposit (although if all the works were implemented without any issue, this would be returned in full). With the cost of the preparation of the S106 likely to be around £500, the total cost would come close to £50,000;
- This is an excessive and unnecessary expense for a temporary permission and the

- applicant is not willing to carry out this work;
- The family have now been occupying the site for nearly 6 months without any problems;
  - Hollowdyke Lane is a no-through road, serving just one business and is used by local residents/dog walkers who use the lane for country walks, without the need for a pavement, local pedestrians form a path over the grass verge that links Main Road to Hollowdyke Lane;
  - Given this, it is not clear why it is considered necessary for the applicant to install a pavement link so that their site is connected the short distance to Main Road;
  - It should not be for their client to have to pay to install a pavement for the benefit of others;
  - If this footway is necessary, it should have been secured within the Fernwood Strategic site for over 3,000 dwellings, to the east of this site;
  - This requirement for a temporary consent would unreasonably impact on the deliverability of the development as it would place an unjustifiable and disproportionate financial burden on the applicant and therefore fails the test of reasonableness;
  - It is only justified to encourage pedestrian access to/from the site and not for highway safety reasons;
  - Such a request might have been justified for a permanent consent for 6 apartments but it is not justified for a single pitch gypsy site with a temporary permission of just 3 years;
  - The applicant would be prepared to construct this footway link if permission were granted on a permanent basis, alternatively a temporary permission could be granted without the S106 requirements, or if neither of these options is acceptable, consider refusing the application so that an appeal can be advanced;
  - The agent also considers that conditions 6 and 16 (requiring landscaping and bird and bat box provision on the site) are also unreasonable for any temporary permission;
  - A second quote has been submitted from Via East Midlands Ltd which gives an estimate of approx. £40,000 for the design and construction of the footways;
  - Other members of the public are using Hollowdyke Lane as a footway without any problems;
  - If the Council/Parish Council consider the existing arrangement unsafe they should consider installing a segregated footway for the general public, however no complaints were reported in this regard at the last meeting about this existing arrangement and it is not clear why it is acceptable for the general public but not the applicants.

#### Comments of NCC, Highway Authority

NCC, state that the Via figure is for design and build; not just build. This [design] would add substantially to the other figures quoted. Also it is not a budget figure where there will be significant built-in contingencies that add to the price. This is not the same as getting a quote. Their budget estimate is £18k - £20k for the build. This does not include any design work, since it would be normal to expect the developer to provide the design.

As Highway Authority they would much sooner see residents of this proposed development use a constructed footway rather than choose a muddy verge or, worse still, walk within the carriageway for obvious safety reasons. This issue is exacerbated should residents/users require wheelchair, pram or motorized scooter access.

The Highway Authority do not wish to be petitioned to provide a footway to replace a muddy path when this should have been provided as part of a development to provide sustainable and

safe pedestrian links. It is also understood that it can be much harder to justify the provision of such a facility in the future, if after the temporary permission period has expired a permanent permission is sought and there have been no reports of injury accidents. The financial restraints are understood but this is an issue for the LPA to determine.

### Comments of the Business Manager

Members will recall that they were minded to grant a temporary permission for three years on the basis of the identified harmful impact from the considerable nearby noise sources of the A1 trunk road and main line railway which means that 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. However, 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 through the development plan process, given the total lack of alternative available sites and in the best interests of the children.

These considerations remain unchanged.

The application has been brought back to Members for consideration on the basis that the works required for the provision of the two footways along Hollowdyke Lane, to be secured through a S106, have now been costed as being more than double the amount previously presented and considered. This represents a material difference to the proposal that requires further consideration. The level of financial cost required to be invested at the site weighs more acutely in this case given the current resolution to grant a temporary permission for a limited period of just 3 years and whether this is reasonable.

In light of the above, the options before Members in the re-consideration of this application are:-

1. Grant planning permission on a permanent basis subject to the S106 requirement;
2. Grant temporary planning permission for 3 years without the S106 requirement; or
3. Refuse planning permission.

Regulation 122 of the CIL Regulations 2010 (as amended) makes it unlawful for a Planning Obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation is not:

- Necessary to make a development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

Whilst it is accepted that the provision of the two footways is necessary to make the development acceptable in highway safety terms and that it directly relates to the development itself, there is concern as to whether the cost of these works are fair and reasonable and related in scale and kind to a single family gypsy and traveller pitch for only a 3 year period.

Paragraph 108 of the NPPF states that in assessing applications for development, it should be ensured that:-

*“a) appropriate opportunities to promote sustainable transport modes can be – or have been –*

*taken up, given the type of development and its location;*  
*b) safe and suitable access to the site can be achieved for all users; and*  
*c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”*

Part c) of this paragraph refers to ensuring that any significant impacts from the development on highway safety can be “cost effectively mitigated to an acceptable degree.” This appears to acknowledge that there could be cases where mitigation is considered to go beyond being “cost effective” and may therefore not be appropriate to pursue.

Furthermore, Members’ attention is also drawn to the appeal decision issued for a site on Land north of Crossways, off Main Street, Bathley in 2019. Here, contrary to the decision to refuse planning permission based on highway safety concerns of the proposed access raised by the Highway Authority, (amongst other issues) the Inspector found that given the scale of the single gypsy and traveller pitch proposed, it would not lead to an unacceptable impact on highway safety, despite the recognised tension of not achieving safe, convenient and attractive accesses for all and providing links to the existing network of footways so as to maximize opportunities for their use. This appeal decision is considered to be material to this case and so is attached at Appendix B for the information of Members.

The view of the Highway Authority remains that in order to make the development safe and encourage pedestrian activity to and from the site, the two footpaths need to be provided as part of the development. Whilst this is acknowledged, the additional information submitted on the cost of providing these facilities represents a new planning consideration that needs to be weighed in the balance. It is considered that the relative cost of meeting this requirement is both unreasonable and not an acceptable cost effective mitigation in the light of the view to grant a limited 3 year temporary permission.

To grant a temporary permission without the S106 requirements would go against the recommended advice of the Highway Authority, which is not a view that is taken lightly. However, in this particular case, in the light of the Bathley appeal decision together with the scale of the proposed development as a single traveller pitch, the limited use of Hollowdyke Lane for buses and access only, as well as the financial investment that would be unreasonable to expect for a limited development of three years, together with the 30mph speed limit along Main Street and external lighting column on the site at the corner of the road junction, all contribute to the view reached. Whilst it is not possible to completely eliminate any highway safety risk, taking all these matters into account, and acknowledging there would be some highway safety risk, it is not considered reasonable to request the financial contribution on the basis of a temporary permission.

It then falls to consider whether the application should therefore be considered on a permanent basis to enable the footway provision to be appropriately and reasonably secured. However, given that the proposal remains unacceptable on noise impact grounds that have not been addressed in any way since November last year, it is not recommended that a permanent permission be viewed favourably.

The final option before Members is one of refusal. The Planning Policy for Traveller Sites (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. On this basis, Members are advised that a refusal is unlikely to be defensible at appeal.

### **RECOMMENDATION**

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

a) The conditions and reasons set out in Appendix A (Resolution); and

b) the completion of a section 106 legal agreement within 3 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 access to/from the site), 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.

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**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 wellbeing 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” **and states:-**

**Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds of their own or their family’s or dependents’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organized group of travelling showpeople or circus people travelling together as such.”**

### 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  
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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 [the conditions are set out within Appendix A]; 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.**

### **BACKGROUND PAPERS**

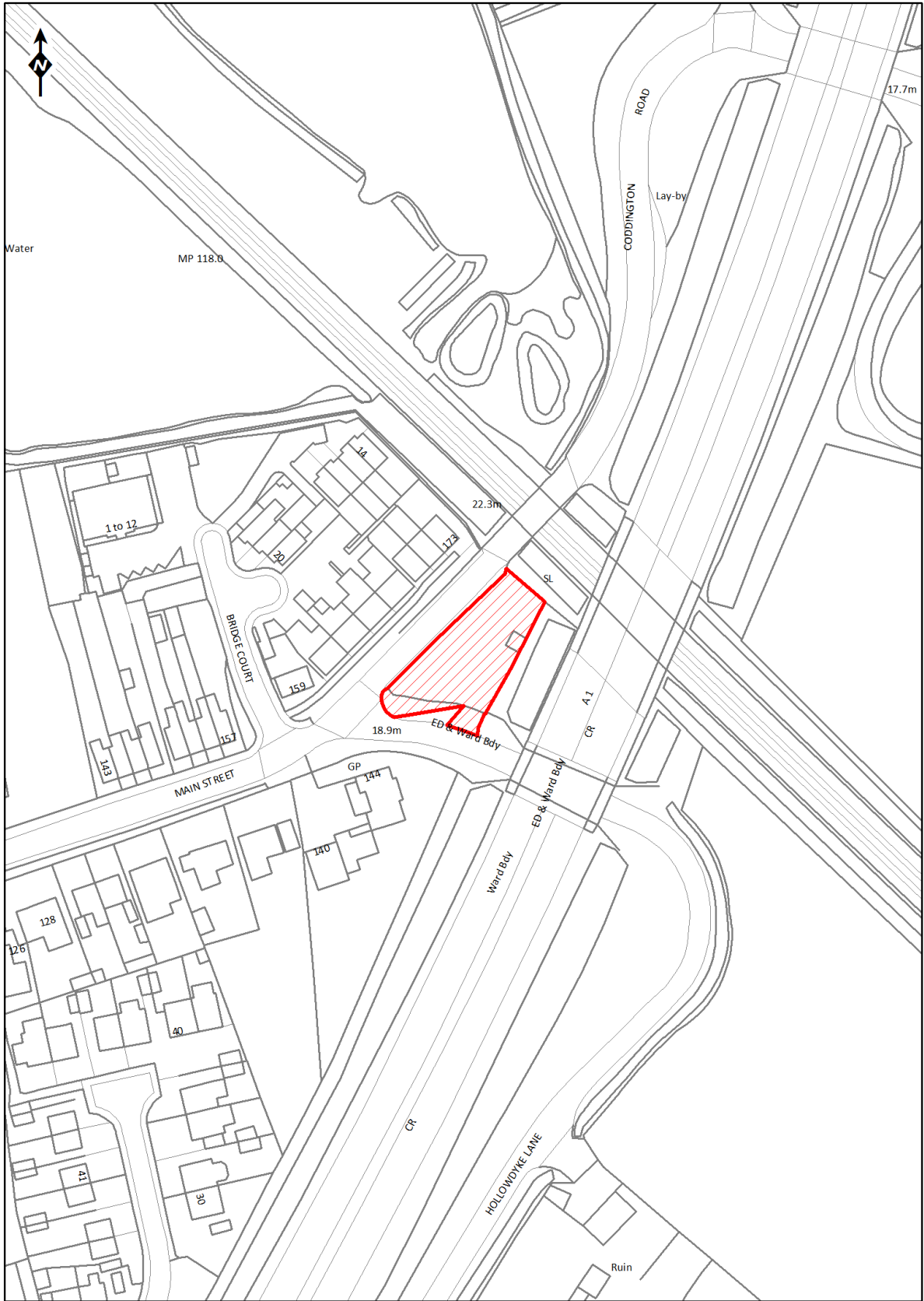
Application case file.

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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## **Appendix A: Resolution of Planning Committee on 3 November 2020**

Application No: 20/01405/FUL

Proposal: Material change of use of land for stationing of caravans for residential occupation with associated development (new access, hard standing, utility block) – part retrospective

Location: Land off Main Street, Balderton

**Members were minded to approve the application for a temporary period of 3 years subject to:-**

**a) The conditions and reasons shown below;**

**b) the completion of a section 106 legal agreement within 3 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; and~~**

**~~c) following the completion of the S106 requiring highway details to be secured, an additional condition be imposed to limit the existing informal access in the south west corner of the site for pedestrian use only, the precise wording of which shall be agreed between the Chair, Vice Chair and Business Manager. [Added as Condition 17 below].~~**

### Conditions

01

The use hereby permitted shall be for a limited period up to 30 ~~November 2023~~, March 2024 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~~, March 2024 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 three 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. Any trees/shrubs which, within a period of two 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 three 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 three 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 three 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 two 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 two 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 two 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.

016

Notwithstanding the hedgerow details submitted, and within one month of the date of this permission, a revised soft landscaping scheme shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved in accordance with Condition 6. These details shall include: full details of every tree and hedge to be planted (including its proposed 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: In the interests of visual amenity and biodiversity.

017

Within three months of the date of this permission, details of a scheme to limit the existing informal access in the south-west corner of the site for pedestrian use only shall be submitted for approval to the Local Planning Authority in writing. The approved scheme shall be fully

implemented on the site within two months of the date of approval and retained for the lifetime of the development.

Reason: In the interests of highway safety and visual amenity.

### 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@nottscc.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 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.

## PLANNING COMMITTEE – 2 MARCH 2021

<b>Application No:</b>	<b>20/02472/FUL</b>	
<b>Proposal:</b>	<b>Change of use of land to site a retort to support existing firewood business.</b>	
<b>Location:</b>	<b>Norwood Park Farm, Norwood Park, Halam Road, Southwell, NG25 0PE</b>	
<b>Applicant:</b>	<b>Mr H Starkey</b>	
<b>Agent:</b>	<b>Mr Scott O'Dell – Fisher German LLP</b>	
<b>Registered:</b>	<b>07.01.2021</b>	<b>Target Date: 04.03.2021</b>
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QLDZ33LBKY700">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QLDZ33LBKY700</a>	

**This application is being referred to the Planning Committee for determination by the local ward member Cllr Peter Harris on the grounds that the application could result in an adverse impact on amenity through potential nuisance/air quality implications.**

### The Site

The application site is part of the wider Norwood Park Farm site which is situated c. 500 m from Southwell. The site itself is in the open countryside and lies on the northern side of Halam Road. The application site is accessed down a c. 100 m access track which also serves as access to properties that lies to the east and west of the access track, Norwood Park Farm and the wider fruit farm plantation. The southern boundary running along Halam Road has dense hedgerow/tree cover such that visibility into the site is limited from the surrounding area. From within the site itself the boundaries with the open countryside are largely open and the wider log business site demarked on the Existing Block Plan blurs with the surrounding farm complex and the surrounding out buildings. From the public realm the site is largely invisible given boundary screening along the highway – directly to the north are traditional farm buildings and to the south is an agricultural storage yard - the SE side of which is included within the log business site as a storage area for timber to be processed.

### Relevant Planning History

**20/00201/FUL** - Change of use of land and barn for the storage, processing and distribution of timber solid fuel including associated kilns, workshop, office and biomass boilers (retrospective) – Permitted 03.06.2020

### The Proposal

The application seeks consent for the change of use of the land to site a Charcoal Retort to support the existing firewood business.

The land subject to the change of use is approx. 140m<sup>2</sup> in area and lies to the west of the approved

timber storage area associated with the log business. The Charcoal Retort measures approx. 5.5 x 2.5 m x 2.5 m in height plus the associated flue to c. 6.8 m height overall and would be positioned in this land adjacent to the timber storage yard.

Access is afforded off an existing track to the SW corner of the site adjoining with Halam Road. The Retort is proposed to support the existing firewood business at Norwood Farm which stores, processes and distributes timber solid fuel locally. The installation of a low emission Retort is proposed to enable the production and distribution of charcoal for which the applicant advances there is a local demand for. This Charcoal Retort is cited as an efficient and environmentally friendly way of producing high quality charcoal without adversely impacting upon air quality.

Documents considered as part of this appraisal:

- Site Location Plan - Ref. 125155 - 600C
- Air Quality Assessment – Ref. 3597/4r3 dated 15<sup>th</sup> December 2020
- Existing Block Plan – Ref. 125155 - 601
- Proposed Block Plan – Ref. 125155 – 602A
- Proposed Retort – Ref. 125155 – 603
- Charcoal Retort Introduction Maintenance and Manual
- Supporting Statement
- Written Scheme of Maintenance

#### Departure/Public Advertisement Procedure

Occupiers of 3 properties have been individually notified by letter and a site notice has been displayed close to the site.

Earliest decision date: 03.02.2021

#### **Planning Policy Framework**

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

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

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 6: Shaping our Employment Profile

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Core Policy 12 Biodiversity and Green Infrastructure

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

Policy DM4 – Renewable and Low Carbon Energy Generation

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Policy DM8 – Development in the Open Countryside

Policy DM10 – Pollution and Hazardous Materials

Policy DM12 – Presumption in Favour of Sustainable Development

##### **Southwell Neighbourhood Plan (adopted October 2016)**

Policy SD1 - Delivering Sustainable Development

E6 – Climate Change and Carbon Emissions

TA3 – Highways Impact

HE4 – Economic Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014
- Landscape Character Assessment SPD 2013

### **Consultations**

**Southwell Town Council** – Object – Concerns raised: Inappropriate location resulting in the industrialization of a rural area with the plant in front of attractive rural farm buildings.

**Southwell Civic Society** – Object – Concerns raised: Inappropriate in this rural location. The proposal would be contrary to CP9, CP13 and DM8. The proposal will result in smoke pollution contrary to DM10 and HE4 of the SNP.

### **Environmental Health Contaminated Land** – Support – Comments:

- The assessment uses ADMS-5.2 (v5.2.4.0) dispersion modelling to assess the impact of the two biomass burners and double charcoal retort at various sensitive receptors in the vicinity of the application site. The report concludes that the impact at all receptors, residential and ecological is not significant in all cases (in accordance with IAQM guidance).
- However in order to minimise the risk of any future nuisance complaints from the charcoal retort (to which this application relates), which could result in enforcement action, Environmental Health would advise a number of conditions relating to the operation, maintenance and monitoring of the retort.

**NCC Highways** – Support - The proposal will have very little impact on the existing highway network.

### **Comments have been received from one interested party which can be summarised as follows:**

#### **Object:**

- Concerns that the proposal will result in smoke and emissions that would be detrimental to local amenity and health
- Properties were adversely impacted by toxic smoke at times from 2018-2020 as a result of the previous (ring kiln) charcoal operation
- The Air Quality assessment suggests emissions will be negligible with regards to particulate matter and Nitrogen Dioxide emissions. However, 'negligible' is not 'nil'. The plans at the end of the report show that some emissions could impact neighbouring properties and pedestrians using the adjacent pavement alongside Halam Road
- How can local residents be reassured that no 'invisible' impact on air quality will be the result of this new operation?
- It is noted that the Environmental Health officer specifies various good practices in the retort's operation which would seem to be essential to minimise any pollution and I would ask whether these can be a condition of this application should it be approved?
- No objection to the development of rural business, but queries why the retort is being sited so near to local homes.

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



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.

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

### *Principle of Development*

Spatial Policy 3 states that development away from the main built-up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting such as (amongst other things) agriculture and forestry and schemes for rural diversifications. Land surrounding the application site has recently been granted consent under 20/00201/FUL for a change of use from agricultural to the processing and distribution of timber solid fuel as a scheme for Rural Diversification.

Proposals to diversify the economic activity of rural businesses are supported where it can be shown that they can contribute to the local economy. Proposals should be complimentary and proportionate to the existing business in their nature and scale and be accommodated in existing buildings wherever possible. Paragraph 83 of the NPPF is also relevant in the assessment of this application which affirms that decisions should enable the diversification of agricultural and other land-based businesses. Core Policy 6 also states that the economy of the District will be strengthened and broadened to provide a diverse range of employment opportunities by helping the economy of rural areas by rural diversification that will encourage tourism, recreation, rural regeneration, and farm diversification, and complement new appropriate agriculture and forestry development. Development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact.

The application at hand seeks consent for the installation of a Charcoal Retort on land to the west of the approved timber storage yard to support the existing firewood business. The installation of a low emission Retort is proposed to enable the production and distribution of charcoal for which the applicant advances there is a local demand for. This Charcoal Retort is cited as an efficient and environmentally friendly way of producing high quality charcoal without adversely impacting upon air quality. The supporting statement advances that the existing firewood business is seasonal, where full operation is only when demand is highest in winter. However, demand for charcoal is healthy during the summer months and is therefore considered an important diversification for the business to reduce the financial impacts of seasonality.

In this case, the site lies within the open countryside within the Norward Farm complex which is an established agricultural holding. The nature of the business and charcoal retort means that it cannot be sited within an existing building on the site but it is proposed to sit adjacent to the timber storage yard and is contained to the centre of the site where there is existing built form. The business supports local businesses within Southwell (in addition to households locally) and uses resources from the wider agricultural holding to serve the wood business itself. Timber used

in the production of the firewood is sourced from surrounding agricultural holdings nearby and this would also be the case for the charcoal retort. The firewood business supports the diversification of activities associated with the wider agricultural holding and the installation of a charcoal retort would support the existing firewood business by allowing it to also function through low emission charcoal production which will help to maintain consistent demand throughout the year where firewood requirements are often seasonal.

Overall, I consider there to be rural diversification benefits to this proposal that would support the firewood business and consequentially the existing agricultural holding. I am therefore satisfied that the principle of this use in this location, for the purposes of rural diversification, is acceptable in principle subject to a more detailed assessment of other factors below.

### *Impact upon Character of Area*

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Core Policy 13 requires the landscape character of the surrounding area to be conserved. Policy DM8 of the DPD states agricultural development should have regard to the character of the surrounding landscape and be designed to reduce its impact on the surrounding area.

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

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

The relevant Landscape Policy Zone for the site is Halloughton Village Farmlands (MN PZ 38). Landscape condition is defined as good and landscape sensitivity with regards to visibility into and out of the area is moderate. Landscape actions for the area are to create and reinforce – however the relevant policy part for this type of development is to concentrate new development around existing settlements of Southwell and Halloughton, conserve the local built vernacular and reinforce this is new development. The policy also notes that a threat of drivers for change in this policy zone includes increasing the intensity of commercial agriculture (for example, development of mushroom farming). I note that this application seeks consent for a change of use of land, however this amounts to a small area to site the charcoal retort upon and is part of an existing agricultural yard. The proposal therefore does not seek to expand the existing site beyond its original confines and would not introduce any further large scale buildings. Instead, the proposal seeks permission for a small scale retort. The nature of the charcoal retort means that it cannot be sited within an existing building on the site but it is proposed to sit adjacent to the timber storage yard and is contained to the centre of the site where there is existing built form.

Views of the retort will be restricted from the view by virtue of its positioning within an existing agricultural yard and separation from the immediate public realm. Notwithstanding this, I accept

that the impact on the openness of the countryside is not measured purely by what can be seen from the public realm. The impact of the retort in plan form is also a consideration when assessing the impact on the openness of the countryside. However, the retort is relatively small scale and low profile such that its impact would be limited. As explained above, the retort has been sited to cluster built form within the site and prevent sprawling outside of the defined site boundaries. Whilst I accept that in plan form the impact will be of an additional structure within the site, I also accept that structures in an agricultural setting are not uncommon features within these locations, nevertheless the retort is relatively small scale and would not, in my view, be harmful to the character and appearance of the wider area.

In terms of wider landscape impacts I am mindful that from the public realm visibility into the site is relatively low because of the high boundaries to the roadside (S) and the wider farm complex that surrounds the timber production site. The retort is proposed to be sited in the land to the south adjacent to the timber storage area within the agricultural yard. Given the context of the existing agricultural yard areas, the location proposed is relatively well confined within the existing site operation such that I do not consider the use of this area for siting the retort would result in an unacceptable impact on the landscape character, particularly against the backdrop of the existing farm buildings on the site.

Comments received from the Town Council and the Civic Society have been duly taken on board. I note they raise concerns about the potential visual impact of siting this retort close to an attractive traditional barn range, however I would highlight that it has already been accepted that the existing business can operate from this site without undue impact on the character and appearance of the wider area. The only matter for consideration in the application at hand is the addition of this one retort/piece of machinery on the site. The retort would be located to the front of the existing traditional farm buildings on site (which for the avoidance of doubt the Conservation Officer has identified as non-designated heritage assets) but would still be within the agricultural service yard where agricultural machinery and processes being undertaken would not be uncommon. From the roadside the retort would be seen against the backdrop of the existing agricultural yard and buildings and would be partially screened by roadside vegetation. Having have discussed the proposal with the Conservation Officer they have advised that historically woodland management activities would have taken place here. In addition, given the agricultural/semi-industrial nature of the site it would not uncommon to see different machinery in the context of agricultural buildings. They do not consider an objection on heritage grounds could be substantiated.

I therefore consider the proposed development would not be unduly prominent from the surrounding rural area in accordance with Core Polices 13 & 14 and Policies DM5, DM8 and DM9 of the Development Plan Document.

#### *Impact upon Residential Amenity & Air Quality*

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM6 of the DPD states that development proposals should ensure no unacceptable reduction in amenity upon neighbouring development. Policy HE4 of the Southwell NP states that outside of settlement boundaries, applications for employment uses will be resisted unless it can be demonstrated that they will not undermine residential amenity.

The charcoal retort is small scale and well removed from any neighbouring property such that there would be no impact through overshadowing or overbearing. Separation from surrounding neighbours not associated with the wider farm complex is c. 65m and given the proposed operation of the retort, the main amenity concern is any potential impact through smoke disturbance and air quality implications.

The submitted information with this application states that to produce charcoal the retort relies on pyrolysis/carbonisation of timber in a closed vessel excluding oxygen to avoid ignition. This causes the timber to decompose into charcoal, which is primarily elemental carbon. The retort is designed to reburn gases produced by the wood as it is heated which means that the system is efficient and produces very little in the way of emissions. Emissions from the retort are also kept to a minimum by using only untreated timber with a low moisture content as fuel. This is produced by the existing firewood business, ensuring it remains of suitable quality. This proposal does not involve methods traditionally associated with charcoal production (such as charcoal kilns), which are less environmentally friendly and inefficient.

Policy DM10 (Pollution and Hazardous Materials) require development proposals involving the potential for pollution to take account and address their potential impacts in terms of health and the natural environment including the general amenity in terms of air quality.

To support the application for the charcoal retort the applicant has submitted an Air Quality Assessment which assesses the cumulative implications of adding the charcoal retort to the operational firewood business which includes biomass burners. The Environmental Health Technical Officer has reviewed this AQ assessment and the Written Scheme of Maintenance submitted for the retort and has advised that the AQ assessment uses dispersion modelling to assess the impact of the two biomass burners and double charcoal retort at various sensitive receptors in the vicinity of the application site. The report concludes that the impact at all receptors, residential and ecological is *not significant* in all cases (in accordance with IAQM guidance). However, in order to minimise the risk of any future nuisance complaints from the charcoal retort (to which this application relates), which could result in enforcement action, Environmental Health have suggested a number of conditions relating to the charcoal retort and its operation (please see consultation section above for these conditions in full).

I note that comments from an interested party and the Civic Society reference occasions of smoke nuisance last year. Following receipt of complaints an investigation into the site by colleagues in Environmental Health was undertaken in 2020 which established that charcoal was being produced on land to the NW of the application site in unauthorised ring kilns (outside of the red line of this current application). Ring kilns are essentially cylinders that are filled with wood and lit, a lid placed on top and is left to burn and does emit an amount of smoke out of the chimneys. Following enforcement action this operation ceased in 2020 and Environmental Health have confirmed that no complaints have been received since. However, it is important to note that the charcoal retort proposed in this application is significantly different from the ring kilns previously used. The retort is an advanced piece of machinery that recirculates any gasses emitted and burns them off so that emissions are negligible. The Environmental Health Officer explained that following the incident in 2020 he had initial reservations regarding the proposed retort, however, having discussed the process with the retort manufacturer, an operator who has two double retorts and the local authority environmental health department in the district where the operator is based, all reported very little smoke/emissions from the process and the local authority noted that no complaints have been received regarding the process.

It is also important to note that in referring this case to be put before the Planning Committee Councillor Harris has advised that he: *“wish[es] to propose better conditions in order to prevent nuisance. I am proposing definitive and specific measurable emissions as this industrial process has caused problems with the current - and the proposed - conditions and wish to have these implemented. This is so that residents can measure the emissions at the time and not be held to the relatively subjective conditions being proposed.”* In response to this, I would reiterate that this proposed retort is not the same charcoal production process that resulted in smoke complaints last year and that the application must be assessed on its own merits and without prejudice. Paragraph 55 of the NPPF makes it clear that planning conditions should be kept to a minimum, and only used where they satisfy the following six tests: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects. I consider the conditions suggested by the Environmental Health Officer to meet the requirements of the six tests and would ensure the correct operation, management and maintenance of the retort. Conditions attached to this permission can also only control the charcoal retort and cannot be used to as a means to control the wider timber production site/operations as these are subject to their own conditions imposed on 20/00201/FUL. The EHO has also advised that there would be no legal basis to enforce emission limits on this type of machinery due to restrictions relating to environmental permits.

Overall, I note the comments and positive conclusion of the Environmental Services section and subject to the conditions requested by them, I am satisfied that the charcoal retort would comply with Air Quality requirements. Provided the retort is maintained and operated in accordance with the conditions proposed to be attached to this consent I am satisfied that the development would not result in any detrimental impact on the natural environment in accordance with the aims of Policy DM10 or neighbouring amenity in accordance with Policy DM6 of the DPD.

#### *Impact upon the Highway*

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

The Highways Authority (HA) have been consulted on this application, as part of the previous consent for the firewood business the HA advised that the site access on Halam Road would benefit from widening to prevent overrunning of vehicles in the future along with improved signage for the benefit of users of the adjacent public highway. Whilst the access was already operational, the HA considered that given the nature of the business this may attract irregular customers who are less familiar with the area, and thus would not be expecting the access in its location and as such clearer signage should be installed. These requirements were controlled by conditions attached to the previous consent.

With regard to the application at hand the HA have confirmed that the proposal would have very little impact on the existing highway network and therefore they raise no objection to the proposal. On the basis of support from the highways authority I am of the view that the application meets the requirements of SP7 and DM5.

## *Conclusion*

Given the above, I am satisfied that the principle of the development at the site is acceptable and that the proposal would not result in any material impact on the character and appearance of the site, highways safety concerns or impact neighbouring properties and is unlikely to result in any significant impact on the natural environment in terms of air quality subject to conditions. It is therefore considered that the proposal would accord with the aims of NPPF as well as Core Strategy Policies SP3, CP9, CP12 and Policies DM4, DM5, DM7 and DM8 of the Allocations & Development Management DPD as well as policies contained within the Southwell Neighbourhood Plan. Therefore it is recommended that planning permission be granted.

## **RECOMMENDATION**

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

### **Conditions**

01

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

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

02

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

- Site Location Plan - Ref. 125155 - 600C
- Proposed Block Plan – Ref. 125155 – 602A
- Proposed Retort – Ref. 125155 – 603

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the material details submitted as part of the planning application.

Reason: In the interests of visual amenity

04

The site shall only be open to members of the public and for deliveries during the following hours:- 07:00h to 16:00h Monday- Friday, 07:00h to 12:00h Saturdays and not at all on Sundays, Public or Bank Holidays.

Reason: In the interests of residential amenity.

05

The operator shall undertake visual observations during each occurrence of start up and shut down of the retort and record the information in an environmental logbook. This information shall

include the date, time, weather conditions, wind direction, any visible smoke from the retort and the duration, any problems/corrective actions/maintenance to the machinery, the moisture content of fuel wood and the operative.

Reason: To ensure that the smoke, odour and fumes from the retort are correctly assessed and controlled in order that the risk of exposure to nearby residents and the local area is not harmful or a nuisance.

06

The operator shall ensure that emissions to air from the charcoal retort shall be free from visible smoke and in any event shall not exceed the equivalent of Ringelmann Shade 1 as described in British Standard BS 2742:2009 except in the event of lighting from cold, where emissions of smoke should not exceed Ringelmann Shade 1 for more than 10 minutes.

Reason: To ensure that the smoke, odour and fumes from the retort are correctly assessed and controlled in order that the risk of exposure to nearby residents and the local area is not harmful or a nuisance.

07

Where the operator observes smoke emissions that contravene the requirements of condition 06, the operator shall shut down the equipment that is producing excessive smoke emissions. The operator shall then record the date and time that the emission occurred in a logbook. Records of such emissions shall be retained for a minimum of 2 years and made available for examination to the Local Planning Authority. The cause of the excessive emissions shall be investigated and the necessary remedial action carried out prior to starting up the equipment again. Any remedial actions shall be noted in an environmental log book.

Reason: To ensure that the smoke, odour and fumes from the retort are correctly assessed and controlled in order that the risk of exposure to nearby residents and the local area is not harmful or a nuisance.

08

Any fuel that is to be used to fuel the retort shall be stored undercover, kept in a dry condition and shall not exceed the maximum moisture content permitted by the operation and maintenance manual and by the Renewable Heat Incentive certification for the respective appliance (which for the avoidance of doubt, is a maximum of 20% moisture content of fuel wood).

Reason: To ensure that the smoke, odour and fumes from the retort are correctly assessed and controlled in order that the risk of exposure to nearby residents and the local area is not harmful or a nuisance.

09

Only clean virgin untreated wood shall be used as a fuel source. Burning of treated, stained or painted wood or waste wood such as pallets is not permitted.

Reason: To ensure that the smoke, odour and fumes from the retort are correctly assessed and controlled in order that the risk of exposure to nearby residents and the local area is not harmful or a nuisance.

10

The charcoal retort hereby permitted shall be maintained in accordance with the Written Scheme of Maintenance deposited 15.12.2020 by Fisher German for Norwood Park, Southwell. If the retort is replaced at any time, the operator shall supply the Local Planning Authority with an updated Written Scheme of Maintenance which shall first be agreed in writing and thereafter maintained in accordance with the agreed details.

Reason: to ensure that the smoke, odour and fumes from the proposed burner are correctly assessed and controlled in order that the risk of exposure to nearby residents and the local area is not harmful or a nuisance.

11

If during the course of operation substantiated complaints relating to emissions are received by the Council, the operator shall arrange for an assessment of the impact of the retort emissions on nuisance/amenity. The findings of this assessment shall be considered by the Council and a scheme for rectifying any issues identified shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall thereafter be implemented in accordance with the agreed details.

Reason: To ensure that the smoke, odour and fumes from the retort are correctly assessed and controlled in order that the risk of exposure to nearby residents and the local area is not harmful or a nuisance.

### **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 accord Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

03

Staff responsible for operating the charcoal retort shall receive appropriate training on how to operate the process while minimising emissions from it.

### **BACKGROUND PAPERS**

Application case file.

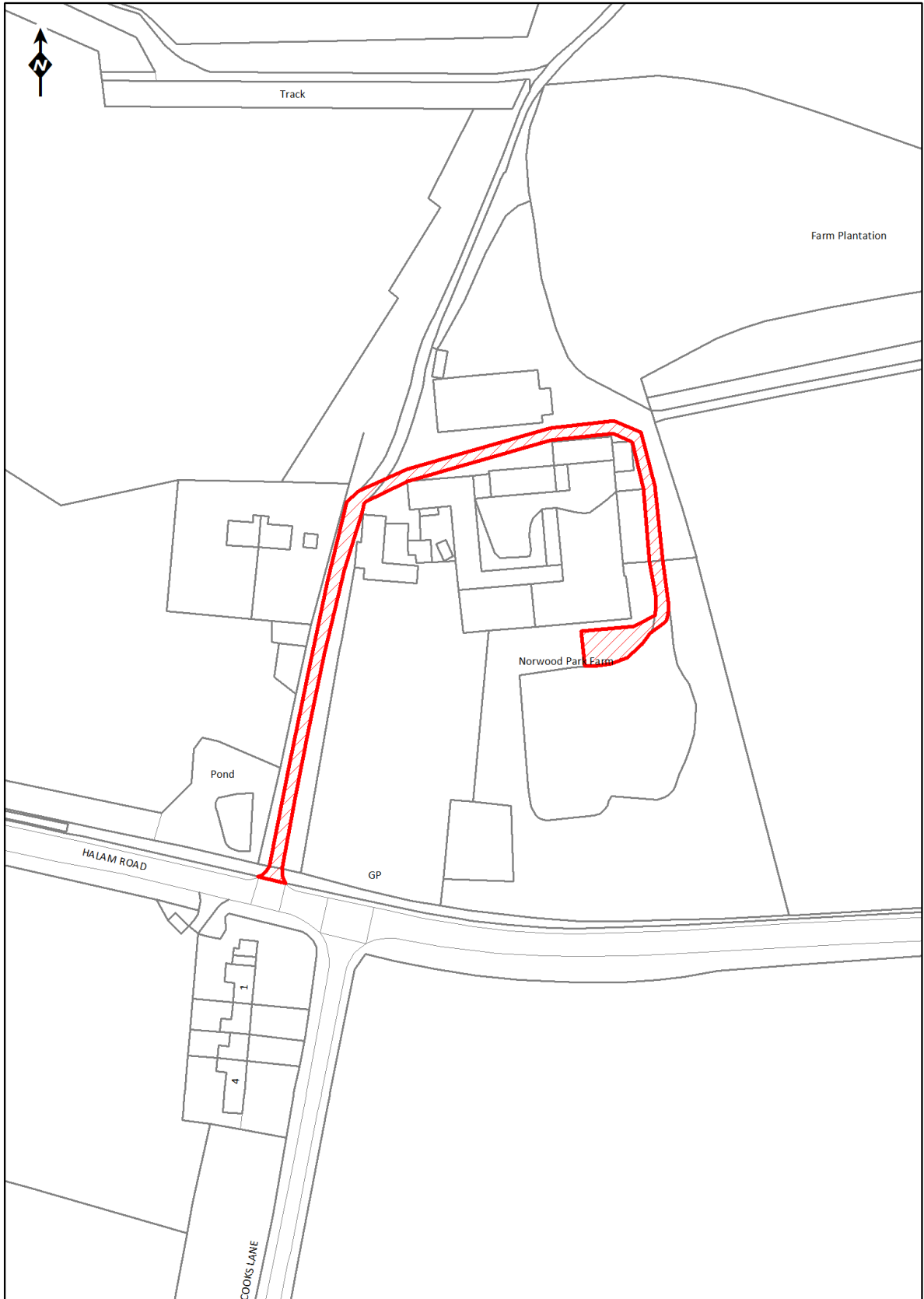
For further information, please contact Honor Whitfield on ext 5827



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

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

Committee Plan - 20/02472/FUL



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## PLANNING COMMITTEE – 2 MARCH 2021

<b>Application No:</b>	<b>20/02499/OUTM (MAJOR)</b>	
<b>Proposal:</b>	<b>Residential development of 10 dwellings (following removal of Grove Bungalow and existing outbuildings)</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>31 December 2020</b>	<b>Target Date: 22 March 2020</b>
<b>Link to Website:</b>	<a href="http://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">http://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 have refused two previous schemes for up to 19 dwellings and then up to 17 dwellings on this site at Planning Committee in August and November 2020 respectively.**

### 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

**20/01720/OUTM** - Residential development of up to 17 no. new dwellings (following removal of Grove Bungalow and existing outbuildings) (Resubmission of 19/02158/OUTM). Refused at committee in November 2020 for the following summarized reasons:

- 1) *Failure to demonstrate the maximum quantum of development proposed would be in keeping with the character, general grain or density of development in the surrounding area. As such, the proposal is considered to represent over intensive development of the site and would lead to a cramped development compared with surrounding plot sizes and does not minimise the loss of trees/hedgerows with a consequential detrimental impact on the visual amenity of the area; and*
- 2) *Failure 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. No mechanism at the time of decision making to secure the developer contributions needed to mitigate the harm.*

**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 (blanket) group Tree Preservation Order (no. N376) was made in June 2020. Following full inspection only two cherry trees to the site frontage were found to meet the criteria for protection and the Order was confirmed on that basis in December 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.

### *Adjacent Site*

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 dis-

proportionate 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 10 dwellings.

An indicative block plan has been submitted to demonstrate how this quantum of dwellings might be achieved on site.

### The Submission

- Covering letter dated 18<sup>th</sup> December 2020
- Existing Elevations of Grove Bungalow
- Highway Ownership Extent Plan
- Site Block Plan – drawing no. 1506G/003 Rev G
- Site Block Plan – 1506G-001 Rev H
- Site Location Plan – 1506G-004
- Topographical Survey – Job No. 3394
- Arboricultural Report & Impact Assessment, by AWA Tree Consultants dated January 2020
- Combined Planning and Design & Access Statement, September 2020 (NB. relates to 17 dwellings)
- 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
- Photographs of the site
- Amphibian Mitigation Strategy, JJH Consulting Ltd, May 2020

- Proposed Drainage Strategy, Sheet 1 of 1, drawing no. 100334-01-0500-01

### 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
- District Wide Housing Needs Assessment, by ARC4 December 2020

### Consultations

**Newark Town Parish Council** – Object for reasons as follows:

- 1) Over-intensive;
- 2) 10 dwellings would be detrimental to character of the area and existing properties near the site;
- 3) Would have significant negative impact on amphibian migration route and the mitigation strategy is believed to be inaccurate and insufficient;
- 4) Lack of visual amenity for residents of the new dwellings;

- 5) Unsuitable for this type of development due to drainage issues which haven't been addressed.

**NCC Highways Authority** – (18.01.21) Based on the plan ref. drawing no. 1506G/001 rev. G, titled: Site Block Plan, dated November 2019, the Highway Authority has no objection to the proposed access detail submitted with this outline application 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 visibility splays, 4) provision of new footway along Barnby Road, 5) provision of pedestrian dropped kerb crossing on Barnby Road and 6) 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. For added clarity the site lies fully within flood zone 1 and therefore we have no fluvial flood risk concerns. The applicant also confirmed, in the 2019 application and in the 2020 application that foul sewage will be disposed of via the Severn Trent Water mains network. This is also confirmed for this latest application and therefore we have no further comment to make.

**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 confirm no education contribution is being sought. They also comment that archaeological potential is high and that if permission is granted it should be conditional on mitigation which should focus on strip, map and record exercise.

**Cadent (Gas)** – Previously advised 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 included in the 'note to applicant' section of this report.

**NSDC, Tree Consultant** – 'The amended proposal is broadly acceptable. I have some reservations that the proposed pruning back to boundary of vegetation on north and south boundaries is achievable without detriment to these trees and may result in loss of valuable screening. Sympathetic pruning would be the preferred option in these cases. Any reserved matters will need to include robust mitigation soft landscaping options for removals with ample room give in any final layout to allow for full tree development.' Conditions are then recommended to protect the trees which are captured in the recommendation section below.

**Natural England** – No comments received and previously referred the LPA to Standing Advice.

**Nottinghamshire Wildlife Trust** – Previously confirmed that their comments of 15/09/20 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** – Previously advised that 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 were made.

**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 3 local households raising the following summarized concerns:**

- Development still too intense for the area;
- Not complimentary to surrounding housing development;
- 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 – fear it would worsen if development goes ahead without improvements
- Concern about the extra traffic;
- Plan doesn't show hedge along northern boundary;
- The Arboricultural Report is inaccurate as it indicates two trees (T42 and T43) are within the development site when they are owned by a third party.
- G41 is more extensive than shown, it would not be acceptable to fence and replant this.
- Object to loss of G41 due to loss of habitat for wildlife if lost and for privacy reasons
- 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;

#### Comments of the Business Manager

##### Preliminary Matter

This scheme is based on the same site area and is similar to the two schemes previously considered save for the reduced quantum of proposed development. Members will therefore 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 10 units could successfully be accommodated on the site.

Below are extracts of the 2 refused schemes and the proposal now before members so that you can appreciate the likely impacts and see how the proposal has evolved.

**Indicative Layout for 19 dwellings (Refused)**



**Indicative Layout for 17 dwellings (Refused)**



**Proposed Indicative Layout for 10 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 10 dwellings in an attempt to demonstrate to Members that the scheme is of 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.

The most up-to-date housing need information for Newark is contained within the 2020 HNA by ARC4 and indicates that the greatest need is for 3 bedroom dwellings (30.7%) followed by 4 or more bedroom dwellings (25.5%) followed by two bedroom dwellings (19.5%) with the remainder of the need being for 2 or more bedroom bungalow (7.4%) 3 or more bed bungalows (6.7%), 2 or more bedroom flats (4.9%), 1 bedroom flats (4%) with 1.3% being 'other'.

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 10 units indicates a mix to comprise 2 x 3 bed units (20%), 6 x 4 bed units and 2 x 5 bed units (80% combined).

Whilst this indicative layout does not align with the newly published housing need, nevertheless I am satisfied a similar layout of a different mix could be capable of achieving a mix to meet the amended local housing need. This will need to be carefully considered at reserved matters stage. The applicant has been made aware of the newly published housing need and doesn't wish to amend the indicative layout given that this is a reserved matter.

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 with both previous schemes 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 LLFA that if this were resolved, there would be no reason to object to the drainage strategy otherwise.

The applicant has been 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. The agent has confirmed they have absolute confidence this agreement can be secured but that solicitors won't be instructed until there is a resolution to grant. This is a matter that can be dealt with through an appropriate s106 legal agreement (thus within the Council's control) 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) 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 and hedgerows 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 and now protected by preservation order. These are shown to be retained on the indicative layout plan which is welcomed. 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. The blanket Tree Preservation Order that was initially made to protect the trees pending assessment by our independent tree consultant has now been amended to include only the trees to the site frontage. However this is not to say that other trees will be not be retained; indeed it appears to be the applicant's intention to retain the majority of the trees.

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 there are some reservations regarding the level of pruning along the boundaries (a matter which can be dealt with by the reserved matters application), 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. These remain up to date.

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*

No affordable housing is required for a scheme of 10 units; Core Policy 1 is clear that the requirement relates to schemes of 11 or more dwellings.

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

Applicable to scheme of ten or more dwellings, this application would ordinarily need to make provision for on-site public open space at 18m<sup>2</sup> per dwelling as set out in the Developer Contributions SPD. However I would not expect this to be provided on site given its 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. This contribution is triggered at 10 units or more and therefore a financial contribution toward community facilities which is based on £1,384.07 (figure from SPD but indexed at 2016) per dwelling is sought.

### *Primary Education*

The Developer Contributions and Planning Obligations SPD indicates that development of 10 or more dwellings which generate 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 have confirmed there is existing capacity available to accommodate occupiers of the dwellings and therefore no education contribution is necessary. In terms of secondary education, the development would be covered under CIL regulations.

### Other Matters

NCC have now advised that the site has a high archaeological potential and say that the RCHME identified the Line of Circumvallation as running through the site in their volume on the Civil War siegeworks of Newark. There has been limited opportunities of identifying this earthwork, which would probably be of national significance once firmly located. The County Council strongly recommend that if planning permission is granted this should be conditional upon a scheme of archaeological mitigation which is captured within the conditions set out below.

### 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 10 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 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 completion of a section 106 legal agreement 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):**

<b>Summary of Matters to be secured via a s.106 Agreement</b>	
Bus Stop Infrastructure	£13,000 for 2 new bus stops on Barnby Road
Community Facilities	£1,384.07 per dwelling (£13,840.70)
Children's Play Space	£927.26 per dwelling (£9272.60)
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).

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.

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 metres 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 part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided in accordance with details to be first submitted and approved in writing by the Local Planning Authority. The area within the visibility splays referred to in this Condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

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. 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](mailto: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

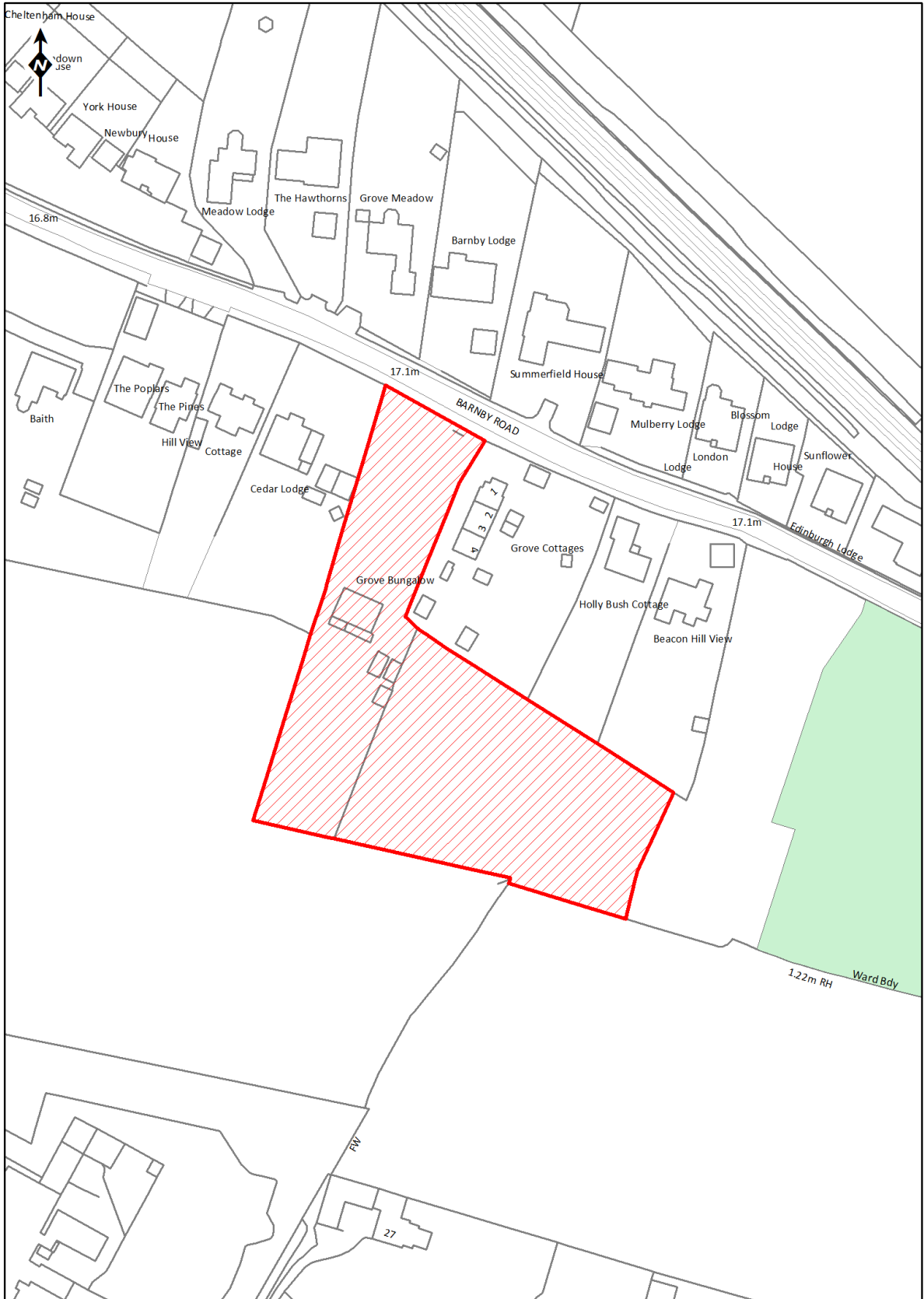
Application case file.

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 - 20/02499/OUTM



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## PLANNING COMMITTEE – 2 MARCH 2021

<b>Application No:</b>	20/02156/HOUSE	
<b>Proposal:</b>	Removal of timber fence to Front Street, extend wall by 6 courses and remove existing piers.	
<b>Location:</b>	The Lilacs, Front Street, South Clifton, NG23 7AA	
<b>Applicant:</b>	Mr Shaun Kerry	
<b>Agent:</b>	David Dakin Architects Ltd	
<b>Registered:</b>	10 <sup>th</sup> November 2020	Target Date: 5 <sup>th</sup> January 2021
		EOT: 5 <sup>th</sup> March 2021
<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 presented to the Planning Committee in line with the Council's Scheme of Delegation because of concerns expressed by a local member on the grounds of perceived harm to the Conservation Area. The request has been agreed by the Review Panel.**

### The Site

The Lilacs sits within the curtilage of a Grade II listed cottage (listed as The Old Schoolhouse) located on the east side of Front Street in the village of South Clifton. The property dates back to the 18th Century in which it was converted into a school house before being reverted back into a residential dwelling. The building is located within South Clifton Conservation Area. Due to the nature of the listing, the boundary wall would be described as being part of the listing as it is within the curtilage.

Currently, there is a fence that has been erected above the wall which also does not benefit from any permission or consent.

The property shares borders with The Old Barn, Oaklands Bungalow and Oaklands Farm. It is also opposite to Holly House and The Farmhouse.

The site is in Flood Zone 2, which means it has medium risk of fluvial flooding, and is in an area of very low risk of surface water flooding.

### Relevant Planning History

20/02157/LBC - Removal of timber fence to Front Street, extend wall by 6 courses and remove existing piers. Pending Consideration.

20/01784/LBCLDC - Certificate of lawfulness for proposed works to Listed Building to replace the guttering to front of property and to replace the radiators (Certificate Issued)

01/00987/LBC - Installation of a boiler system including a flue on the outside of the building. Remove and replace a window on the front elevation (Application Permitted).

## The Proposal

The proposal is for the removal of an existing timber fence, removing existing piers and extending the wall by 6 courses; increasing the height of the existing wall by 66.3cm to 1.6m. The current boundary height, with the unauthorised fence, is approximately 1.9m; the new wall height would sit lower than the existing unauthorised fence.

The following drawings and documents have been submitted with the application:

- Application Form, received 7th November 2020;
- Proposed and Existing Plans, Ref No L 03 01. Received 7th November 2020;
- Location Plan, received 7th November 2020;
- Heritage Impact Statement, received 7th November 2020.

## Departure/Public Advertisement Procedure

Occupiers of seven properties have been individually notified by letter.

An advert was placed in the Newark Advertiser on the 19th November 2020. A Site Notice was also erected near the site on the 20th November 2020.

## Planning Policy Framework

### **The Development Plan**

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

Core Policy 9: Sustainable Design  
Core Policy 10: Climate Change  
Core Policy 14: Historic Environment

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

Policy DM5: Design  
Policy DM6: Householder Development  
Policy DM9: Protecting and Enhancing the Historic Environment  
Policy DM12: Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework 2019;  
Planning Practice Guidance 2014;  
Planning (Listed Buildings and Conservations Areas) Act 1990;  
Householder Development SPD 2014.

## Consultations

**South Clifton Parish Council** – Objection. Concerns raised:

- Very few higher boundary walls within the village;
- 1.2m limit has been maintained since the conservation status;
- Avoidance of contact with neighbours and the rest of the community;
- High boundary wall for privacy may only be acceptable in an urban situation;
- Removes the ability to converse with neighbours;

- Adverse impact on security;
- Alternative methods for enclosure are preferred, well within the boundary;
- Will set an undesirable precedent;
- Keen for the village to remain without barricades, in the spirit of the Conservation Area and enhancing the community spirit.

The Parish Council support the removal of the fence. *Comments received 26<sup>th</sup> November 2020.*

**NSDC Conservation Officer – No Objection to the proposal:**

- Tradition coping will be reinstated, restoring the aesthetic significance of the wall, reintroducing a more authentic form and appearance;
- There is no prescribed height for walls in historic settings;
- Historically, the wall was around 2 bricks taller than the current wall;
- Suspicion that some walls have been lowered to accommodate modern visibility splays – there are a number of old walls with modern coping or capping;
- Taller walls do exist (Oaklands Farmhouse Front Street, Manor House Back Street and The Old Farm Back Street being some examples); visually it would appear that the proposed wall would be a comparable height;
- Taller walls are attractive and traditional and do not create an oppressive street scene;
- The raising of the wall will not be out of character for a building of this age and status or within the street scene;
- The raised wall height is not necessarily or exclusively an urban feature, or out of character in this low density setting;
- The application will reinstate the significance of the boundary wall; which has previously been harmed by unauthorised works. The proposal will see an acceptable alteration which will preserve the significance of the listed boundary wall, the setting and thereby the significance of the listed house and character and appearance of the Conservation Area (in accordance with Sections 16, 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990).
- The Brick Bound should be conditioned to match;
- Samples of new bricks and copers, mortar mix and sample panel of the finish and design of the brick piers to be located to the rear of the returns in the wall should also be subject to a conditions.

*Comments received 3<sup>rd</sup> December 2020.*

**Ramblers Association – No objection:**

- The footpath is seriously obstructed and has been reported to Notts CC.
- It is not clear whether the footpath passes through the Lilacs but, if so the owner must ensure no further obstructions are put in place. *Comments received 6<sup>th</sup> December 2020.*

**Objection (position changed):**

- The obstructed footpath starts at the gateway;
- No provision has been made for the public to access the footpath at the gate;
- The applicants need to make clear how public access to the footpath will be protected;
- Google Street View shows a public footpath fingerpost is pointing down the drive. *Comments received 6<sup>th</sup> December 2020.*

***No letters of representation have been received from local residents/interested parties.***

## Comments of Business Manager

### *Principle of development*

Householder developments are accepted in principle subject to an assessment of the criteria currently outlined within Policy DM6. This includes the obligation for the proposal to respect the character of the surrounding area and to not adversely affect residential living conditions. Policy DM5 reflects this.

### *Impact upon Character of Area*

Policy DM6 states that planning permission will be granted for householder development provided that the proposal reflects the character of the area and existing dwelling in terms of design and materials. Policy DM5 requires any new development to achieve a high standard of design and layout that is of an appropriate form and scale whilst complementing the existing local distinctiveness and built and landscape character.

As the site lies within a conservation area and is listed, heritage policies CP14 and DM9 are also relevant along with the relevant sections of the NPPF which seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

Within Section 16 of the National Planning Policy Framework (NPPF) 2019 the importance of considering the impact of new development on the significance of the designated heritage assets is conveyed. When considering the impact of any proposed development on the significance of a designated heritage asset, great weight should be given to the asset's safeguarding, for example. Any harm to, or loss of, the significance of a designated heritage asset, should require clear and convincing justification. In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of designated heritage assets when considering new development.

South Clifton's Conservation Area was designated in 1994. The Old Schoolhouse was designated in October 1984 as a Grade II Listed Building. The listing advises that the property dates back to the 18<sup>th</sup> Century being brick with patterned headers and a hipped pantile roof. The property had one side wall and one rear wall stacks, square plan and was 2 storeys with 3 windows. A plain central doorcase with close-boarded door, flanked by single 19<sup>th</sup> Century 2 light Yorkshire sashes with segmental heads; above, central plain sash, flanked by single 19<sup>th</sup> Century glazing bar sashes with segmental heads.

The Manor House was listed as a Grade II Listed Building in 1984. This house dates back to the 19<sup>th</sup> Century and consists of brick with a 20<sup>th</sup> Century pantile roof, brick eaves and 2 gable stacks. The dwelling has 2 storeys and 3 windows and takes an L shaped-plan. It contains a central moulded doorcase with scrolled brackets to hood, a 19<sup>th</sup> Century paneled door, flanked by single glazing bar sashes with rubbed brick heads. Above, 3 glazing bar sashes with rubbed brick heads.

South Clifton is within the north-east corner of the district within the Collingham sub-area and is one of the many rural villages within the district. The village contains many listed buildings and non-designated heritage assets, including 'Marshgate Farmhouse and Adjoining Outbuildings' which lies just north of the site.

Currently, there is a fence that has been erected above the existing wall which also does not benefit from any permission or consent. The fence is harmful to the significance of the Listed Building and Conservation Area; it is imposing on the street scene and is untraditional and unsightly. The removal of this fence, as part of this permission, would only benefit the character of the Conservation Area and the Listed Building.

It is noted that the Conservation Officer raises no objection to the application. The raising of the wall will be in keeping with the surrounding development. The historic wall would only have been constructed with 2 bricks less in height. It is not considered that this boundary treatment would have any harmful impact on South Clifton's Conservation Area or the setting of The Lilacs and surrounding Listed Buildings. The proposed wall height would also sit lower than the existing unauthorised fence, by approximately 0.3m. The duty under Section 66 of the 1990 Act has been duly applied and the proposal found to be compliant with it, along with guidance within Section 16 of the NPPF as well as Core Policy 14 of the Amended Core Strategy and Policy DM9 of the Allocations and Development Management DPD.

The application proposal also proposes to remove the existing pier tops to create a more unified design within the setting of Front Street and the walls adjacent and opposite to the Lilacs. Reinstating traditional coping will restore the aesthetic significance of the wall, and The Lilacs significance as a Listed Building.

The raising of the wall by 6 brick courses will result in the wall being just 2 bricks taller than the historic wall, which was rebuilt without permission around 5 years ago. There is no prescribed height for walls within Conservation Areas and therefore it is not considered that the raising of this wall would be deemed unsuitable.

I consider that the proposed development is therefore considered to accord with the aims of Core Policies 9 and 14 of the Amended Core Strategy and Policies DM5, DM6 and DM9 of the Allocations and Development Management DPD and Section 12 of the NPPF.

#### *Impact upon Residential Amenity*

Policy DM6 of the DPD states that development proposals should ensure no unacceptable reduction in amenity upon neighbouring development. The Householder Development SPD provides guidance on how to assess boundary treatments in terms of scale, height and materials. They must be in keeping with the character and appearance of the dwelling and surrounding area. Paragraph 127 of the NPPF requires that development create places with a high standard of amenity for existing and future users.

In my view the raising of the wall and the removal of the existing piers would not create an oppressive appearance on the street scene. The scale and height of the proposed wall would be in keeping with the character of the surrounding area. The materials of the brick bond are to be conditioned as part of this application, to ensure the best match is used.

As stated within the Householder Development SPD, a well thought out boundary treatment should create a sense of enclosure and help to define public and private space without reducing amenity due to overbearing and/or overshadowing effects. The raising of this wall by 6 bricks is not considered to have any overbearing impacts on The Lilacs or the existing street scene. The raising of this wall will further define the separation of public and private space without any overshadowing impacts.

With the above in mind, it is considered the proposal is acceptable and complies with Policy DM6 and DM5 of the DPD.

### *Highway Safety*

The proposed development would not alter the existing parking arrangement, sufficient parking will remain. The raising of the wall is also not considered to be significant enough to result in visibility issues, as such there are no highway safety issues. The proposal therefore accords with the expectations of Policy DM5 and SP7 in respect of this.

### *Conclusion*

The proposal complies with the requirements of Core Policies 9 and 14 of the Amended Core Strategy, policies DM5, DM6 and DM9 of the ADMDPD as well as the Council's Householder Development SPD, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 124, 127 and 200 of the NPPF.

## **RECOMMENDATION**

**That full 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 be carried out only in accordance with the details and specifications included on the submitted application form and shown on the submitted drawings as listed below:

- Proposed and Existing Plans, Ref No L 03 01. Received 7th November 2020;
- Location Plan, received 7th November 2020; and
- Heritage Impact Statement, received 7th November 2020.

Reason: To ensure that the development takes the agreed form envisaged by the Local Planning Authority when determining the application.



03

No development shall be commenced on the raising of the wall until samples or product literature of the below materials have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details:

Brick Bond

Bricks

Copers

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

04

No development shall be commenced on the raising of the wall until a brickwork sample panel showing brickwork, copers, bond and mortar mix has been provided on site for inspection and approval has been received in writing by the Local Planning Authority. The development shall thereafter proceed in line with the approved details.

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

05

The existing timber fencing as shown on drawing L(03)01 will be removed in full within 4 months of the date of this decision.

Reason: To ensure the timely removal of the unauthorised and harmful addition to the listed building.

#### Notes to Applicant

01

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

02

The applicant 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 100 square metres.

#### BACKGROUND PAPERS

Application case file.

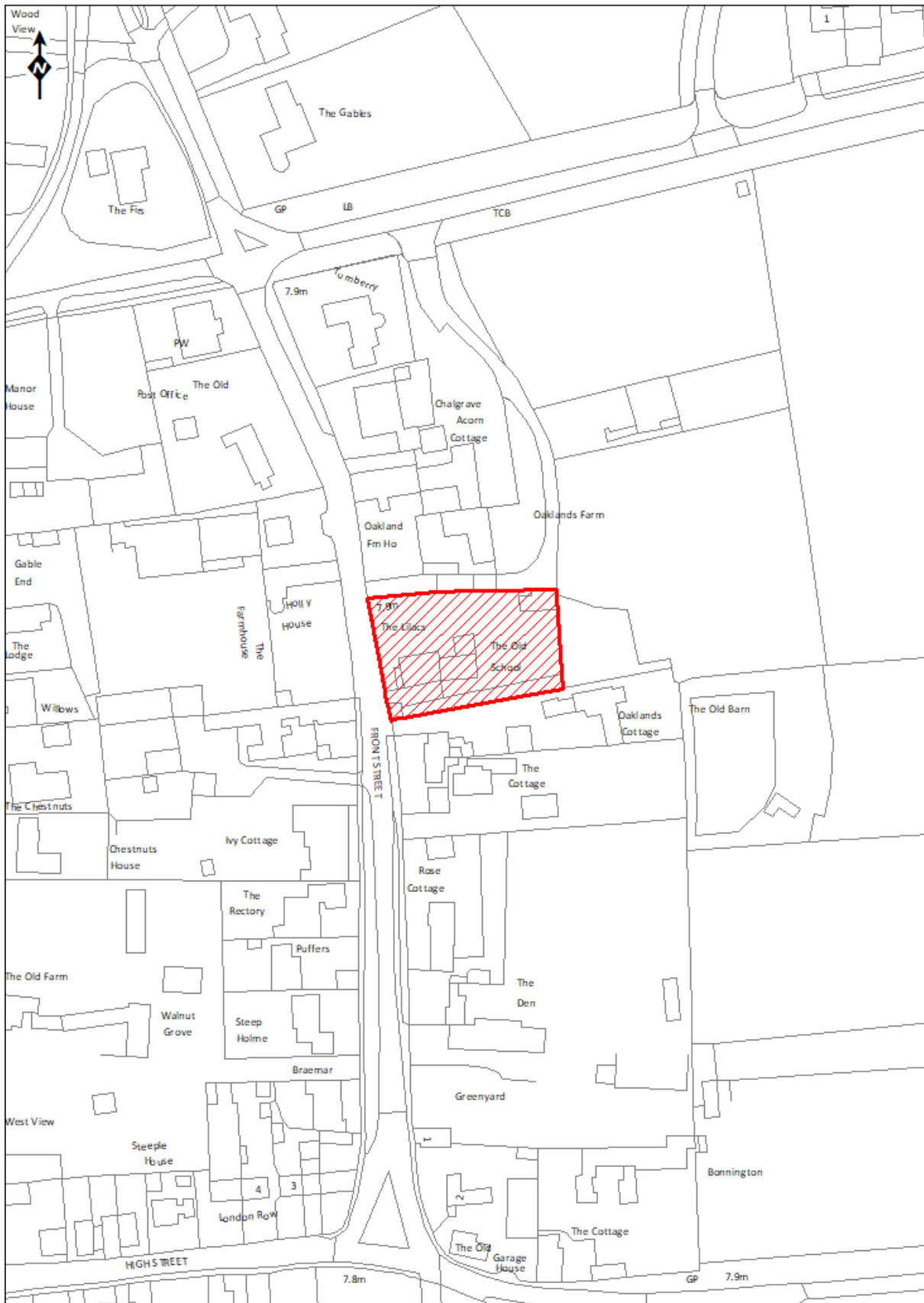
For further information, please contact Isabel Verheul on ext 5860.

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 - 20/02156/HOUSE



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## PLANNING COMMITTEE – 2 MARCH 2021

<b>Application No:</b>	<b>20/02157/LBC</b>	
<b>Proposal:</b>	<b>Removal of timber fence to Front Street, extend wall by 6 courses and remove existing piers.</b>	
<b>Location:</b>	<b>The Lilacs, Front Street, South Clifton, NG23 7AA</b>	
<b>Applicant:</b>	<b>Mr Shaun Kerry</b>	
<b>Agent:</b>	<b>David Dakin Architects Ltd</b>	
<b>Registered:</b>	<b>10<sup>th</sup> November 2020</b>	<b>Target Date: 5<sup>th</sup> January 2021</b> <b>EOT: 5<sup>th</sup> March 2021</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 presented to the Planning Committee in line with the Council’s Scheme of Delegation because of concerns expressed by a local member on the grounds of perceived harm to the Listed Building/Conservation Area. The request has been agreed by the Review Panel.**

### The Site

The Lilacs sits within the curtilage of a Grade II listed cottage (listed as The Old Schoolhouse) located on the east side of Front Street in the village of South Clifton. The property dates back to the 18<sup>th</sup> Century in which it was converted into a school house before being reverted back into a residential dwelling. The building is located within South Clifton Conservation Area. Due to the nature of the listing, the boundary wall would be described as being part of the listed building as it is within the curtilage.

The property shares borders with The Old Barn, Oaklands Bungalow and Oaklands Farm. It is also opposite to Holly House and The Farmhouse.

The site is in Flood Zone 2, which means it has low risk of fluvial flooding, and is in an area of very low risk of surface water flooding.

### Relevant Planning History

20/02156/HOUSE - Removal of timber fence to Front Street, extend wall by 6 courses and remove existing piers. Pending Consideration.

20/01784/LBCLDC - Certificate of lawfulness for proposed works to Listed Building to replace the guttering to front of property, and to replace the radiators (Certificate Issued);

01/00987/LBC - Installation of a boiler system including a flue on the outside of the building. Remove and replace a window on the front elevation (Application Permitted).

## The Proposal

The proposal is for the removal of an existing timber fence, removing existing piers and extending the wall by 6 courses; increasing the height of the existing wall by 66.3cm to 1.6m. The current boundary height, with the unauthorised fence, is approximately 1.9m; the new wall height would sit lower than the existing unauthorised fence.

The following drawings and documents have been submitted with the application:

- Application Form, received 7<sup>th</sup> November 2020;
- Proposed and Existing Plans, Ref No L 03 01. Received 7<sup>th</sup> November 2020;
- Location Plan, received 7<sup>th</sup> November 2020;
- Heritage Impact Statement, received 7<sup>th</sup> November 2020.

## Departure/Public Advertisement Procedure

Occupiers of seven properties have been individually notified by letter.

An advert was placed in the Newark Advertiser on the 19<sup>th</sup> November 2020. A Site Notice was also erected near the site on the 20<sup>th</sup> November 2020.

## Legal and Planning Framework

The Courts have accepted that there is not statutory requirement for Listed Building Consents to have regard to the provisions of the development plan; as per Section 54A of the Town and Country Planning Act (1990). However, Local Planning Authorities are to be access the proposal against other legislation:

- National Planning Policy Framework (NPPF) 2019;
- Planning Practice Guidance (PPG) April 2014;
- Section 16(2), 66 and 72, Planning (Listed Buildings and Conservation Areas) Act 1990;
- Historic England's Good Practice Advice Note 2 and 3 – Managing Significance in Decision Taking in the Historic Environment and The Setting of Heritage Assets;
- Historic England Advice Note 2 – Making Changes to Heritage Assets.

### **The National Planning Policy Framework and Planning Practice Guidance.**

These documents assert the Government's objectives for historic environment and the justification for its conservation. They identify that the historic environment holds a fundamental place within England's cultural heritage; including the multiple ways it supports and contributes towards society, the economy and the part it plays in daily life. Tests are put in place to ensure no significant damage or loss within the historic environment is permitted without full justification.

## Consultations

**South Clifton Parish Council** – Objection. Concerns raised:

- Very few higher boundary walls within the village;
- 1.2m limit has been maintained since the conservation status;
- Avoidance of contact with neighbours and the rest of the community;

- High boundary wall for privacy may only be acceptable in an urban situation;
- Removes the ability to converse with neighbours;
- Adverse impact on security;
- Alternative methods for enclosure are preferred, well within the boundary;
- Will set an undesirable precedent;
- Keen for the village to remain without barricades, in the spirit of the Conservation Area and enhancing the community spirit.

The Parish Council support the removal of the fence. *Comments received 26<sup>th</sup> November 2020.*

**NSDC Conservation Officer – No Objection to the proposal:**

- Tradition coping will be reinstated, restoring the aesthetic significance of the wall, reintroducing a more authentic form and appearance;
- There is no prescribed height for walls in historic settings;
- Historically, the wall was around 2 bricks taller than the current wall;
- Suspicion that some walls have been lowered to accommodate modern visibility splays – there are a number of old walls with modern coping or capping;
- Taller walls do exist (Oaklands Farmhouse Front Street, Manor House Back Street and The Old Farm Back Street being some examples); visually it would appear that the proposed wall would be a comparable height;
- Taller walls are attractive and traditional and do not create an oppressive street scene;
- The raising of the wall will not be out of character for a building of this age and status or within the street scene;
- The raised wall height is not necessarily or exclusively an urban feature, or out of character in this low density setting;
- The application will reinstate the significance of the boundary wall; which has previously been harmed by unauthorised works. The proposal will see an acceptable alteration which will preserve the significance of the listed boundary wall, the setting and thereby the significance of the listed house and character and appearance of the Conservation Area (in accordance with Sections 16, 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990).
- The Brick Bound should be conditioned to match;
- Samples of new bricks and copers, mortar mix and sample panel of the finish and design of the brick piers to be located to the rear of the returns in the wall should also be subject to a conditions.

*Comments received 3<sup>rd</sup> December 2020.*

***No letters of representation have been received from local residents/interested parties.***

Comments of Business Manager

The only consideration relating to this application relates to its impact on the listed building.

The Lilacs (The Old Schoolhouse) is a Grade II Listed Building that lies within the South Clifton Conservation Area.

Section 16 of the Act requires the Local Planning Authority to have regard to the desirability of preserving the listed building, its setting and any architectural features it may possess. In this context, the objective of preservation is to cause no harm. Section 66 of the Act requires the Local Planning Authority to have special regard to preserving the building or its setting and any historical

interest it may possess. Section 72 of the Act requires the Local Planning Authority to pay regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 132 of the NPPF advises that the significance of designated heritage assets (including listed buildings) can be harmed or lost through alterations or work within their setting.

Section 16 of the NPPF (2019) states:

*'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of:*

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.'*

The proposal seeks to alter the existing wall by removing the unauthorised fence, raising the wall by 6 brick courses and removing the existing brick piers. The Conservation Officer has advised that the wall currently does not sit at its historic height, which was in fact 4 bricks higher than existing and that the current brick piers do not reflect its historic form; the fence is unattractive and detrimental to the Conservation Area and Listed Building setting.

The Conservation Officer is supportive of the application, subject to conditions including brick and brick bond samples. The positive conclusion drawn by the Conservation Officer on the proposed development is noted and I am therefore satisfied that subject to condition the proposal would preserve the special interest of the setting of the Listed Building and the character and appearance of the Conservation Area. The proposal therefore accords with the objective of preservation set out under sections 66 and 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council's LDF DPDs and Section 16 of the NPPF. I therefore recommend that listed building consent be granted.

## **RECOMMENDATION**

**That listed building consent is approved subject to the conditions and reasons shown below;**

01

The works hereby permitted shall begin within a period of three years from the date of this consent.

Reason: To comply with the requirements of Section 18 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

02

The works hereby permitted shall be carried out only in accordance with the details and specifications included on the submitted application form and shown on the submitted drawings as listed below:

- Proposed and Existing Plans, Ref No L 03 01. Received 7th November 2020;
- Location Plan, received 7th November 2020; and
- Heritage Impact Statement, received 7th November 2020.

Reason: To ensure that the works take the agreed form envisaged by the Local Planning Authority when determining the application.

03

No works shall be commenced on the raising of the wall until samples or product literature of the below materials have been submitted to and approved in writing by the local planning authority. The works shall thereafter be carried out in accordance with the approved details:

Brick Bond  
Bricks  
Copers

Reason: In the interests of visual amenity and to safeguard the historical appearance of the listed building.

04

No works shall be commenced on the raising of the wall until a brickwork sample panel showing brickwork, copers, bond and mortar mix has been provided on site for inspection and approval has been received in writing by the Local Planning Authority. The works shall thereafter proceed in line with the approved details.

Reason: To safeguard the special/historical interest of the listed building.

05

The existing timber fencing as shown on drawing L(03)01 will be removed in full within 4 months of the date of this decision.

Reason: To ensure the timely removal of the unauthorised and harmful addition to the listed building.

#### Notes to Applicant

01

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

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Isabel Verheul on ext 5860.

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 - 20/02157/LBC



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## **PLANNING COMMITTEE – 2 MARCH 2021**

### **REVIEW: SCHEME OF DELEGATION**

#### **Background**

The following report was presented to Councillors' Commission on 25<sup>th</sup> February. Any observations to the proposals from that meeting will be advised to Members at Planning Committee. The amendments to the Scheme of Delegation as set out within the attached Appendix will then be reported to Full Council on 9 March together with any comments received.

#### **Introduction**

Members will be aware the current Scheme of Delegation (SoD), which forms part of the Council's Constitution setting out a set of criteria for committee and officer decisions was reviewed late 2019. A number of changes were made to delegation arrangements and it was agreed that a further review would take place over the following 12 months and a report presented of the outcome.

The purpose of this report is to set out the findings of this review, which highlights both positive and negative impacts as a result of the amendments. It then makes a number of recommendations as a result of these and requests that Members consider amending the SoD in line with the concluding recommendations. Should the Councillors' Commission support the proposed changes, the matter would then be presented to Planning Committee and finally Full Council.

#### **Scope of Review**

This review has focused upon the SoD which in simple terms is what effectively sets the agenda for who determines which planning applications and associated planning matters.

The operational elements of how the Committee is serviced, arrangements for site inspections, the amount of debate, officer presentations and public speaking are all matters for the Planning Committee itself to review. They do not require any decision-making at a constitutional level, which this report seeks to cover. As advised previously, it is known for example that public speaking has been examined previously and there was no appetite to allow this beyond the existing arrangements which allows for a representative of the Town/Parish Council and Local Ward Member to address the committee for 5 minutes each. This was on the basis, it is understood, that Town/Parish Councils are elected to represent the voice of their parishioners as a whole. Additionally it is understood that it was concluded that allowing third party members of the public and applicants/agents to speak would be unacceptably disproportionate in terms of capturing the material planning considerations of relevance. Members are able to review public speaking as part of any operational review of the Committee as it has been operational for more than 6 months in the new Council cycle.

### **PART 1: REVIEW OF EXISTING COMMITTEE ARRANGEMENTS**

#### **Existing Committee Arrangements at NSDC**

The Local Planning Authority as a whole generally deals with approximately 2,500 planning and

related applications a year.

The Planning Committee at Newark and Sherwood District Council (NSDC) is scheduled to meet once a month. Prior to the changes to the SoD in 2019, a number of additional committee meetings had been required due to the volume and importance of applications requiring determination.

During 2017, four additional committees (so 16 for the whole year) had to be scheduled due to complexities and volume of matters and during 2016 an additional 3 committee meetings were held.

During 2018 there were a total of 14 planning committee meetings starting at 4pm lasting on occasions for almost 4 hours. In 2019 alone the time spent in planning committee was 39h12m minutes, excluding site inspections, which are ordinarily (outside of the Covid-19 pandemic) conducted by bus on the morning of the planning committee.

During 2019, there were 13 Planning Committee meetings with the committee during the first quarter determining 43 applications, (a total sitting time of 10hrs 46m) averaging at over 14 applications per month. The June committee meeting opened at 4pm and lasted until almost 9pm. In total, 144 applications were determined by Planning Committee during the year.

The number of applications presented to Planning Committee during 2020 have been fewer than previous years with 68 applications presented. This is a significant reduction compared to 2019, however consideration also needs to be given to the impact of Covid-19 and the type of proposals being submitted to the Council for a decision. Whilst the number of applications being submitted for determination are at a similar level compared to previous years, a number of these are small-scale. For example in 2019 there were 375 applications submitted for works to trees within a conservation area. In 2020, 592 applications were received. Therefore, the types of applications being submitted will have had some influence over those presented to Committee. However, it is not considered that the pandemic has resulted in a change, to such a degree, to influence the reduction in numbers and it is principally as a result of the amendments to the Scheme.

### **Existing Scheme of Delegation at NSDC**

The existing SoD in simple (summarized) terms sets out the following:

Applications that **WILL** be determined by the Planning Committee:

- Major applications (10 dwellings or more, floorspace of 1,000m<sup>2</sup> or greater, site area of 1 hectare or more) where officer recommendation does not align with views of Parish/Town Council, provided that response is based on material planning considerations (unless the Environment Agency or Highways England directs a refusal), or where contrary to view of a statutory consultee
- They would give rise to significant financial consequences
- Submitted by community or voluntary organisation which would result in community benefit and would otherwise be refused;
- Applications made by Members or officers that have direct involvement in the application.
- Applications that are a significant departure from the development plan and recommended for approval;
- Applications submitted by the Council or where the Council has an interest; and

- Where an Authorised officer refers the application to Planning Committee.

Applications that will **NOT** be determined by the Planning Committee:

- Major applications where the recommendation aligns with the views of the Town/Parish Council;
- All applications where the recommendation is in line with representations from all consultees (but doesn't necessarily align with views of neighbours)
- All non-housing minor applications (including applications on sites of less than 1 hectare in size or are 999m<sup>2</sup> or less in new floorspace, householders, changes of use, listed building consents, advertisement consents, plus notifications) contrary to views of Parish/Town Council's/statutory consultee, unless the application has been requested by the Local Member to be determined by Committee and is accepted by the Panel.

### **Current Process**

The key change with the previous review was to remove the automatic presentation of minor applications to Planning Committee when the Officer recommendation did not align with the Town/Parish Council response. Minor applications include developments of between 1-9 dwellings, commercial proposals, retail and service and [small] gypsy/traveller proposals.

Proposals for between 1-9 dwellings, when the recommendation is contrary to the Town / Parish Council, are referred to the local Ward Members to seek clarification on whether they wish the application to be determined by Planning Committee. Should a Member request this, a planning reason must be given and the Panel, comprising the Chairman and Vice-Chairman of Planning Committee together with the Business Manager – Planning Development determine whether there are “...*material planning considerations such that the application should be debated by the Committee.*”

Should the Panel agree the application warrants wider debate, it will then be presented to the next available committee. If the request is declined, Members are able to challenge this decision with the Chief Executive.

This process has brought frustration to a number of Councillors who consider they have had their right to represent their constituent(s) taken away from them. It has also added, in some cases significant time to the decision making process due to the initial referral, waiting for Member response, waiting for the Panel to consider the request and if declined, further delay whilst it is established whether an appeal is going to be made and then time for the Chief Executive to consider his response. Aside from Members frustrations, which cannot be ignored, having such delay and Officers not being able to advise applicants or neighbours the likely timescale for a decision of an application is not good customer service. However, it is also recognised that in the majority of instances, applicants or their agents have worked positively and proactively with us when extensions of time for the determination of the application has been sought.

### **Data Relevant to the Current Process**

The following data has been recorded since the amended SoD came into effect in 2019 and records applications up until mid-December 2020. It is understood that all applications that have been referred for the Panel are included, but as this is a manual process there may be one or two applications that have inadvertently been omitted.

171 applications have been referred to Ward Members following the response from the Town/Parish Council by Officers.

Of the 171 referrals, 33 applications have been requested to be determined by Planning Committee. In addition, 8 were requested by Members following receipt of the weekly list. These initial statistics therefore show that 138 applications that would previously have been dealt with by Planning Committee have been dealt with under delegated authority. The amended Scheme has therefore reduced the numbers presented to each Planning Committee by approximately 11.

Of the 41 applications:

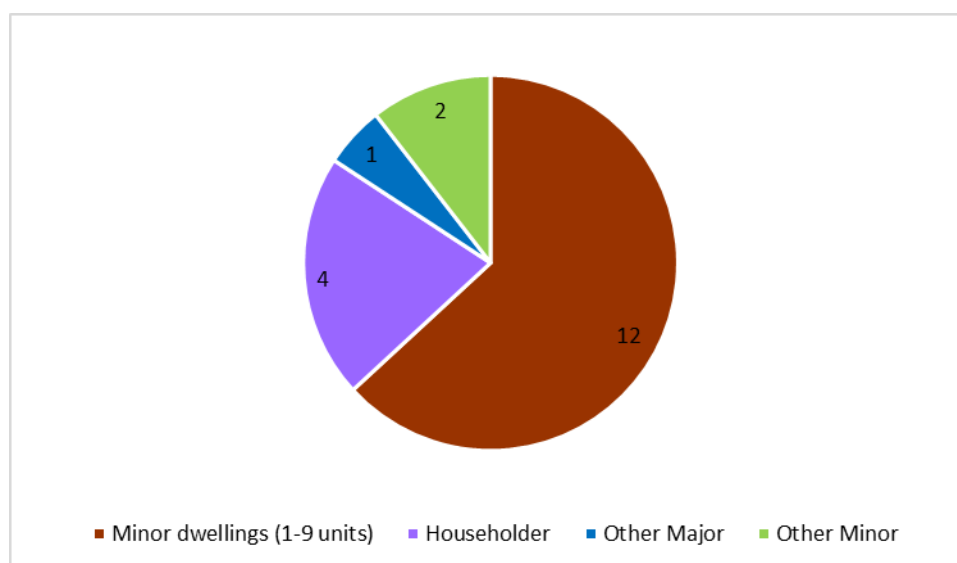
18 were accepted by the Panel,

2 were not referred to the Panel but taken to Committee due to being a Council application and referred by the Business Manager;

21 were refused by the Panel.

Of the 21 applications refused by the Panel, 7 appeals have been made to the Chief Executive, of which 2 have been accepted.

The breakdown of those declined to be presented to Planning Committee in terms of application types comprise (figure 1):



**Figure 1:** Referred Applications Not Presented to Planning Committee

The greatest number of applications declined by the Panel (Table 1), not surprisingly is for proposals for new dwellings (between 1 and 9 units), bearing in mind these are the proposals the SoD requires referral of.

Application Type	Number	Decision
Minor dwellings (1-9 units)	1	Pending
Minor dwellings (1-9 units)	5	Refused
Minor dwellings (1-9 units)	7	Approved
Minor dwellings (1-9 units)	1	Withdrawn
General Industry/Warehousing (Minor)	1	Approved

Householder	2	Approved
Householder	2	Refused
Other Major	1	Approved
Other Minor	1	Withdrawn

**Table 1: Applications Determined Under Delegated Authority and the Decision Made**

NB: The decisions shown as withdrawn are when the applicant has withdrawn the application for determination.

To summarise, of decisions made by the Council under delegated authority 11 have been approved, 7 refused and 1 pending.

Table 2 provides details of the applications determined by Planning Committee, the Officer recommendation and final decision following referral. Only those applications that have gone through the Panel referral process are listed i.e. those applications which would have been presented due to other requirements of the SoD (e.g. being a major development) or referred by the Business Manager – Planning Development have been excluded.

**Table 2: Applications Referred to Planning Committee for Decision**

Application Reference	Location	Proposal	Officer Recommendation	Committee Decision (appeal details given where applicable)
20/00054/FULM	Bridgefield Farm, Wigsley Road, Thorney Moor	Retrospective planning application for the retention of mobile poultry units and access drive	Approve	Approve
20/01433/FUL	Land At Rear Of 49 & 49A The Ropewalk Southwell	Erection of 5(no.) single storey dwellings (Scheme D)	Approve	Refuse Appeal in progress
20/01418/FUL	Land At Rear Of 49 The Ropewalk Southwell	Erection of 4 No. 2-storey dwellings (Scheme A)	Approve	Refuse Appeal in progress
20/01421/FUL	Land At Rear Of 49 The Ropewalk Southwell	Erection of 3 No. dwellings: 2 x 2-storey and 1 x single storey (Scheme B)	Approve	Refuse Appeal in progress
20/01405/FUL	Land Off Main Street Balderton	Material change of use of land for stationing of caravans for residential occupation with associated	Approve	Approve

		development (new access, hard standing, utility block) - part retrospective		
20/01422/FUL	Land At Rear Of 49 & 49A The Ropewalk Southwell	Erection of 2(no.) 2 storey dwellings (Scheme C)	Approve	Approve
20/00889/FUL	17 Gunthorpe Road Lowdham NG14 7EN	Demolition of dwelling and erection of replacement dwelling	Approve	Refuse
20/00550/FUL	Orchard Stables Cottage Lane Collingham NG23 7QL	Change of use of land to site up to six wigwam pods, one managers office with storage, biodisc tank, landscape bund and associated infrastructure	Approve	Refuse Appeal in progress
20/00659/FUL	The Homestead Main Street Edingley NG22 8BE	Erection of a single storey residential dwelling and associated works	Approve	Approve
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)	Approve	Refuse Appeal allowed
20/00253/FUL	Stonewold Gravelly Lane Fiskerton NG25 0UW	Demolition of existing dwelling and garages. Construction of new 5 bedroom dwelling and self-contained 1 bedroom annex with associated hard and soft landscaping	Approve	Refuse Appeal in progress

19/02146/FUL	7 Sycamore Road Ollerton NG22 9PS	Proposed detached house	Approve	Approve
20/00525/FUL	4 Yew Tree Way Coddington NG24 2RZ	Construction of a single detached dwelling and garage (resubmission of 19/00131/FUL)	Approve	Refuse  Appeal in progress
19/02064/FUL	Land Rear Of 49 The Ropewalk Southwell	Erection of 5 new dwellings	Approve	Refuse  Appeal in progress
19/02237/FUL	First Floor At Robin Hood Hotel Kirklington Road Rainworth Mansfield	Conversion of first floor space into 6 apartment units, 5 x One Beds and 1 x Studio, external entrance and fire exit staircase introduced on the facade facing the existing car park.	Approve	Refuse
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)	Approve	Refuse  Appeal - allowed
20/00113/S73	Land At Rear 37 Easthorpe Southwell	Application to vary condition 02 to add extension to approved dwelling, attached to planning permission 17/01839/FUL; Demolition of shed and erection of 1 No. 4 bedroomed house	Refuse	Refuse  Appeal - dismissed
19/02287/FUL	9 Fisher Close Collingham	Proposed new single detached	Approve	Refuse

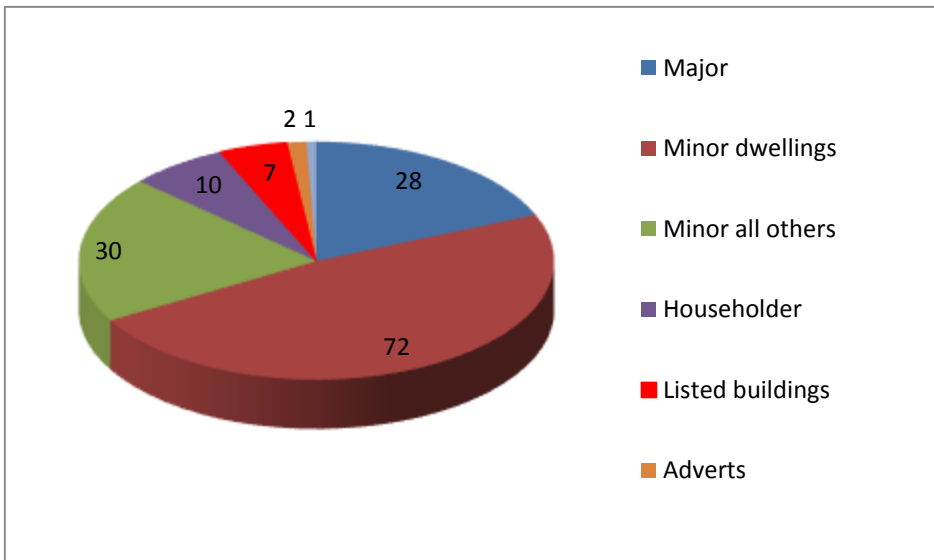
	Newark On Trent	bungalow		Appeal - dismissed
20/00593/FUL	Chapel Farm Newark Road Wellow	Erection of 8no holiday accommodation with swimming pool	Approve	Refuse
20/00886/FUL	Garage Off Bull Yard Southwell	Replace existing garage with a self-contained unit to provide additional guest accommodation	Approve	Refuse
20/01312/FUL	5 Chaucer Road Balderton NG24 3RA	Demolition of existing garage and erection of single storey dwelling	Approve	Approve
19/00131/FUL	Land Adjacent 4 Yew Tree Way Coddington NG24 2RZ	Construction of 2no. dwellings	Approve	Refuse Appeal in progress
18/02175/FUL	6 Barkstone Close Balderton Newark On Trent	Change of use of property to run a pet sitting service and erection of dog shed building.	Approve	Refuse Appeal in progress

Of these 23 applications, 7 decisions have been in line with the Officer recommendation. 16 have been overturned, all of which have been from a recommendation of approval to refusal. 13 of the decisions have been appealed, of which 4 have been determined by the Planning Inspectorate (at the time of finalizing this report). One of the Inspector's decision was both recommended by Officers and determined by Committee as a refusal – this was dismissed by the Inspector, upholding the Council's decision. Of the other 3 (overturns by Planning Committee) 1 was allowed and 2 dismissed. It is therefore too soon to infer any conclusions from this data.

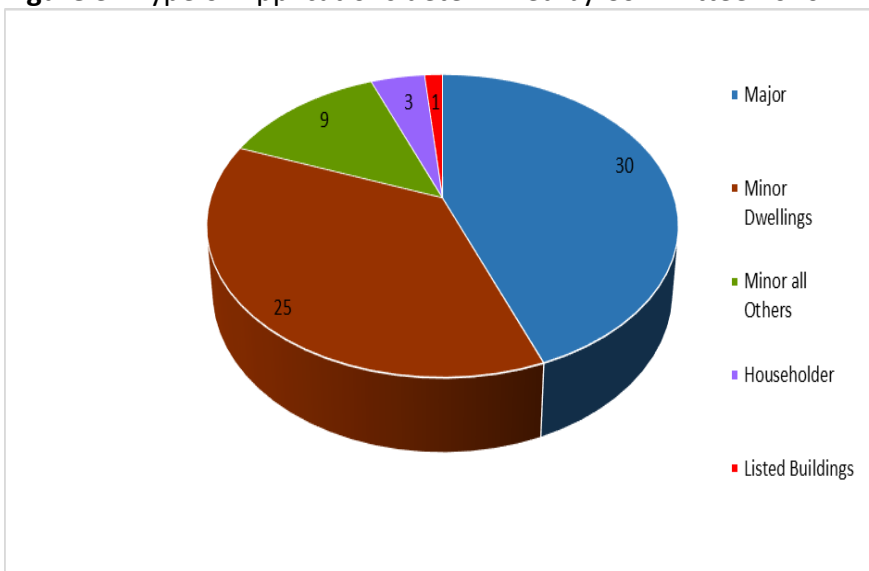
#### **Types of Applications Considered by Planning Committee in 2020**

**Figure 2:** Type of Applications determined by Committee 2018





**Figure 3: Type of Applications determined by Committee 2020**



Even accounting for the effect the pandemic has had on the types of applications submitted, it can clearly be seen that proportionally more of the Committee’s time has been focused upon larger schemes, and generally more controversial proposals in 2020 compared to 2018. Taking into consideration guidance from Government as to who should make planning decisions:

*“It is in the public interest for the local planning authority to have effective delegation arrangements in place to ensure that decisions on planning applications that raise no significant planning issues are made quickly and that resources are appropriately concentrated on the applications of greatest significance to the local area.”*

Paragraph: 015 Reference ID: 21b-015-20140306, Revision date: 06 03 2014

the above data would indicate the Planning Committee is now more focused on determining the ‘correct’ [in terms of the above statement] applications compared to 2018.

Overall, it is therefore concluded the amended SoD has worked in terms of Members determining, in the main, the larger as well as more controversial and sensitive applications. However, the frustration felt by all with the process (applicants, Members and Officers) as outlined above, somewhat outweighs this benefit. However, returning to the previous SoD and the number of

applications previously presented, as set out in figure 2, is equally not the right course of action. This is particularly relevant when operating virtually although it is hoped that a new form of normality will come into play during 2021.

In view of this and taking account of all of the information above the following proposals are recommended.

## **PART 2: PROPOSED CHANGES TO THE SCHEME OF DELEGATION**

Based on the findings of the analysis undertaken and consideration of options within the previous report to Committee in 2019, the following changes are suggested which are considered would maintain the objective of retaining the reduced number of applications presented to Planning Committee whilst enabling Members to be able to represent their constituents as they consider is appropriate.

- **Refer Applications for Minor Dwellings to Ward Members when the Officer recommendation is for Approval and if request received, present application to Planning Committee**

This would only involve the referral to the Ward Member(s) when the Town/Parish Council has objected to the proposal and the Officer is minded to recommend approval of the proposal for between 1-9 dwellinghouses. Members will be aware that an applicant has a right of appeal against the decision of the Council for all applications – for a refusal in terms of the decision made and in the case of an approval, against one or more conditions imposed. An appeal is most commonly made in relation to a refusal. This is to an independent body, the Planning Inspectorate, who is able to take into account all representations received as part of the application as well as any further letters that might be submitted during the appeal. This option was considered previously but discounted as it was not considered the numbers that would be presented to Committee would be reduced by such a number that would make it worthwhile.

Referring as recommended allows the applicant to have an opportunity to challenge the decision to the Inspectorate if an appeal is made. In relation to approvals, as there is no third party right of appeal against an approval, it will mean the Planning Committee have the ability to debate the position and also benefit from legal advice relevant to the discussion.

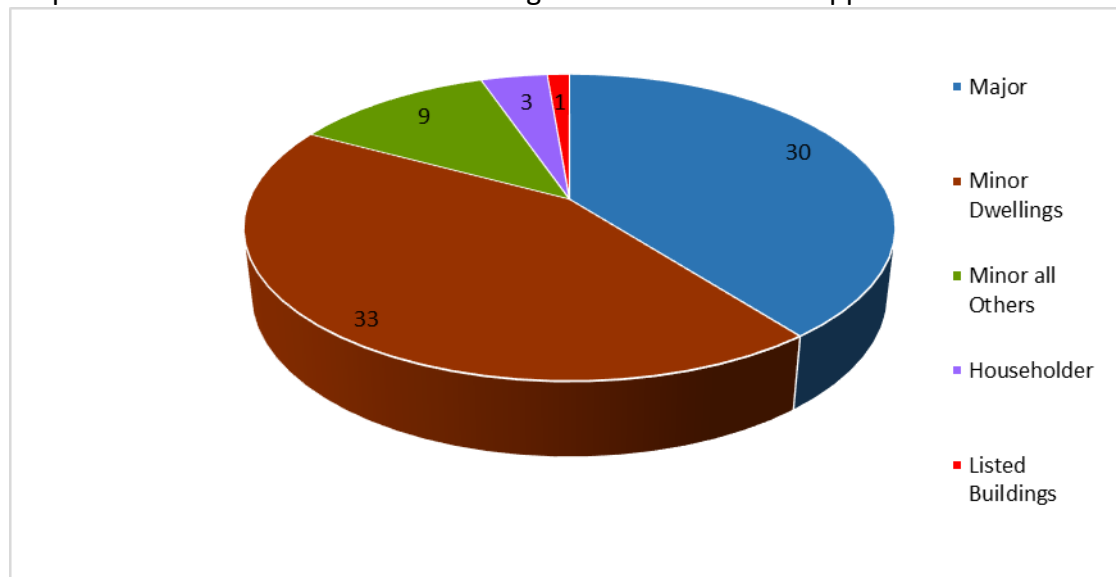
In terms of number of applications that would be presented based on this proposal, with reference to the applications referred last year and not accepted by the Panel, this would have increased the number of minor dwellings presented by 8 to 32, thus increasing the number of applications determined by Planning Committee by approximately 1 per month.

It is noted that of these 8, 5 were not appealed to Chief Executive. As noted above, it is not known why applications have not been appealed. It is important that referrals are for planning reasons material to the application, ideally with reference to the development plan and which policies the proposal is considered to comply with. The SoD currently sets out that requests should be for clear planning reasons.

If this recommendation were implemented, based on 2020's applications, the type and number considered by Planning Committee would be as shown in figure 4 below. Whilst the number of minor applications can be seen to be reflective of the number of major applications (taking account of Government guidance that Planning Committee Members should be determining the

larger and more controversial schemes), the overall number of minor applications received by the Council compared to majors is significantly greater and therefore the number would be somewhat reflective of applications received.

**Figure 4:** Example of the Number of Applications Determined by Committee if only Referral Requests Undertaken for Minor Dwellings Recommended for Approval



➤ **Member Call In/Referral Reasons**

Members currently have powers to refer all applications to Planning Committee within 21 days of receiving the weekly list. There is also the ability to refer applications subject to the referral mechanism described above. When a Member chooses to refer an application within their Ward, the request, inter alia, should set out clear planning reasons behind the request. As currently set out the Panel then considers whether it raises 'material planning considerations that warrant debate by Committee.'

Many of the referral requests received have been declined as they either do not set out clear planning reasons or most commonly the reasons are not ones that are considered to warrant the wider debate of Planning Committee.

A number of requests have referred to the reason as being 'as set out by the Parish/ Town Council'. However, understandably Town / Parish councillors are not always familiar with wider planning issues across the District. The aim is to, as far as possible, have consistent decision making acknowledging each application is determined on its own merits. Nor are Town/Parish councillors always aware of a particular policy that applies to a proposal or matters such as permitted development rights and so forth. Training has been offered to Town/Parish Councils as well as Members over recent years and for those that have taken this up, some of their comments and reasons can be seen are more relevant to the issues at hand.

Requests that have been declined by the Panel have tended to be due to not having clear planning reasons or where they do have clear planning reasons, they are not considered to be matters that warrant the wider debate of the Committee, often because they are not material to the proposal or professional consultees have a differing view.

As referenced above, it is recommended that the Scheme of Delegation is amended so that

referrals:

- Include a statement outlining material reasons why the proposal needs to be considered by Committee and
- Include a list of related Development Plan policies (or part of) and, where applicable, national planning policies (including paragraph numbers).

In the event that this is not provided within the referral, either the Case Officer or Authorised Officer will contact the relevant Ward Member to fully understand the reason(s) for referral. This in turn, will assist officers in preparing their report to ensure that they are discussing matter(s) that the Member considers is/are important to the proposal. Members who refer applications will, as is currently the case, be expected to speak to the Planning Committee, or to ask another [Ward] Member to speak on their behalf.

Training will be offered to any NSDC Councillor who requests this to assist them in representing their constituents.

### Other Matters

During the course of the implementation of the amended SoD, it has come to light that a few other more technical matters have arisen which require clarification within the SoD. These include:

- The inability of Officers to make [minor] amendments to conditions or reasons for refusal following the Committee decision. This has meant that delegation has been confirmed by Committee during the last 12 months either as part of the voting of each application or is set out at the beginning of the meeting. However, for transparency this should be clearly set out. The reason for the addition is to ensure conditions meet the tests for their imposition or provide precise and robust reasons for refusal in order to protect the interests of the Council.
- Amendments to the Non-Designated Heritage Asset list (once adopted)
- Applications submitted by the Council for an extension or other alteration affecting a dwellinghouse forming part of its HRA housing stock
- Refusals for major applications as a result of a Statutory Consultee (defined in the Town and Country Planning (General Permitted Development) (England) Order 2015 when the Town/Parish Council or Parish meeting support the proposal

It has also been identified that navigating the weekly list of planning applications in order to review the proposal and drawings as well as find out who the case officer is, is somewhat cumbersome. There will therefore be changes to the weekly list to include the case officer's name, phone number as well as a link to the application on the Council's website. It must be noted that on occasions the case officer dealing with a proposal may change. However, should this occur, the original case officer would be able to advise anyone enquiring on the proposal. Any other improvements that Members consider might be helpful for themselves or the public are welcomed.

## **Conclusions**

The review of the Scheme of Delegation in 2019 has had positive impact in terms of the numbers of applications determined by Planning Committee. In the main, the Committee's time has been focused towards the larger scale and more controversial applications. However, the changes have brought challenges and frustrations to all parties involved.

It is therefore concluded that changes are required to the Scheme of Delegation, principally with the removal of the Panel in considering referrals. Referrals will continue to be made for minor applications of 1-9 dwellinghouses but only when the officer recommendation is going to be one of approval and the Town/Parish Council/Meeting has objected. Applications that are refused under delegated authority can be appealed by the applicant to the Planning Inspectorate and therefore the applicant in such cases still has an ability to challenge the Council's decision.

Other minor changes are considered necessary to the SoD to provide clarification and respond to changes over the previous 12-months. These are shown within Appendix 1 with additions shown in bold text and text suggested for omission crossed out.

## **OVERALL RECOMMENDATIONS**

**That Planning Committee accepts the changes to the Scheme of Delegation as detailed and the changes be referred to Full Council for approval.**

These changes summarized are:

- **Refer Applications for Minor Dwellings to Ward Members when the Town/Parish Council has objected and the Officer recommendation is for Approval and if request received, present application to Planning Committee; and**
- **Greater Clarity (i.e. planning reasons) from Member within Referral Requests; and**
- **Amend the Scheme of Delegation as set out within Appendix 1.**

In addition, changes will be made to the weekly list of planning applications to include a link to the planning application and for the case officer's name to be included.

## **Background Papers**

Review of Scheme of Delegation - <https://democracy.newark-sherwooddc.gov.uk/documents/s6262/15.10.19%20-%20Review%20of%20Scheme%20of%20Delegation.pdf>

Part 4 – Codes and Protocols - [https://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/democraticservices/pdfs/constitution/PART%204%20Codes%20and%20Protocols%20\(July%202020\).pdf](https://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/democraticservices/pdfs/constitution/PART%204%20Codes%20and%20Protocols%20(July%202020).pdf)

For further information, please contact Lisa Hughes on ext. 5565.

**Matt Lamb**  
**Director for Growth and Regeneration**

## Appendix 1

### PART 2 of the Constitution, Scheme of Delegation

The following functions are those of the Local Planning Authority which under the Constitution are delegated to the Planning Committee. It is then for the Planning Committee to allow further delegation to Authorised Officers.

#### **“PLANNING COMMITTEE**

Remit

- 1.0 To discharge functions relating to town and country planning and development management, including:
  - 1.1 Power to determine applications for planning permission.
  - 1.2 Power to determine applications to develop land without compliance with conditions previously attached.
  - 1.3 Power to grant planning permission for development already carried out.
  - 1.4 Power to decline to determine any application for planning permission.
  - 1.5 Duties relating to the making of determinations of planning applications.
  - 1.6 Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
  - 1.7 Power to respond to consultation by neighbouring local planning authorities, other consultees or the Secretary of State.
  - 1.8 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
  - 1.9 Power to determine applications for Non Material Amendments to a planning permission.
  - 1.10 Power to discharge or refuse to discharge planning conditions attached to a planning permission or any other relevant consents.
  - 1.11 Power to enter into, vary or modify agreements regulating development or use of land.
  - 1.12 Power to issue a certificate of existing or proposed lawful use or development, including those under Listed Building powers.
  - 1.13 Power to serve a completion notice.
  - 1.14 Power to grant consent for the display of advertisements.
  - 1.15 Power to authorise entry onto land.
  - 1.16 Power to require the discontinuance of a use of land.
  - 1.17 Power to determine whether ~~it is expedient~~ **and what level of enforcement action to take in accordance with the Council’s Planning Enforcement Plan** in instances where there has been a **suspected** breach of planning, **listed building or other planning** related control.
  - 1.18 Power to serve a planning contravention notice, breach of condition notice, temporary stop notice or a requisition for information or stop notice.
  - 1.19 Power to **serve, vary and withdraw** ~~issue~~ an Enforcement Notice and/or community protection notice.
  - 1.20 Power to apply for an injunction restraining a breach of planning control.
  - 1.21 Power to determine applications for hazardous substances consent and related powers.
  - 1.22 Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
  - 1.23 Power to require proper maintenance of land.

- 1.24 Power to determine applications for listed building consent and related powers granted to local authorities pursuant to the Listed Building and Conservation Areas Act 1990.
  - 1.25 Power to determine applications for Permissions in Principle and the related Technical Details Consent.
  - 1.26 Duties relating to applications for listed building consent, -conservation areas, Listed Building Heritage Partnership Agreements, and Local Listed Building Consent Orders.
  - 1.27 Power to serve a Building Preservation Notice and related powers.
  - 1.28 Power to issue enforcement notices and related powers.
  - 1.29 Power to take action under Sections 224 and 225 of the Town and Country Planning Act 1990 - enforcement of control over advertisements, and regulations made under section 220 thereof.
  - 1.30 Powers to acquire a listed building in need of repair and to serve a Repair Notice.
  - 1.31 Power to apply for an injunction in relation to a listed building.
  - 1.32 Power to execute Urgent Works and recover costs by any appropriate means.
  - 1.33 Rights of way functions for which the Council is responsible.
  - 1.34 Protection and preservation of trees and hedgerows, including as necessary the making, confirmation, modification and revocation of Tree Preservation Orders.
  - 1.35 Power to determine applications for works and felling of trees covered by a Tree Preservation Order.
  - 1.36 Power to determine notifications for works to Trees in Conservation Areas.
  - 1.37 To exercise the Council's powers with regard to the Hedgerows Regulations 1997.
  - 1.38 To exercise the Council's powers with regard to the Community Infrastructure Levy Regulations 2010 (as amended).
  - 1.39 Power to determine prior approval, notifications and consents.
  - 1.40 Power to make screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).
  - 1.41 Power to pursue those convicted through the courts of a planning breach under The Proceeds of Crime Act 2002 (or as amended).
  - 1.42 Power to issue Community Protection Notices.
  - 1.43 Power to withdraw enforcement and other notices.
  - 1.44 Power to issue Tree Replacement Notices.
  - 1.45 Power to make minor alterations to the Planning Application Validation Checklist.
  - 1.46 Power to determine Section 73 applications under Town and Country Planning Act 1990 and Section 19 applications under the Town and Country (Listed Building and Conservation Areas) Act 1990 (as amended) (subject to the caveat set out below in relation to major **and minor** applications).
  - 1.47 Formulate and issue decision notices following consideration by the Planning Committee in accordance with the resolution of the Planning Committee and to make minor non-material amendments to planning conditions, Section 106 legal agreements or reasons for refusal prior to issuing a decision notice, where the decision has been made by the Planning Committee, where those changes are minor and non-material and subject to the changes having no impact on the substance and terms of the planning decision so as to provide precise and robust conditions or reason(s) for refusal.**
- 2.0 To consider and make recommendations to the Policy & Finance Committee and/or Council on the formulation of the Local Development Framework and other plans, policies, protocols or guidance impacting on functions within the remit of the committee.
  - 3.0 Power to make payments or provide other benefits in cases of maladministration and in respect of the local settlement of complaints pursuant to Section 92 of the Local Government Act 2000 in respect of matters falling within the remit of the planning committee.

4.0 To make recommendations to the Policy & Finance Committee and Council on the formulation of the budget insofar as it impacts on the remit of this Committee.

**The functions set out above are delegated to officers with the exception of the following functions, which are expressly reserved to committee for determination and cannot be discharged by an officer:**

1. Planning applications which involve a ~~significant~~ departure from the statutory development plan **and are recommended for approval.**
2. Applications submitted on behalf of the Council or where the Council has an interest in the development save for any applications submitted on behalf of the Council or where the Council has an interest in the development as part of its HRA housing development programme **or comprises an extension to a dwelling forming part of the HRA housing stock.**
3. Matters of significance to the district or which may potentially give rise to significant financial consequences **when the recommendation is one of refusal** except in cases of extreme urgency where delegated powers may be exercised.
4. All major (defined as 10 or more dwellings, where new floor space would be 1,000m<sup>2</sup> or greater or have a site area of 1 hectare or greater) applications where:
  - The recommendation is contrary to the response received from the Town or Parish Council or Parish Meeting, provided that such a response is based on material planning considerations<sup>1</sup> **relevant to that application** unless the recommendation is for refusal based on **a recommendation of refusal** by The Environment Agency's representations or Highways England direct refusal of an application regardless of whether or not other consultees support the application; or
  - The recommendation is **one of approval**, contrary to the response received from a statutory consultee.
5. The relevant planning application has been submitted by a community or voluntary organisation, a town or parish council or a social enterprise and could in the opinion of the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee, result in a significant community benefit and would otherwise be recommended by officers for refusal.
6. Applications which have been submitted by District Councillors, Senior Officers\* or Officers who may otherwise have a direct involvement in the determination of the application or where Councillors or Officers have a direct interest in the application, will be determined by Planning Committee. (\*Senior Officers shall be defined as Chief Officers and Deputy Chief Officers as defined by the Local Government and Housing Act 1989 (currently members of the Corporate Management Team and Business Managers).
7. Where an Authorised Officer has delegated powers he or she may refer the matter to Planning Committee for determination rather than exercise that delegated authority themselves particularly where, in their judgement, the specifics of an application warrant determination by the Planning Committee.

### Caveats



- A) Where a major **or minor (proposing between 1 and 9 dwellings)** application is made under Section 73 of the Act to vary or remove planning conditions these will only be considered by the Planning Committee where they raise new material planning impacts arising from the subject of the condition(s) **being varied/removed themselves.**
- B) For proposals of between 1 and 9 dwellings, where the officer recommendation is **one of approval** contrary to the views of the host Town or Parish Council (or Parish Meeting), the relevant Ward Member(s) shall be first notified in writing and given the opportunity to request 'referral' (see Section ~~87~~ for process) to the Planning Committee. The 'referral' shall be within 5 working days of the notification **and should include**
- **a statement outlining material reasons why the proposal needs to be considered by Committee; and**
  - **a list of related Development Plan policies (or part of) and, where applicable national planning policies (including paragraph numbers).**

**Where the above is not provided, the Case or Authorised Officer will contact the relevant Ward Member to seek clarification on their referral reason.**

otherwise the application will be determined under delegated authority.

- Enforcement Notices (including requisitions for information, stop and temporary stop notices), and Notices under Section 215 of the Town and Country Planning Act 1990 (as amended) relating to untidy land may be served by an Authorised Officer and the matter pursued through to prosecution at magistrates court when notification has first taken place with the Ward Member(s) where possible or it has been agreed with Chairman of Planning Committee where it has not been possible to do this.

8. Local Members can request that planning applications/functions be determined by Planning Committee rather than the Officers (this being known as a 'referral' request) acting under delegated powers in the following circumstances:

- The Member discusses the application with the Authorised Officer (or case officer) and a written request is made to the Authorised Officer **or case officer** within 21 **calendar** days of circulation of the weekly list otherwise the application will be determined by officers acting under delegated powers;
- The request **should** sets out ~~clear planning reasons behind the referral request and the Authorised Officer, Chairman and Vice Chairman agree that it raises material planning considerations that warrant debate by the Committee;~~
  - **a statement outlining material reasons why the proposal needs to be considered by Committee; and**
  - **a list of related Development Plan policies (or part of) and, where applicable national planning policies (including paragraph numbers).**

**Where the above is not provided, the Case or Authorised Officer will contact the relevant Ward Member to seek clarification on their referral reason.**
- The recommendation of officers is **one of approval and** different to the opinion of the Member having made the referral request having regard to the interests of their ward which must be specified.

~~In the event that the Authorised Officer, in consultation with the Chairman and Vice Chairman, does not consider that material planning considerations have been raised such that the application should be debated by the Committee, the application will be referred in~~

~~writing. The Member may then challenge this decision with the Chief Executive within 5 working days of receipt of the written notification. The Chief Executive will have the final decision.~~

### Caveats

- A) Where a referral is made by a Member of an adjacent ward immediately adjoining the ward in which the application is situated, the relevant ward member(s) has/have been notified prior to the referral request being made.
- B) Where an application is referred by a Member ~~who's~~ whose ward is not either within or immediately adjacent to the application site, the referring Member must set out how:
  - i. in their opinion the application would have a material impact on the whole or part of their ward (or the district as a whole or part) having regard to the nature of the development, or
  - ii. for the reason that the application will set a precedent for the whole or part of the District; and
  - iii. the relevant ward member(s) has/have been notified prior to the referral request and the Group Leader of the relevant group of the Member making the referral request has agreed to the referral.
  - iv. **the referral should include:**
    - **a statement outlining material reasons why the proposal needs to be considered by Committee; and**
    - **a list of related Development Plan policies (or part of) and, where applicable national planning policies (including paragraph numbers).**

The “Authorised Officer(s)” for the purposes of this part of the Constitution shall be the Chief Officer whose remit for the time being includes responsibility for planning, the relevant Business Manager with responsibility for the discharge of the development management function or an Officer authorised in writing by them to act on their behalf.

### Membership

15 Members. (A link to the current membership of the committee can be found on the Constitution home page).”

## **Planning Committee – 2 March 2021**

### **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 15 January and 15 February 2021)**

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/W/20/32658 76	20/00873/FULM	Field Reference Number 7108 Eakring Road Bilsthorpe	Residential development of 103 dwellings and associated access and infrastructure	Public Inquiry	Refusal of a planning application
APP/B3030/W/20/32559 91	20/00525/FUL	4 Yew Tree Way Coddington NG24 2RZ	Construction of a single detached dwelling and garage (resubmission of 19/00131/FUL)	Written Representation	Refusal of a planning application
APP/B3030/W/20/32559 92	19/00131/FUL	Land Adjacent 4 Yew Tree Way Coddington NG24 2RZ	Construction of 2no. dwellings	Written Representation	Refusal of a planning application
APP/B3030/W/20/32656 77	20/00593/FUL	Chapel Farm Newark Road Wellow NG22 0EJ	Erection of 8no holiday accommodation with swimming pool	Written Representation	Refusal of a planning application

## PLANNING COMMITTEE – 2 MARCH 2021

### Appendix B: Appeals Determined (between 15 January and 15 March 2021)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
20/01163/FUL	47 Lower Kirklington Road Southwell NG25 0DN	Proposed Bungalow (resubmission)	Delegated Officer	Not applicable	Appeal Allowed	2nd February 2021
20/01200/FUL	Rear Of Mccolls Mansfield Road Blidworth NG21 0RB	Proposed Two storey dwelling, fell 5 Sycamore Trees	Delegated Officer	Not applicable	Appeal Dismissed	22nd January 2021
20/00308/PIP	Land Adjacent To Sunnyside Barnby Road Balderton Newark On Trent NG24 3NE	Application for permission in principle for residential development of three to six dwellings	Planning Committee	Yes	Appeal Dismissed	9th February 2021
20/00879/FUL	Land North Of Cherry View Bilsthorpe Road Eakring NG22 0DG	Proposed Erection of Single Storey Dwelling and Garage	Delegated Officer	Not applicable	Appeal Allowed	11th February 2021
20/01357/HOUSE	Summerwell Kirtton Road Egmanton Newark On Trent NG22 0HF	Erection of single storey rear extension and new vehicular access to provide off street parking	Delegated Officer	Not applicable	Appeal Allowed	11th February 2021

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



## Appeal Decision

Hearing Held on 17 September 2019

Site visit made on 17 September 2019

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 October 2019**

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**Appeal Ref: APP/B3030/W/19/3225352**

**Land north of Crossways, off Main Street, Bathley, Newark,  
Nottinghamshire NG23 6DL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ashley Dunne against the decision of Newark & Sherwood District Council.
  - The application Ref 18/02219/FUL, dated 23 November 2018, was refused by notice dated 28 January 2019.
  - The development proposed is a change of use of land to use as residential caravan site for one gypsy family with two caravans, including no more than one static caravan/mobile home, laying of hardstanding, construction of access and erection of ancillary utility building.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a change of use of land to use as residential caravan site for one gypsy family with two caravans, including no more than one static caravan/mobile home, laying of hardstanding, construction of access and erection of ancillary utility building at Land north of Crossways, off Main Street, Bathley, Newark, Nottinghamshire NG23 6DL in accordance with the terms of the application, Ref 18/02219/FUL, dated 23 November 2018, subject to the conditions in the attached schedule.

### Procedural Matters

2. The main parties agree, based on the evidence submitted to the Council during the course of the planning application, that the appellant and his wife are gypsies and travellers having regard to the definition set out in The Planning Policy for Traveller Sites (PPTS). I agree, based on the evidence before me and as a result of discussions held at the Hearing.
3. Since the Council refused planning permission, the Council has adopted its Amended Core Strategy (CS). Policies in the CS have largely amended those within the Newark and Sherwood Core Strategy DPD which the Council relied on in refusing planning permission. As a result, the CS policies now carry full weight. The CS along with the Allocations and Development Management Development Plan Document (DPD), adopted in July 2013, form the development plan for the administrative area of Newark and Sherwood. There has also been a revision to the National Planning Policy Framework (the Framework). I note that both parties' have, in their appeal submissions, set out their cases having regard to the CS, DPD and the Framework. At the Hearing, all parties addressed these policy documents.

4. Despite submitting a signed Statement of Common Ground (SoCG), The Council, at the start of the Hearing, confirmed that they wished to strikeout paragraph 5.6 which stated "The findings of the traffic survey submitted on behalf of the appellant during the application process are not disputed." I have considered the appeal on this basis.

### **Main Issues**

5. The main issues are: (i) highway safety, with regards to the proposed access; (ii) whether the proposed development accords with development plan policy and the provisions of the PPTS for the location of such development; and (iii) whether any harm arising from the proposal would be outweighed by other considerations weighing in favour of the development, including the need for traveller sites, the availability of sites and the personal circumstances of the proposed occupiers.

### **Reasons**

6. The appeal site lies to the west of Main Street roughly 55 metres to the north east of the crossroad junction of Main Street, Caunton Road and Vicarage Lane. Caunton Road heads westward to Caunton, while Vicarage Lane extends eastwards to the A1 and North Muskham which is around a mile away. The settlements of Norwell and Newark-on-Trent are around 1.8 miles and 4.5 miles away respectively. Main Street continues southwards into the village of Bathley, around 450 metres away. This is the lowest ranking in the Council's Settlement Hierarchy set out in CS Spatial Policy 1.
7. The site forms part of a larger land holding that is currently overgrown and enclosed by hedgerows. To the south is the residential property of 'Crossways'. Open fields are to the north and west. Away from the central area of Bathley, there are intermittent properties to the south, east and west of the site. The site lies within the open countryside, but not the Green Belt.
8. CS Spatial Policy 3 explains that development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Policies to deal with such applications are set out in the DPD. It was agreed at the Hearing that the proposal does not fall within the categories of development listed in DPD Policy DM8. However, the DPD does not allocate any land for new gypsy sites and, as a result, new sites can only come forward at present through the development management process.
9. CS Core Policy 4 sets out that the District Council will address future gypsy and traveller pitch provision in accordance with the most up to date Gypsy and Traveller Accommodation Assessment (GTAA) through all necessary means including: the allocation of new sites through the development plan; and the granting of planning permission for pitches on new sites in line with Core Policy 5. The dispute between the main parties, in respect of the first two main issues, focusses on criterion 2 and 3 of this policy. It is common ground that the proposal would accord with the remaining criteria of CS Core Policy 5. I have no reason to take a different view.

### *Highway safety*

10. Criterion 3 of CS Core Policy 5, CS Spatial Policy 7 and DMD Policy DM5 jointly require development proposals to provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and



cycleways so as to maximise opportunities for their use.

11. Main Street, from the crossroads and to the north of the site, undulates and curves to the right then the left. The roads alignment together with hedgerows and banking affect visibility to the north. The road is narrow at around 3.3 metres in width, but it does widen towards the junction. Main Street (to the south of the crossroads), Caunton Road and Vicarage Lane all appear to be wider than the country lane. A variety of vehicles use the local road network, including cars, buses and large farm vehicles. Cyclists, pedestrians and horse riders also use the roads near to the site which are generally unlit and subject of a national speed limit. There are no footways on any of the roads.
12. The appellant's Transport Technical Note – March 2019 (TTN) contains a manual survey of traffic movements. The survey was undertaken between the hours of 07:00 and 13:00. In this time, 89 no. two-way traffic movements were recorded. Whilst the survey was not undertaken for the full day, it shows that, even if I were to assume a broadly similar set of movements for the evening rush hour period, the roads near to the site are lightly trafficked.
13. There is no dispute that the proposal would increase the use of the local road network. The extent of the increase varies between the main parties, but I agree with the Council's version of the TRICS database category as it is far more representative of the proposed use. Even so, in applying this the Council have adopted figures that do not reflect the proposed occupation of the site by a single gypsy family, who would typically live within one static caravan/mobile home and use the touring caravan when travelling. Thus, it is reasonable to assume the proposal would generate around 3.56 vehicle trips per day, and if I were to adopt the Council's view that 4 person trips per day would be generated, the total trips per day could be around 7.56. These number of trips would not be significant in the context of two-way traffic movements recorded in the TTN. The impact would be even less when a full day of two-way traffic movements is accounted for.
14. While I shall explore accessibility in greater detail in the next main issue, it is evident that future occupants of the site would be highly dependent on private vehicles to access facilities and services. The appellant explained at the Hearing that they would be most likely to turn out of the site towards the crossroads, and hence with the flow of morning traffic heading southbound, before going onto North Muskham, the A1 or Newark. This may well be true, but journeys to Norwell (turning left out of the site) cannot be ruled out. Nor could the time or direction of travel be controlled. It is, however, highly unlikely that every journey to and from the site would include towing a caravan. Even if it did, roads near to the site are already used by larger farm vehicles daily.
15. Main Street (to the south of the proposed access), Caunton Road and Vicarage Lane generally offer good forward visibility which allows drivers adequate opportunity to respond to meeting another road user. The respective widths of the roads also manage vehicle speeds. Visibility in each direction is good at the crossroads. Residents and the Council explained to me that the width of local roads can mean that vehicles need to manoeuvre and/or utilise grass verges or passing places to pass one another. This is not ideal, but it is a situation that does occur on rural roads. The proposal would not change this, though vehicle movements associated with the proposal would add to the likelihood of this situation occurring, which is an inconvenience to the flow of traffic. Even so, this is not the same as there being an unacceptable impact on highway safety.

16. I heard that there have been accidents or near misses near to the site. Some of the experiences were described anecdotally, others relate to incidents over ten years ago. While I have no reason to doubt that incidents have arisen, it is difficult based on the evidence, to go any further other than to recognise the potential for incidents to arise. None of the incidents described to me indicate that pedestrians, horses or cyclists have been involved. That said, the road conditions are not particularly appealing to use by these road users, or other vulnerable users during the hours of darkness or inclement weather. Interested parties explain that local roads are well used when the A1 is blocked. While it is suggested this happens on a weekly basis, there is no substantive evidence before me to support this. Nor was the effect on highway safety explained to me by the Highway Authority.
17. Given the visibility to the north of the proposed access, there could be an unacceptable impact on highway safety. To address this, the appellant proposes to set the access back from the lane, clear the vegetation and form a visibility splay of 2.4 metres by 43 metres in either direction. This would provide a safe and convenient access to the highway network and ensure the safety of road users, subject to the imposition of a planning condition. A planning condition could also ensure the first ten metres of the access is formed with a sealed surface so that vehicles can enter and leave the appeal site safely.
18. The proposal would lead to tension between achieving safe, convenient and attractive accesses for all and providing links to the existing network of footways so as to maximise opportunities for their use. However, this would equally apply to properties near to the site and Framework paragraph 103 explains that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Taking into account the proposed visibility splay, the short distance to the crossroads and the use of the local road network, the proposal would not materially increase traffic problems and the nature of traffic generated would be appropriate for the highway network in the context of its existing use. While vehicles may need to manoeuvre so that road users can pass one another, this would only inconvenience the flow of traffic and not harm highway safety.
19. Drawing these matters together, I consider that the proposal, given its scale, would not lead to an unacceptable impact on highway safety or cause severe residual cumulative impacts on the road network. Thus, I conclude, in respect of this issue that, despite the tension outlined above, the proposal would accord with criterion 3 of CS Core Policy 5, CS Spatial Policy 7 and DMD Policy DM5 along with Framework paragraphs 103, 108 and 109. Jointly, among other things, these seek proposals to provide safe and convenient access to the highway network; and development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

#### *Location of the development*

20. Policy H of the PPTS seeks to very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. The phrase 'away from' is not defined. Just like CS Core Policy 5, the PPTS does not rule new traveller development in the countryside. The Council interpret 'away from' as meaning that sites should be within (or immediately adjacent to) a rural or semi-rural settlement. On the other hand, the appellant suggests that 'away from' infers a significant degree

of detachment and relies on an appeal decision at Sparrow Cottage (Ref: APP/L3245/A/14/2215836). I consider the Council's take on 'away from' to be too narrow, due to the site's proximity to the community of Bathley which is also likely to include the occupants of Crossways and other properties to the south, east and west.

21. Criterion 2 of CS Core Policy 5 requires: the site to be reasonably situated with access to essential services of mains water, electricity supply, drainage and sanitation and to a range of basic and everyday community services and facilities – including education, health, shopping and transport facilities. There is no definition of the term 'reasonably situated' so a judgement is required. CS Spatial Policy 7 seeks to encourage and support development proposals that minimise the need for travel and through the provision or enhancement of local services and facilities.
22. The site is detached from Bathley, yet the intervening distance is modest, and the site lies next to Crossways. There are minimal facilities and services in Bathley, and the bus stop is just beyond the distance that the Highway Authority recommend. Caunton offers slightly more facilities and services, but having regard to Document 1, journeys to North Muskham, Norwell and Newark-on-Trent would all be required to reach a range of everyday community services and facilities, such as education, health, shopping and transport facilities. I do, however, agree with the Council that the proposal would not place undue pressure on local services and facilities. Future occupants would be likely to make a modest contribution to these. There is also no evidence that the site is not reasonably situated with access to essential services of mains water, electricity supply, drainage and sanitation.
23. Future occupants of the site may be able to walk to or flag down bus services which pass the site. However, while these services would be an option available to the occupants, they are not frequent, and I understand low patronage numbers mean that they are under threat.
24. Journeys on foot would be shared with other road users. Future occupants could walk to and from Bathley, but this journey would not be attractive during the hours of darkness or inclement weather. Journeys on foot to other nearby settlements would be unattractive for the same reasons or because they are too far away. Cycling would be an option, despite the Council's safety concerns, given the sign at the crossroads which advocates a cycling 'loop' route. Even so, these matters do not change my view that, as with other occupants in Bathley or nearby, there would be a high dependency on private vehicles by future occupants of the site to access facilities and services further afield such as education, health and shopping facilities. As set out earlier, the proposal would, in this respect, lead to tension with CS Spatial Policy 7, DPD Policy DM5 and Framework paragraph 108.
25. At the Hearing, the Council referred to a recent appeal decision in which that scheme was held to be isolated. However, I have no details of the scheme or the appeal decision before me to establish whether the circumstances are directly comparable to the proposal. Thus, I afford this matter no weight.
26. I note the Council's view about whether the proposal would be sustainable development, especially in relation to the concerns raised about highway safety. While there are shortcomings with the proposal, in terms of its location and how future occupants would access facilities and services, in the round, I

do not consider that the site would be isolated.

27. On this issue, I conclude that the proposed development would, on balance, accord with development plan policy and the provisions of the PPTS for the location of such development. Thus, the proposal would accord with CS Spatial Policy 7, criterion 2 of CS Core Policy 5 and as a result CS Core Policy 4 along with PPTS Policy H. Together, these seek to very strictly limit new traveller site development in the open countryside that is away from existing settlements; to minimise the need for travel; and for proposals to provide access to essential services and a range of basic and everyday community facilities and services.

*Other considerations*

*Need for gypsy sites*

28. Notwithstanding my findings on the first two main issues, given the tension that I have recognised, the PPTS requires that the level of local provision and need should be considered when dealing with proposals for gypsy sites. It is common ground that the Council cannot currently demonstrate a five-year supply of permanent traveller pitches.
29. The Inspector examining the CS considered that the GTAA is very likely to have underestimated need. As a result, main modifications were made to then draft CS Core Policies 4 and 5 prior to their adoption. I note that the Council are in the process of preparing a new GTAA but work on this document is not yet complete or at a stage whereby future pitch requirements have been established. An Amended Allocations and Development Management DPD is also being prepared which will include a revised pitch requirement and site allocation(s) to meet any residual need. This is, however, some time off from being ready to for Examination.
30. Hence, the most recent GTAA (2016) forecast a total unmet need in the District for the provision of 39 no. permanent pitches. These figures assume that 86 no. pitches will become available in each five-year period (i.e. a total of 258 pitches) as a result of turnover on existing sites. The Council was unable to confirm at the Hearing how many of these pitches have been delivered.
31. Given the unmet need and the Examining Inspector's clear view that this assessment underestimates the need, I disagree with the Council's view about the lack of land supply not being relevant given the speculative nature of the application. Through questioning at the Hearing, the Council explained that this is due to the appellant not being local to the area. However, the appellant, his wife and small child have recently moved into the District and they have made a planning application with the intention to live on the site. I understood the Council's point about needing to address the District's need and inward and outward migration, but any assessment of need is not made particular to individuals. Furthermore, the proposed site could be occupied by any gypsy and traveller providing they met the PPTS definition. Given this, and as the PPTS sets out the Government's aim to promote more private traveller sites, this adds moderate weight in favour of the proposal.

*Availability of gypsy site and personal circumstances*

32. The appellant and his wife have a young daughter. Prior to the Hearing, the appellant and his family lived in Kent. The appellant found work in the south-east of England when living in Kent and travelled along the east coast to the East Midlands. Written evidence submitted stated the site in Kent was his

- father's, but at the Hearing it was confirmed to be his uncle's site. Either way, I was informed that this site had recently been sold, though there was no substantive evidence of this.
33. For three days prior to the Hearing, the appellant and his family have lived on the roadside north of Newark-on-Trent. The appellant confirmed that there was no opportunity to go back to Kent, where they had just come from, and that they would continue to live on the roadside pending the outcome of the appeal. His wife's family live in the Leicester area on a site with three pitches, but each pitch is occupied by family members. There may be space for the appellant's touring caravan, but I have no reason to doubt that this would not be a suitable long-term arrangement.
34. The appellant is looking for a site in the Newark area, close to his wife's family, where he can enrol his child into nursery and then school. While, the appellant's circumstances have recently changed, the lack of a settled and fixed base will prevent the child from attending nursery. In the next year or so, the security of a settled base and a fixed address would help encourage and maintain school attendance. This is an important matter that adds substantial positive weight in favour of the proposal.
35. I heard anecdotal evidence from the main parties and interested parties about a site on Tolney Lane. I was informed by the appellant that there are no pitches available on this site. The Council said that pitches may be available but could not offer any substantive evidence to show this. In any event, this site is subject to flood events which cause residents to be evacuated as it is cut off. While points have been made about this site expanding without the benefit of planning permission, this is a matter outside the scope of this appeal. Neither party has provided substantive details of any other alternative site in the District. Given the appellant's aspiration to be within the East Midlands, the Council suggested that alternative sites across the East Midlands should be considered. However, even if I were to adopt such an approach, the Council did not offer any substantive evidence of any other sites. Thus, the only alternative open to the appellant and his family would be, as he explained to me at the Hearing, to live at the roadside and wait for a pitch to come forward through the Council. This factor adds significant weight in favour of the proposal but given my findings in respect of need and alternative sites, the evidence points to a general planning permission.

#### *Other matters*

36. Interested parties are concerned that the number of caravans could increase over time. However, a planning condition could be imposed to control this, and any increase would need to be subject of a further planning application. If there was a change in the number of caravans without the benefit of planning permission, it would be a matter for the Council to consider initially.
37. The dayroom would be part of the accommodation available to the occupants and offer a shower room, toilet and a space that the occupants could use. There is sufficient scope within either the dayroom or within the site itself for refuse and recycling to be stored.
38. I note the views of interested parties in terms of community interaction, the fear of crime, anti-social behaviour and criminal behaviour, but there is no substantive evidence to suggest that these concerns would become a reality. The existing and proposed boundaries would help assimilate the proposed



development into its surroundings and ensure that there would be no adverse effects on the living conditions of the occupants of Crossways.

39. Concerns about a precedent being set are generalised and not specific to any particular site or sites. In any event, it would be very unlikely that any other site would have the same relationship to nearby settlements, the road network and facilities and services. While, it is suggested that there are brownfield sites elsewhere, I do not have details of any such sites. Furthermore, despite the refusal of two previous schemes on the site historically for different uses<sup>1</sup>, I have determined the appeal scheme on its own planning merits.

### **The Planning Balance**

40. I have concluded that the proposal would not, on balance, cause harm in terms of highway safety or through its location having regard to the development plan policies and the Framework, which is a material consideration. The proposal would bring about benefits relating to an unmet need, the lack of alternative accommodation and the personal circumstances of the appellant and his family. These would, in the context of providing a further gypsy site, only further tip the balance in favour of the appeal. As such the balance is clearly in favour of the grant of permanent permission.

### **Conditions**

41. I have had regard to the list of suggested planning conditions, and the comments of the main parties and interested parties at the Hearing. In the interests of certainty, I have imposed an approved plans condition. I have imposed a planning condition about materials to be used for the day room in the interests of the character and appearance of the area. For the same reason, despite the existing hedgerows, I have amalgamated and imposed a condition to secure details of hard and soft landscaping to assimilate the development into its surroundings.
42. Given the case advanced by the appellant, the work that they undertake and the support provided by the other considerations, I have imposed planning conditions to control: the occupation of the pitch; the number and type of caravans on the pitch; to prevent commercial activities and the parking of a commercial vehicle over a particular weight. These controls are necessary, in the interests of certainty, the character and appearance of the area, and to address an unmet need. A condition is necessary, in the interests of highway safety so that the visibility splays are implemented and maintained thereafter.

### **Conclusion**

43. For the reasons set out above, I conclude that the appeal should be allowed.

*Andrew McGlone*

INSPECTOR

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<sup>1</sup> Council Refs: E/32/27 and 3279661

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site layout plan; proposed day room floor plan; proposed front elevation of day room; proposed rear elevation of day room; proposed side elevations of day room; PBA2; and 24773\_08\_020\_01.
- 3) The development hereby permitted shall be constructed in accordance with the materials detailed as part of the planning application.
- 4) Prior to the occupation of the site full details of hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
  - an implementation and phasing programme;
  - means of enclosure;
  - car parking layouts and materials; and
  - hard surfacing materials;

The approved landscaping shall be completed during the first planting season following the first occupation of the site, or in accordance with the implementation and phasing programme. 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.

- 5) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites or its equivalent in replacement national policy.
- 6) No commercial activities shall take place on the land, including the storage of materials. No more than one commercial vehicle shall be kept on the land for the use by the occupiers of the caravans hereby permitted and this vehicle shall not exceed 3.5 tonnes in weight.
- 7) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, of which no more than one shall be a static caravan, shall be stationed on the site at any time.
- 8) No part of the development hereby permitted shall be brought into use until the 2.4 metre by 43 metre access visibility splays shown on plan Ref: 24773\_08\_020\_01 have been implemented. The area within the visibility splays referred to in this condition shall thereafter be maintained free of any obstruction exceeding 0.6 metres in height for as long as the development exists.

END OF SCHEDULE

## **APPEARANCES**

### FOR THE APPELLANT:

Ashley Dunne  
Philip Brown

Appellant  
Philip Brown Associates

### FOR THE LOCAL PLANNING AUTHORITY:

Nicolla Ellis  
Matthew Tubb  
Stella Euerby  
Clare Walker  
Laura Gardner

Newark and Sherwood District Council  
Newark and Sherwood District Council  
Nottingham County Council  
Newark and Sherwood District Council  
Newark and Sherwood District Council

### INTERESTED PERSONS:

Councillor Bruce Laughton  
Mark Hunter  
John Cross  
Brian Cross  
Nigel Harris  
Julie Pulford  
David Gatiss  
Rita Davison  
Malcolm Davison  
Mick Dixon  
D Dixon  
Christine Johnson  
Wendy Smalley  
Philippa White  
David Hemstock  
Mark Addison  
J Ellis and J Ellis  
Deborah Jaines  
J H and A P Lynn  
R Bolt  
Sally Grogan  
Natalie Dunn  
S Andrews  
Jim Hawkins  
Mrs J Hawkins

Boyer Planning

### DOCUMENTS

#### **Documents submitted at the Hearing**

- 1 Table of current settlement facilities; map of Public Rights of Way; and map of street lighting
- 2 Bus timetable for services 332, 333 and 335
- 3 Bus timetable for services 37, 39 and 77