



**NEWARK &
SHERWOOD**
DISTRICT COUNCIL

*Castle House
Great North Road
Newark
NG24 1BY*

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Friday, 19 March 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, 30 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.**

AGENDA

Page Nos.

Remote Meeting Details

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

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

1. Apologies for Absence
2. Declarations of Interest by Members and Officers
3. Declaration of any Intentions to Record the Meeting
4. Minutes of the meeting held on 2 March 2021 5 - 13

Part 1 - Items for Decision

5. Norwood Park Farm, Norwood Park, Halam Road, Southwell 20/02472/FUL 14 - 26
6. Chestnut Lodge, Barnby Road, Balderton 21/00027/FUL 27 - 46
7. Land At Main Road, Boughton 21/00257/FUL 47 - 53
8. 12 Monckton Drive, Southwell 21/00163/FUL 54 - 60
9. Land at Lord Hawke Way and Bowbridge Road, Newark 21/00091/ADV 61 - 67
10. Proactive Planning Enforcement And Temporary Structures 68 - 77

Part 2 - Items for Information

11. Appeals Lodged 78 - 80
12. Appeals Determined 81 - 95

Part 3 - Statistical and Performance Review Items

13. Development Management Performance Report 96 - 104
14. Quarterly Enforcement Activity Update Report 105 - 113

Part 4 - Exempt and Confidential Items

15. 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.

NEWARK AND SHERWOOD DISTRICT COUNCIL

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

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

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 K Walker and Councillor Mrs Y Woodhead

APOLOGIES FOR ABSENCE: Councillor T Smith (Committee Member)

307 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor M Brock declared a personal interest in Agenda Item No. 9, Norwood Park, Norwood Park Farm, Halam Road, Southwell (20/02472/FUL) as he had discussed this application as a Member of Southwell Town Council.

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 Mrs L Dales, Mrs S Saddington and I Walker informed Committee of a phone call received from the applicant regarding Agenda Item No. 10, Grove Bungalow, Barnby Road, Newark (20/02499/OUTM), the applicant wanted to discuss the planning application and was told by the individual Members, that as they were Members of the Planning Committee they were unable to enter into a conversation regarding this application.

All Members of the Planning Committee declared personal interests in Agenda Item No. 6, Yorke Drive and Lincoln Road Playing Field, Lincoln Road, Newark (20/02484/S73M) as they were Members of the Council.

308 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.

309 MINUTES OF THE MEETING HELD ON 2 FEBRUARY 2021

AGREED that the minutes of the meeting held on 2 February 2021 were approved as a correct record of the meeting, to be signed by the Chairman.

310 LAND NORTH OF HALLOUGHTON, SOUTHWELL 20/01242/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the construction of a solar farm and battery stations together with all associated works, equipment and necessary infrastructure.

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

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

Councillor P Harris – Local Ward Member for Southwell, spoke against the application on the grounds of scale. The proposed scheme would have generated a sizeable contribution of energy. The panels would be 10ft high, with a high hectare, the scale of the proposed solar farm was therefore considered too large and would have a negative impact on the heritage of the area.

Members considered the proposal and commented that the solar farm was on an enormous scale and if it had been any bigger would have been of national infrastructure concern. The solar farm scheme had a life span of forty years and would have an adverse impact for future generations. The scheme would create an industrial landscape and would completely transform the local landscape. The land was considered as precious land and was well used by the local community. If the scheme was allowed it would have a detrimental effect and impact on the mental health of the local community. The scheme was considered too large, intrusive and would have a major impact on the amenity of the area.

A Member commented that whilst this location was not ideal Nottinghamshire was a large rural district and the same problems would occur with other sites within the district. The Council needed to move forward with Governments policy for renewable energy by 2030, if the committee kept rejecting schemes such as this one the Council would not meet the Governments targets. The land when developed using solar panels could still be used for agriculture therefore the full usage of the land would not be lost.

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

AGREED (with 11 votes For and 2 votes Against) that planning permission be refused for the reason contained within the report.

311 YORKE DRIVE AND LINCOLN ROAD PLAYING FIELD, LINCOLN ROAD, NEWARK 20/02484/S73M

The Committee considered the report of the Business Manager – Planning Development, which sought permission to vary conditions 8, 24 and 25 attached to

planning permission 18/02279/OUTM to amend the timescale for completion of the conditions.

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

Members considered the proposal acceptable.

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

312 LAND ADJACENT 2 GAINSBOROUGH ROAD, WINTHORPE 20/02279/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the change of use of land for the siting of five holiday lodges, erection of timber decking structures, formulation of new internal access tracks and creation of new vehicular access from Gainsborough Road.

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

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

The Schedule of Communication included a recommendation to update numerous conditions with alternative plan references based on the information which had been submitted since agenda print.

Councillor P Smith on behalf of Winthorpe and Langford Parish Council spoke against the application, in accordance with the views of Winthorpe and Langford Parish Council, as contained within the report.

Members considered the application and disagreed that the proposed development would be good for the village and surrounding settlement. The primary concern regarding the proposed site was the access, which competed with a bus stop and school entrance which were both opposite the proposed site entrance. The road was used for car parking for the school twice a day for drop-off and collection. The road into the village was very narrow with an existing traffic problems including speeding. It was considered that this development would exasperate the traffic problems already in place. Potential noise nuisance from the site was also raised. It was also commented that the proposed site was adjacent to the village envelope which should be protected from development creep. The development did not support rural regeneration and there were no existing buildings on the proposed site. Members also raised concern regarding the removal of four metres of hedgerow and the installation of an access gate, which had been undertaken without planning permission.

Given the lack of objection from the Highways Authority it was considered unreasonable to resist the application on highways safety grounds. It was discussed that the application was contrary to Core Policy 7 and Policy DM5 in that the

development would disrupt the rural character of the site and was in the wrong location.

A vote was taken and lost to approve planning permission with 2 votes For and 12 Votes Against.

AGREED (unanimously) that contrary to Officer recommendation planning permission be refused on the grounds of Core Policy 7 and Policy DM5 – location, character and context.

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

Councillor	Vote
R. Blaney	For
L. Brazier	For
M. Brock	For
R. Crowe	For
Mrs L. Dales	For
Mrs M. Dobson	For
L. Goff	For
Mrs R. Holloway	For
Mrs P. Rainbow	For
Mrs S. Saddington	For
M. Skinner	For
T. Smith	Apology for absence
I. Walker	For
K. Walker	For
Mrs Y. Woodhead	For

313 LAND OFF MAIN STREET, BALDERTON 20/01405/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought material change of use of land for stationing of caravans for residential occupation with associated development, new access, hard standing and utility block. This application was part retrospective.

The application had been previously presented at the 3 November 2020 Planning Committee. Members at that meeting resolved to approve the application for a temporary period of three years, subject to the completion of a S106 legal agreement within three 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.

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

Councillor Mrs L Hurst on behalf of Balderton Parish Council spoke against the application, in accordance with the views of Balderton Parish Council, as contained

within the report.

Members considered the proposal and raised concern regarding the suitability of the location due to the close proximity with the A1 and East Coast main line and the impact from pollution and noise that would have on the health and wellbeing of the family.

AGREED (with 9 votes For, 4 votes Against and 1 Abstention) that planning permission be approved for a temporary period of three years subject to the following:

- (a) the conditions and reasons contained within the report, 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 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.

314 NORWOOD PARK, NORWOOD PARK FARM, HALAM ROAD, SOUTHWELL 20/02472/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought consent for the change of use of land to site a Charcoal Retort to support the existing firewood business.

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 Southwell Civic Society.

Councillor P Harris – Local Ward Member Southwell, spoke in support of the application in principle however had reservations regarding some of the Environmental Health advice as contained within the report. Concerns were raised regarding conditions 06, 08 and 11. It was commented that many residents would not know the Ringelmann Shade assessment and how to make a complaint as referred to in the conditions. He urged the Committee to tighten up the regulations in order to control pollution emissions.

Members considered the proposal and raised concern regarding the history of the business and the use of Ring Kilns which created a strong toxic smoke when burning charcoal overnight and asked that Planning Enforcement look at this operation. The Chairman commented that Ring Kilns were unauthorised and Environmental Health could also provide enforcement. It was further commented that the content of the conditions were self-managing and there needed to be a way of measuring what was being emitted rather than self-management. It was suggested that an additional condition be included taking the advice of the Environmental Health Business Unit

regarding the clear and definable monitoring of emissions, in consultation with the three ward Members.

(Having declared a Personal Interest Councillor M Brock took no part in the debate or vote and turned off his camera and muted himself in accordance with Council protocol, for the duration of this item).

AGREED (with 12 votes For and 1 vote Against) that:

- (a) planning permission be approved subject to the conditions and reasons contained within the report; and
- (b) advice be taken from the Environment Health Business Unit, regarding an additional condition for clear and definable monitoring of emissions by the Business Manager - Planning Development in consultation with the three local Ward Members (Councillors M Brock, P Harris and Mrs P Rainbow) and confirmation by the Planning Committee Chairman, Vice-Chairman and Business Manager – Planning Development.

315 GROVE BUNGALOW, BARNBY ROAD, NEWARK 20/02499/OUTM

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the residential development of ten dwellings, following the removal of Grove Bungalow and existing outbuildings.

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

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from local residents and Nottinghamshire County Highways Authority.

Councillor Mrs J Olson on behalf of Newark Town Council spoke against the application, in accordance with the views of Newark Town Council, as contained within the report.

Members considered the application and were pleased regarding the reduction of units to ten and the resolved drainage issue. Concern was raised regarding the narrow stretch of road, importance of the common toad and unfavourable problem of the open break between Newark and Balderton. Other Members commented that due to the reduction in units the development was no longer over-intensive. Nottinghamshire Wildlife Trust had commented that they were satisfied that there would be no negative impact on wildlife species.

The Business Manager - Planning Development commented that the report identified protection for the common toad. The open break was also protected and the application would not go ahead unless the Section 106 was in place. Taking on board Members concerns, if the Committee were minded to approve planning permission, consideration could be given to Condition 9 and how this might be tightened, if

delegated authority was provided to the Business Manager – Planning Development to action at a later date.

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

- (a) conditions and reasons contained within the report, subject to the amendment of Condition 9;
- (b) delegated authority be granted to the Business Manager Planning Development to tighten the wording of Condition 9 if appropriate; and
- (c) the completion of a section 106 legal agreement within four 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):

Summary of Matters to be secured via a s.106 Agreement	
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

316 THE LILACS, FRONT STREET, SOUTH CLIFTON 20/02156/HOUSE AND 20/02157/LBC

The Committee considered both reports together for applications 20/02156/HOUSE and 20/02157/LBC of the Business Manager – Planning Development, which sought planning permission for the removal of a timber fence to Front Street, extend wall by six courses and remove existing piers.

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

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

Members commented that the proposed wall had a cumulative effect with the other high walls on the street and created a corridor effect, which was considered not acceptable. It was suggested that the application be deferred to allow Officers to negotiate with the applicant a reduction in the height of the wall to a course of four bricks rather than the proposed six.

AGREED (unanimously) that the applications be deferred to allow Officers to negotiate with the applicant a course of four bricks rather than the six as proposed in the planning application. Delegated authority be provided to the Business Manager – Planning Development in consultation with the Planning Committee Chairman and Vice-Chairman to approve the application if the reduction in the brick course can be agreed.

317 REVIEW: SCHEME OF DELEGATION

The Committee considered the report of the Director for Growth and Regeneration which had also been presented to Councillor’s Commission on 25 February 2021.

The amendments to the Scheme of Delegation as set out within the Appendix, as contained within the report, would be reported to Full Council on 9 March 2021, together with any additional comments received.

It was reported that the current Scheme of Delegation (SoD), which formed 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 twelve months and a report presented of the outcome. The purpose of the report was to set out the findings of the review, which highlighted both positive and negative impacts as a result of the amendments. The report made a number of recommendations as a result of the amendments and requested that Members considered amending the SoD in line with the concluding recommendations.

AGREED that Planning Committee accepts the changes to the Scheme of Delegation as detailed within the report and the changes be referred to Full Council for approval.

These changes summarised were:

- 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 to the report.

In addition, changes would be made to the weekly list of planning applications to include a link to the planning application and for the case officer's name and phone number to be included.

318 APPEALS LODGED

AGREED that the report be noted.

319 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 4.41 pm.

Chairman

PLANNING COMMITTEE – 30 MARCH 2021

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

Members will recall this application was presented to Planning Committee on 2nd March 2021. The Committee resolved to approve the application in accordance with Officer Recommendation subject to discussing the addition of a condition to specifically control emissions from the retort with colleagues in Environmental Health. It was concluded that if no agreement could be reached between the Environmental Health Technical Officer (EHTO), Planning Officer and Local Ward Members the application would be referred back to Committee.

The EHTO has given their professional opinion on the inclusion of a condition to monitor Particulate PM2.5 emissions from the retort, advising that charcoal production is exempt from the Environmental Permitting Regulations 2016 and as such, there is no legal requirement for such a process to quantitatively monitor stack emissions. Continuous monitoring of emissions requires industrial operators to install dedicated equipment to carry this out, this is very costly, likely to cost in excess of £10,000. The suggested emission limit value (ELV) restriction put forward by Cllr Harris is particularly low (PM2.5 at <12mg/m³ in 24 hrs) and is unlikely to be achieved, therefore imposing such a condition would mean the process is not able to operate or would have to install abatement equipment, again at significant cost. The significant costs associated with the installation and operation of continuous monitoring equipment and abatement are likely to mean that the development is not viable with this condition to monitor particulate emissions. Furthermore, there is no legal requirement for the monitoring of emissions under the Environmental Permitting Regulations 2016. On this basis Officers consider this condition would be unreasonable and thus fail to meet the requirements of the six tests as set by para. 55 of the NPPF as it would not be reasonable or necessary.

This application has been 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. 140m² 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 15th 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 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 be 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 Policies 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/

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

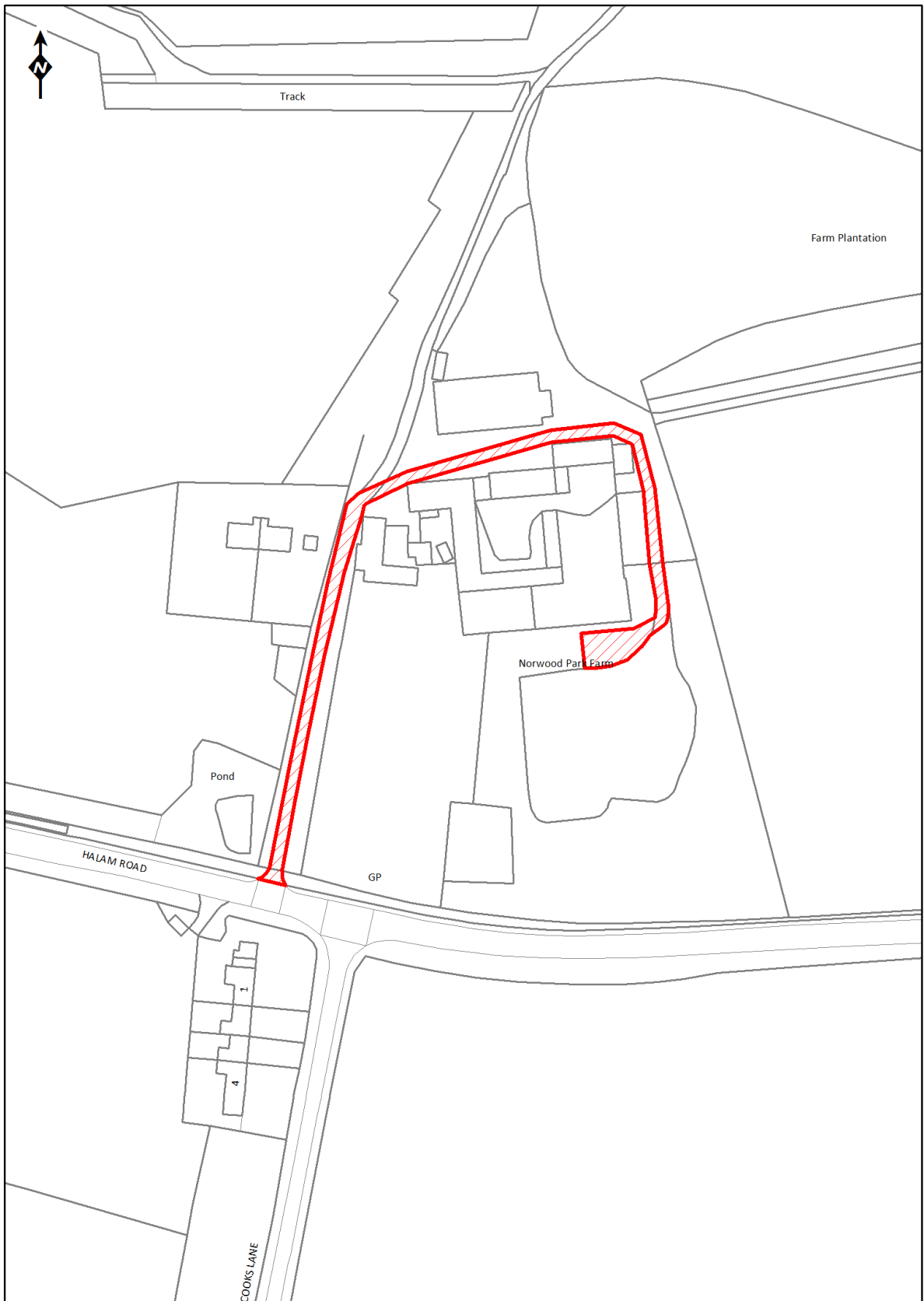
Application case file.

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.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 20/02472/FUL



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PLANNING COMMITTEE – 30 MARCH 2021

Application No:	21/00027/FUL	
Proposal:	Change of use of the land for the siting of caravans for residential purposes for 2no. gypsy pitches and hardstanding ancillary to that use (retrospective)	
Location:	Chestnut Lodge, Barnby Road, Balderton	
Applicant:	Mr Tom Holmes	
Registered:	22 February 2021	Target Date: 19 April 2021
Website link:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage	

This application is being reported to the Planning Committee as the specifics of the application warrant determination by the Planning Committee at the request of the Business Manager – Planning Development.

The Site

The application site lies on the south side of Barnby Road. Approx. 500m to the west of the site is the junction with Balderton Lane (which links Balderton with Coddington), and beyond which is the A1. East of the site, Barnby Road eventually leads to Barnby in the Willows. The site sits between two properties, Chestnut Lodge to the east and Chestnut House to the west (which is also in use as a transportation company). Adjacent to the site is also a gas valve compound. On the opposite side of the site is a Moorhouse, a dwelling with equestrian facilities.

The roughly 0.38 hectare site is L-shaped with a 27m frontage with Barnby Road and then wraps around the rear of the gas valve compound. The site is flat and was previously predominantly a grassed field/paddock. Two underground gas pipelines run across part of the site, each side of which are 6m wide easements where no structures should be sited. As well as the application site, the applicant also owns land to the west of the site (to the rear of Chestnut House), some of which is occupied by former agricultural buildings as well as land to the east of the site where the dwelling known as Chestnut Lodge sits in a substantial plot. To the east of Chestnut Lodge is an unmade vehicular access from Barnby Road that runs down the side of the Lodge (enclosed along its eastern and then turns 90 degrees adjacent to its rear boundary, which then stretches into the application site. This access serves both the Lodge, the application site and the agricultural buildings beyond the site to the west. Beyond the application site to the south are agricultural fields, and the field immediately to the south-west of the site is also owned by the applicant.

Situated in the open countryside, the site is located to the east of the main built up area of Balderton. The application site is located within Flood Zone 1 of the Environment Agency Flood Maps, which means it is at low risk of fluvial flooding but is susceptible to surface water flooding. There are two underground gas pipes that run across the site from the gas valve compound running to the south; one pipe then turns 90 degrees and runs along the southern boundary of the application site. Barnby Road has a deep grass verge on its southern side in this location, some of

which is planted with mature trees, but no footways are provided along Barnby Road.

Relevant Site History

88/1154 - Erection of agricultural dwelling, approved 30.01.1989 (this related to Chestnut Lodge)

FUL/990739 - Removal of agricultural occupancy condition, approved 19.01.2000

The Proposal

Retrospective planning permission is sought on a permanent basis for the material change of use of the land to form two gypsy and traveller pitches. The submitted site layout shows one caravan being located on each pitch served by an associated parking area. The caravans appear to have been located on the site last December/January, prior to this application being submitted, and are now occupied. Although not shown on the submitted plans, the access road is bounded by new post and rail fencing enclosing each pitch either side of the access road. One caravan sits adjacent to the western boundary of the site, facing eastwards sited to the north of the access road, and overlooks a large area of newly laid grass, with dedicated parking area for three spaces adjacent to the access road. The other caravan sits adjacent to the southern boundary and faces north. On this basis, each pitch would measure approx. 0.23 and 0.1 ha in area.

New close boarded timber fencing has been erected around all the boundaries of the application site which is shown on the submitted plan to be supported by new planting, but no details have been submitted.

No precise details of either caravan have been submitted although the officer's site visit revealed structures that look residential rather than having the appearance a traditional caravan, although it has been confirmed that the structures do fall within the definition of a caravan as set out by the Caravan Sites Acts of 1960 and 1968. External lighting has been installed on the site in the form of 5 street lights (5 other lighting columns have been erected to the south-west but outside the red line of the application site). The applicant has confirmed that foul sewerage disposal would be via septic tanks.

The occupiers of this site have confirmed that they are two gypsy and traveller families, including three children (aged 6 and under) who used to reside at Tolney Lane but have moved in order to be able to reside on a safe site that is not at risk of flooding.

Following an objection being received from Cadent concerning the siting of one of the caravans being within the 6m wide easement area, an amendment to this siting was submitted showing one of the caravans being re-sited together with an increase in the red line site boundary.

The following plans and supporting documents are being considered under this application:

- Site Location Plan received 22 February 2021;
- Block Plan received 22 February 2021;
- Ownership Aerial Photograph received 15 January 2021;
- Planning Statement;
- Aerial photograph showing position of lighting columns;
- Photograph of a lighting column.

Departure/Public Advertisement Procedure

Occupiers of 2 properties have been individually notified by letter. 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 3 – Rural Areas

Spatial Policy 7 - Sustainable Transport

Core Policy 4 – Gypsies and Travellers – New Pitch Provision

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

Core Policy 9 -Sustainable Design

Core Policy 13 – Landscape Character

Allocations & Development Management DPD (adopted July 2013)

DM5 – Design

DM8 – Development in the Open Countryside

DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance, on-line facility
- Landscape Character Assessment SPD 2013
- 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 (summarised below)

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:

Effective use of previously developed (Brownfield), untidy or derelict land;

Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;

Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;

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 – Object to proposal – Members consider that there is no safe access to and from the site as there are no footway or cycle tracks into Balderton. The main route from the site (Coddington Road) is a busy thoroughfare with no pavement and the road is quite narrow and not suitable from pedestrians or cyclists.

Barnby in the Willows Parish Council – Object to proposal for the following reasons –

- Road safety – roads are very narrow serving an agricultural community, increases in traffic that maybe towing caravans would create problems with agricultural vehicles, pedestrians, cyclists and horse riders, putting safety at risk. Barnby is a tiny village and its roads could not cope with increased traffic and noise taking short cuts to/from the A17. Road surfaces are already poor that is not gritted and with increases in deliveries is deteriorating further. The access road to the site is narrow and could lead to safety issues at its junction.
- Loss of privacy – two neighbouring properties (Moorhouse and Chestnut House) are likely to be overlooked. The site is large and has potential for expansion, exacerbating the concerns raised of increases in population and vehicle movements/volumes.
- Light Pollution – Overbearing erection of excessive floodlighting is not only causing invasion of privacy but is light pollution that can be seen from long distances and are left on for long periods/late into the night, impacting neighbours and wildlife.

- Impact on landscape and character of area – loss of hedgerows and trees is already evident with erection of new wooden fence paneling, meaning a loss of nesting, shelter and food sources for wildlife (deer, hares, barn owls, tawny owls, little owls and bats (protected species)).
- Facilities – Barnby has no facilities other than a church, no access to shops, schools or medical provision.
- Some works have already been completed before planning permission has been granted.
- Further information needed on removal of waste/sewage; how the parking provision of 6 spaces have been calculated; positions in relation to gas pipes.

NCC, Highway Authority – Object - It is extremely unlikely that the proposal would be accessed by any other form of transport than the private car/van. There are no footway or cycle route provision close by, and very infrequent bus service. I therefore consider that the proposal is contrary to the National Planning Policy Framework and to Spatial Policy 7 of the NSDC's Core Strategy.

I recommend refusal on the following grounds:

The proposal does not offer reasonable and practical ways of accessing the site other than by private car/van, and is therefore contrary to the principles of Spatial Policy 7 of the LDF Core Strategy in that it fails to provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and does not provide links to any existing network of footways, bridleways and cycleways.

However, should this application be approved the access into the site should be improved/widened at its mouth to allow one vehicle to pass another. Details of this should be submitted for approval. The Highway Design Guide seeks a width of 4.8m within 8.0m of the public highway plus 0.5m clearance on both sides.

Cadent – Following submission of amended plans - No objection as new plan shows all caravans/structures outside the 6m easements on the two gas pipelines. Add informative to decision notice.

National Grid – No objection.

NSDC, Environmental Health – Noise – whilst there is likely to be some noise from the adjacent transportation company, there is a large solid fence between the two properties which is likely to have some noise reducing properties. The gas valve compound makes a fairly loud and constant noise (assumed to be 24 hours a day). The site is protected by a close boarded timber fence which will again offer noise reduction.

Lighting – the lights erected are normal LED street lights and the luminaires are all on the horizontal. There was no spillage of lighting from the property. However two lights (nearest the main road) were not switched on. These two lights must be fitted with a back plate.

NSDC, Environmental Health – Contaminated Land - Aerial photography dating back to 2000 appears to show agricultural buildings present on the application site. I note that the application is for caravans with hardstanding which is lower risk than residential with gardens. However, agriculture is a potentially contaminative land-use and such land can possibly be used for a wide variety of potentially contaminative activities.

The applicant/developer will need to have a contingency plan should the construction/conversion phase reveal any contamination, which must be notified to the Pollution Team in Public Protection at Newark and Sherwood District Council on (01636) 650000.

Five representations have been received from two local residents/interested parties (who wish to remain anonymous) which can be summarised as follows:

- Design – the mobile homes are more like prefab houses and are not in keeping with adjacent properties – it should be a higher standard of design so it is not out of character and should protect the character and appearance of the countryside;
- There has been removal of tree coverage along boundaries during the development, impacting negatively on wildlife;
- Loss of privacy;
- Harmful visual impact on residential amenity and a Residential Visual Amenity Assessment (RVAA) should be undertaken;
- Additional hardstanding suggests there is likely to be further over-development of the site, leading to loss of garden land and open aspect of the locality;
- Biodiversity – an environmental impact assessment should be considered to demonstrate the consideration on the surrounding environment and wildlife;
- Light pollution – there is a substantial amount of external street lighting with extremely bright white lighting which is on from dusk until dawn every night – this is not energy efficient and negatively impacts on residential amenity of neighbours. Lights are a ‘statutory nuisance’ which is also having a negative impact on wildlife; sleep deprivation and health of neighbours; ruined the ability to enjoy the night sky; lighting glare affects highway safety on the main road;
- The applicant is gypsy in origin however they wish to settle and no longer move from place to place, which is intended to be a permanent arrangement – thus rendering the application incorrect as they do not fall within the planning definition;
- Gypsy and traveller sites should be strictly limited in the open countryside as additional dwellings on green field sites is inappropriate development;
- If this application is approved it would set a precedent for additional sites for more family members – there are 2 large touring mobile homes in the front garden which are also lived in;
- The family chose to move from Tolney Lane – they had somewhere to live;
- It is not acceptable that they have no regard for the rules and apply retrospectively;
- A septic tank has been installed;
- Cadent states that heavy vehicles are not supposed to cross the underground pipelines on the site;
- 3 truck loads of sand were delivered to the site recently and there are 10mph signs on the access on the site, showing the intention to expand development further.

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 11 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 figure rises to 169 to take account of undetermined households and those who do not meet the definition – but who may require a culturally appropriate form of accommodation). The District’s requirement of 118 pitches forms the basis of the five year land supply test, as required as part of the PPTS. Helpfully the GTAA splits this need across 5 year tranches – with 77 pitches needing to be delivered or available within the first period (2019-24) for a five year supply to be achieved. This reflects a heavy skewing towards that first tranche – due to the need to address unauthorised and temporary development, doubling up (i.e. households lacking their own pitch) and some demographic change within that timespan (i.e. individuals who will be capable of representing a household by the time 2024 is reached). This represents a significant unmet need. Provision to help 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).

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. Drawing on the information provided in support of the application, the two households were previously accommodated on two separate lawful pitches at an existing site on Tolney Lane within the baseline of the new GTAA – and the age breakdown of dependents means that they will not form new households prior to 2024. Consequently the two pitches proposed here will not directly contribute towards meeting the District’s need requirements – either as part of a five year land supply or in terms of wider need across the plan period as a whole. Notwithstanding this, having regard to the general layout of the site it is possible that additional pitches could be accommodated at a later date (subject to this being deemed acceptable). This has the potential to help to address the needs of the dependent who is forecast within the GTAA to become a new household towards the end of the plan period, and so require a pitch at that time. Were permission to be granted then the formalising of this position could be explored via site allocation as part of the plan-making process.

Where the proposal does help meet an immediate need is through the pitches vacated on the site at Tolney Lane, which is privately owned and host to 12 lawful pitches. The GTAA shows the need generated by those existing occupants (who met the planning definition of a traveller) to constitute; 1 pitch to meet a current need and an additional 4 to meet future needs as a result of new household formation later in the plan period. It is not therefore unreasonable to consider that 1 of the vacated pitches will provide available supply to meet the single pitch required to service that current need on Tolney Lane. On this basis there would therefore be an indirect contribution towards a five year land supply. This positive indirect contribution is a significant benefit, and one which should be afforded considerable weight as part of the planning balance.

The application site is located in the open countryside, approx. 700m east of the boundary of the Newark Urban Area, as defined by the Allocations and Development Management DPD. Core

Policy 4 states that future pitch provision will be addressed through all necessary means, including amongst other criteria, the granting of planning permission for pitches on new sites in line with Core Policy 5. Provision will be made 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 the Newark Urban Area.

Beyond this, Core Policy 5 sets out a range of criteria, which proposals 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 the site's relatively close location to the Newark Urban Area, this site leaves the proposal reasonably well-placed to satisfy these overarching aims.

In summary, the District has a significant unmet need for Gypsy and Traveller pitches. The proposal would represent an indirect contribution towards a five year land supply. This positive indirect contribution is a significant benefit, and one which should be afforded considerable weight as part of the overall planning balance.

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. Core Policy 13 of the Core Strategy addresses issues of landscape character. The Landscape Character Assessment SPD informs the policy approach identified within Core Policy 13. 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 site is identified as being within the East Nottinghamshire Sandlands and within the Landscape sub-type of Winthorpe Village Farmlands (ES PZ 04). The policy approach for this area is to 'Conserve and Create', identifying it as being of moderate condition and of moderate sensitivity. The characteristic visual features within this area are smaller field sizes adjacent to villages with pasture. Specific recommendations for built features therefore encourage conservation of what remains of the rural landscape by concentrating new development around existing settlements and creating new development which reflects the local built vernacular. With regard to landscape features this seeks to create new hedgerows and conserve existing, seek opportunities to conserve field pattern where feasible, contain new development within historic boundaries as well as to seek opportunities to conserve existing pastoral fields and historic field patterns and conserving and enhancing tree cover and landscape planting generally.

Prior to the recent works being carried out, the site was an open grassed field/paddock and relatively well bound with trees/hedging along the northern boundary with the road, but flanked by existing development to the east and west. The current site is still dominated by open grassed areas, but with the addition of two residential caravans and additional close boarded timber fencing. Whilst this creates a more enclosed site, the new fencing has yet to be supported by new

planting on the inside of the site. In order for such new planting to be of an appropriate native planting species, a soft landscaping condition should be imposed on any permission. The caravans do not reflect local built vernacular, however they are not readily visible from Barnby Road. Given the retrospective nature of the application, it is not exactly clear what vegetation/planting has already been removed from the site, but it appears that any removal is likely to have taken place around the site boundaries, where new planting is proposed in any event. Whilst vegetation removal is regrettable from both a landscape character and ecology point of view, a matter reflected by the comments from Barnby Parish Council, the vegetation was not protected in any way. The mature trees within the grass verge of Barnby Road in this location are retained and so the mature treed and soft setting to the site from Barnby Road is largely retained.

No designated heritage assets are located near to the site that would be affected by the proposals.

It is very disappointing that this application has been submitted retrospectively because it now makes it difficult to be able to assess any biodiversity impacts. Given that the site was an open grassed field/paddock it is unlikely that the site would have supported any significant levels of biodiversity, however any removal of hedgerow or trees from the site may have offered potential opportunities for foraging bats and nesting and foraging birds. Should planning permission be granted, therefore, it is considered reasonable to impose a condition to require some biodiversity enhancements to provide two bat and two bird boxes on the site.

Section 11 of the NPPF relates to making effective use of land and paragraph 117 states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding the environment. Paragraph 122 states that planning decisions should support development that makes efficient use of land, taking into account: a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating itd) the desirability of maintaining an area's prevailing character and setting. Core Policy 5 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 and permanent sites where pitches are self-contained and there is an element of business use, 640 sq m. The size of the application site presented could accommodate around 5 pitches of a 550 sq m pitch area or up to 4 pitches of a 640 sq m pitch area. As such, it could be considered that the proposal is not making effective use of the land given the limited density of pitches on the land available. Whilst this is acknowledged, given the site would contribute towards the unmet need of gypsy and traveller pitches, it would be difficult to sustain a reason for refusal on this basis. In addition neither the size of the pitches or the general layout would preclude the application site from accommodating additional pitches in the future (subject to planning permission), should the applicant wish to pursue this option.

Overall, the current scheme represents a single storey scaled development of two caravans. The close boarded timber fences, which have been erected around the site boundaries although more of a suburban feature and would more appropriately be of a post and rail design in this countryside location, can be softened through new additional native planting. The majority of the fencing would be set back into the site in a less prominent location, and as such is considered to be acceptable subject and would be softened over time by new planting. The general impact on the visual amenities of the area and roadside is found on balance to be acceptable with new hedgerow planting along the new fencing to soften its appearance.

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 reasons outlined and it would be difficult to sustain unacceptable detriment to the landscape character and appearance of the area, 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 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 Council's Environmental Health officer has assessed the impact of noise from existing uses adjacent to the site – namely the gas valve compound and the potential of noise from the adjacent transportation company and is satisfied that occupiers of the site would be adequately protected from these noise sources by the close boarded timber fencing erected around the boundaries.

Turning now to existing residents who would live close to the site, Moorhouse, a two storey dwelling on the opposite side of Barnby Road is positioned approx. 51 m from the northern boundary of the application site and Chestnut House to the west is sited approx. 52m away from the western boundary of the site, which would be the nearest affected receptors of the proposed development.

There are five external lighting columns (that have the appearance of street lights), approx. 3m high; two are situated adjacent to the boundary with Barnby Road and three more within the site. Concerns regarding the current levels of illumination coming from the site has been raised by Barnby Parish Council. The Council's Environmental Health officer did have some concern in relation to the potential for light spillage to the north of the site. As such, should planning permission be granted, a condition would be imposed to require a back plate to be fitted to each of the columns adjacent to the road. Given the single storey nature of the two caravans, together with boundary treatments and the distance between the site and existing neighbours, it is not considered that the relationships would result in any unacceptable degree of harm on the amenities of existing occupiers close to the site.

Impact on Highway Safety

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

Notts County Council as Highway Authority has raised objection to the application on the following basis:- "The proposal does not offer reasonable and practical ways of accessing the site other than by private car/van, and is therefore contrary to the principles of Spatial Policy 7 of the LDF Core Strategy in that it fails to provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and does not provide links to any existing network of footways, bridleways and cycleways." This stance is supported by Balderton Parish Council.

The nearest pavement to which the site could be connected is either approx. 2.1km to the west

along Barnby Road towards Newark, 1.5km to the south-west along Balderton Lane towards Balderton or 1.9km to the north-west along Balderton Road towards Coddington. It is not therefore considered to be reasonable to insist that the applicant for two gypsy and traveller pitches be required to provide any of these lengths of footway to provide the requirements set out by the Highway Authority.

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 can be accessed by clicking on the link provided within the background papers list at the end of this report.

It is therefore considered that whilst the proposed site is not currently able to be accessed safely by any other form of transport other than by private vehicles use, it would not be reasonable on the basis of cost, to require the applicant to provide a footway link between the site and the nearest existing footway, which is approx. 1.5km away from the site. This lack of a safe and more sustainable option for accessing the site therefore weighs against the proposal in the overall planning balance. Notwithstanding this, if Members were minded to approve the application, the Highway Authority recommends that the mouth of the access road be improved and this could be imposed by condition.

Sustainability

The second criteria of CP5 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.

Whilst it is acknowledged that the site is not located within the Newark Urban Area, it is only a relatively short distance away from the boundary (700m) and the ability to enjoy the full range of basic everyday services and facilities offered within Balderton. The site is adequately served in terms of electricity and water supplies. The applicant has confirmed that the site will be served by septic tanks and as such, the Environment Agency have advised an informative be added to any decision notice to advise what is required in this regard outside the planning process.

Flood Risk

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 terms of surface water drainage, both pitches would continue to be served predominantly by significant areas of permeable ground surfaces and as such, it unlikely to result in any unacceptable impact on the site or neighbouring sites in the regard. The Environment Agency has requested an informative be attached to any decision notice to set out the requirements needed under other legislation to deal with the considered use of septic tanks.

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 site would be occupied by two families, one with two children and the other with one child. The eldest two children have reached primary school age. The personal needs of the families require a settled base to ensure 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 occupiers of the site, particularly the benefits associated with schooling arrangements for the children that a permanent base would provide, although it is acknowledged that this needs to be tempered somewhat in this case, given that such a settled base for education purposes was provided for at their previous pitches situated at Tolney Lane.

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, and the site occupied, without seeking planning permission, a matter reflected in the comments from Barnby Parish Council. Those actions did not enable matters such as biodiversity or impact on trees/hedgerows 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.

Planning Balance and Conclusion

The recent GTAA has identified a significant unmet need for gypsy and traveller pitches. The two pitches proposed here will not directly contribute towards meeting this need requirement – either as part of a five year land supply or in terms of wider need across the plan period as a whole. Notwithstanding this, having regard to the general layout of the site it is possible that additional pitches could be accommodated at a later date (subject to this being deemed acceptable). This has the potential to help to address the needs of the dependent who is forecast within the GTAA to become a new household towards the end of the plan period, and so require a pitch at that time.

Where the proposal does help meet an immediate need is through the pitches vacated on the site at Tolney Lane, which is privately owned and host to 12 lawful pitches. On this basis there would therefore be an indirect contribution towards a five year land supply. This positive indirect contribution is a significant benefit, and one which should be afforded considerable weight as part of the planning balance.

The site is in a relatively highly sustainable location, as although located in the open countryside, the site is in close proximity to all the facilities required for day to day living and the requirements of a growing families (although only accessible by private vehicles). 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, harm has been identified with regard to the lack of facilities to access the site other than by private vehicles, without the provision of a significant length of new footway, which is considered to be an unreasonable cost in this case. This weighs against the proposal in the planning balance.

An approval would provide a settled base that would facilitate access to education and enable the families 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 two families, 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 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.

Weighing all these competing considerations in the overall planning balance, I am led to the conclusion that in this case, the benefits of the scheme outweigh the harm identified. As such a recommendation of approval is offered to Members, subject to conditions.

RECOMMENDATION

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

Conditions

01

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.

Reason: To ensure that the site is retained for use by gypsies and travellers only, as it is located in an area where new residential development would not normally be acceptable.

02

No more than 2 static caravans, 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 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood 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 Policies 5 and 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood 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 Policies 5 and 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

05

Prior to installation, full details of any ancillary structures to be placed on the site, including those that might be required to meet separate Caravan licensing legislation, shall be submitted to and

approved in writing by the Local Planning Authority. Once approved any such ancillary structures shall only be kept on the site in accordance with the approved details.

Reason: In order to ensure any proposals are of an appropriate design in accordance with the aims of Core Policy 9 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

06

Within two months of the date of this permission, details showing the mouth of the access road measuring at least 5.8m wide within 8.0m of the public highway on appropriately scaled plans shall be submitted to and approved in writing by the Local Planning Authority. Within two months of these details being approved, any widening works required to be undertaken shall be fully completed.

Reason: In the interests of highway safety.

07

Within two months of the date of this permission, two back plates shall be fitted to the two lighting columns positioned adjacent to Barnby Road, in order to prevent light spillage to the north of the site. These back plates shall be retained for the lifetime of these lighting columns.

Reason: In the interests of reducing light pollution in this sensitive countryside location.

08

Within two months of the date of this permission full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
- hard surfacing materials.

Reason: In the interests of visual amenity and biodiversity.

09

The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development. 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. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed during the first planting season.

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

010

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.

011

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

- Site Location Plan received 22 February 2021;
- Block Plan received 22 February 2021;
- Aerial photograph showing position of lighting columns.

Reason: So as to define this permission.

Notes to Applicant

01

Aerial photography dating back to 2000 appears to show agricultural buildings present on the application site. It is noted that the application is for caravans with hardstanding which is lower risk than residential with gardens. However, agriculture is a potentially contaminative land-use and such land can possibly be used for a wide variety of potentially contaminative activities.

The applicant/developer will need to have a contingency plan should the construction/conversion phase reveal any contamination, which must be notified to the Pollution Team in Public Protection at Newark and Sherwood District Council on (01636) 650000.

02

A septic tank is not the optimum method of dealing with the disposal of foul sewerage waste.

Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank

Foul drainage should be connected to the main sewer. Where this is not possible, under the

Environmental Permitting Regulations 2010 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.

Further advice is available at: <https://www.gov.uk/permits-you-need-for-septic-tanks> and <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>

03

The apparatus that has been identified as being in the vicinity of your proposed works is:

- High or Intermediate pressure (above 2 bar) Gas Pipelines and associated equipment
- Electricity Transmission overhead lines
- Above ground electricity sites and installations

BEFORE carrying out any work you must:

- Ensure that no works are undertaken in the vicinity of our gas pipelines and that no heavy plant, machinery or vehicles cross the route of the pipeline until detailed consultation has taken place.
- Carefully read these requirements including the attached guidance documents and maps showing the location of apparatus.
- Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- Ensure that all persons, including direct labour and contractors, working for you on or near

Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>

- In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

04

The occupiers of the caravan site will be required to apply for a caravan site license.

05

The applicant/developer will need to have a contingency plan should the construction/conversion phase reveal any contamination, which must be notified to the Pollution Team in Public Protection at Newark and Sherwood District Council on (01636) 650000.

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 accordance with 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/

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

BACKGROUND PAPERS

Application case file.

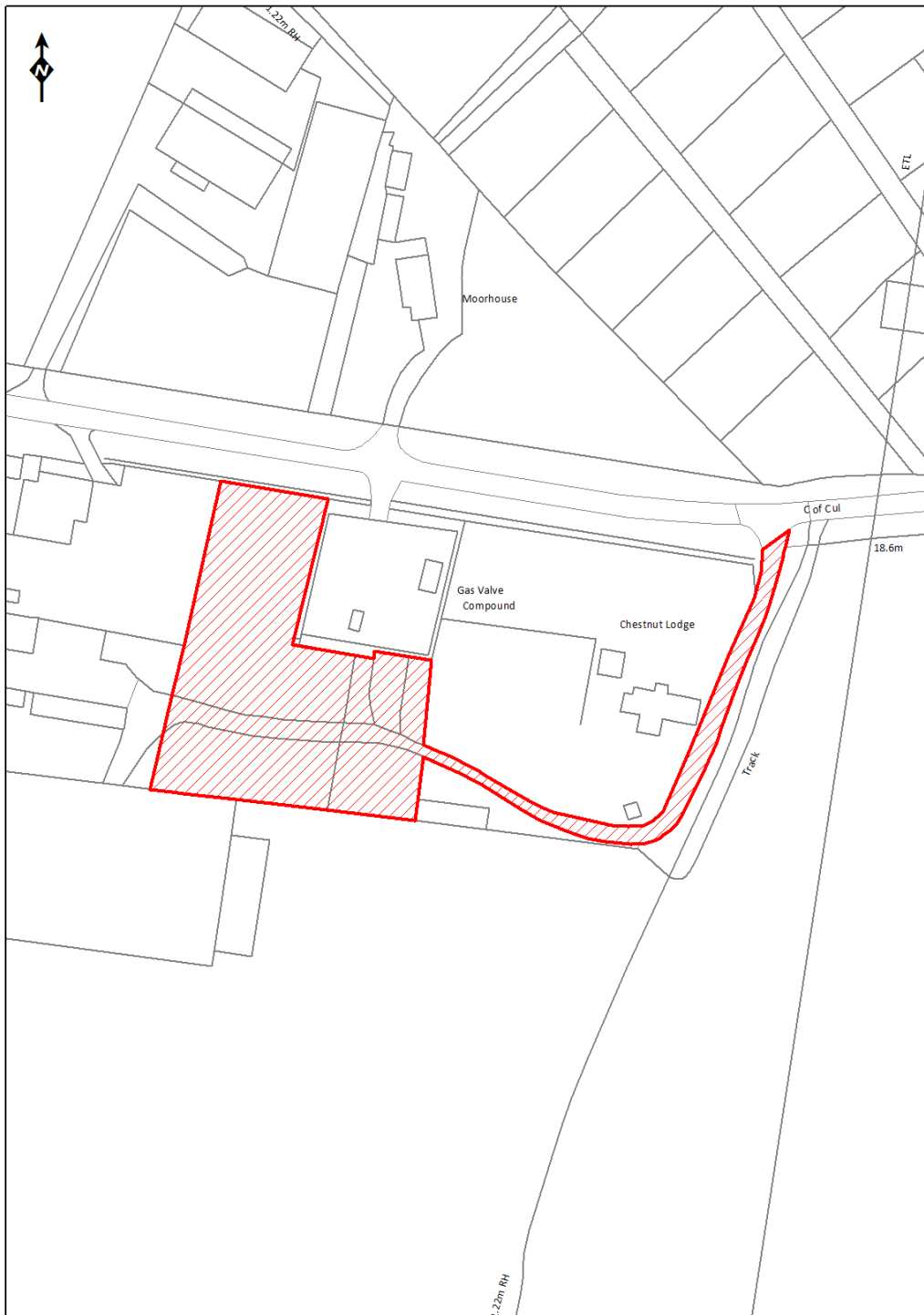
Appeal Decision – Land north of Crossways, off Main Street, Bathley - https://publicaccess.newark-sherwooddc.gov.uk/online-applications/files/CFF2A8570A92C13CB360771CDB1EDE4B/pdf/18_02219_FUL-APPEAL_ALLOWED-1023336.pdf

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

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

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 21/00027/FUL



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PLANNING COMMITTEE – 30 MARCH 2021

Application No:	21/00257/FUL
Proposal:	Change of use from residential garden to create new pedestrian footpath from Hollies Close connected into existing footpath with 1800mm high closeboard timber fence with trellising
Location:	Land At Main Road, Boughton
Applicant:	Newark & Sherwood District Council - Mr Kevin Shutt
Agent:	SGA Llp - Mrs Karolina Walton
Registered:	10.02.2021 Target Date: 07.04.2021
Website Link:	21/00257/FUL Proposed new pedestrian footpath from Hollies Close connected into existing footpath with 1200 high railing fence to the south and 1800mm high closeboard timber fence to the north. Land At Main Road Boughton (newark-sherwooddc.gov.uk)

This application is being referred to the Planning Committee for determination as the Council is the applicant.

The Site

The application site relates to a narrow linear plot of land between no. 7 and no. 16 Hollies Close. The site links the end of the cul-de-sac with the recently developed extra care scheme to the north east. The site has an approximate area of 70m² and currently forms part of the residential garden of no. 7 Hollies Close.

There is a rising gradient to the site in a north easterly direction such that the cul-de-sac development of Hollies Close is set at a significantly lower level than the extra care scheme.

The site is within the urban boundary for Ollerton and Boughton as defined by the Proposals Map within the Allocations and Development Management DPD.

Relevant Planning History

18/01499/FULM - Proposed Extra-Care residential development for the elderly, consisting of 30 one bedroom flats, 10 two bedroom bungalows and associated shared facilities.

Approved December 2018.

The Proposal

The proposal seeks to create a tarmac footpath link between Hollies Close and the extra care scheme adjacent. The path would be bound by a gradually rising close boarded timber fence with trellising at the top with a maximum height of 1.8m. The design of the fence has been revised

during the life of the application as discussed in the appraisal section below.

The development has been assessed on the basis of the following plans:

- Proposed Site Plan – 37055 00001 C06;
- Topographical Survey and Site Location Plan for the Proposed Footpath – 37055 0002 C01;
- Sectional Elevation of Pedestrian Footpath from Hollies Close – 37055 00040 P03.

Departure/Public Advertisement Procedure

Occupiers of 8 properties have been individually notified by letter.

Planning Policy Framework

The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 7 - Sustainable Transport

Core Policy 9 -Sustainable Design

Core Policy 12 – Biodiversity and Green Infrastructure

Allocations & Development Management DPD

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019

Consultations

Ollerton and Boughton Town Council – Support the proposal.

Representations have been received from 1 local residents/interested parties which can be summarised as follows:

- Object – the footpath is unnecessary when the entrance to the new site is only a couple of hundred yards from the entrance to Hollies Close;
- Hollies Close is a quiet close and doesn't need the extra footfall;
- Bungalows are already affected by the built development with residents looking down into gardens invading privacy;

- People may be tempted to park their vehicles in Hollies Close and walk through to the new site;
- The Close already gets congested.

Comments of the Business Manager

Principle of Development

Ollerton and Boughton is defined by the Spatial Strategy as a Service Centre for the Sherwood Area of the District with a large range of local facilities acting as a service provision for a large local population and a rural hinterland.

The proposal relates to the creation of a footpath which would improve overall connectivity and so would be encouraged by Spatial Policy 7 which emphasises the importance of providing links to the existing network of footways. Although there are no designated rights of way in the vicinity of the site, there is a network of informal footpaths nearby which have become established overtime (and have been incorporated into the extra care scheme adjacent). The enhanced connectivity in a sustainable settlement is therefore supported in principle.

Impact on Character

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings.

The extent of the development site is modest albeit the very nature of the end use would mean that the development would become part of the public realm in the area. The tarmac surfacing of the proposed footpath is functional to the end use.

The fence has been revised during the life of the application to increase the height on the northern side (as discussed in the amenity section below) but also to include trellising at the top of the fence which in turn would allow for landscaping to soften the impact of the development.

The fence would sit between residential curtilages and would not be an uncommon feature in a residential scenario. The revised scheme with trellising and associated landscaping would make the footpath more attractive to users. Whilst there would undoubtedly still be some sense of enclosure due to the overall height, the path is a short stretch in length (less than 25m) and therefore this need not be fatal in principle (particularly given the need to achieve an amenity compromise as discussed below).

The submitted plan indicates that there would be new shrubs planted alongside the fence (to the south) but this area of land is not within the red line site location plan and therefore does not form part of the proposal. Nevertheless, the fences would be between residential curtilages and would not be atypical to those associated with residential boundaries. The additional landscaping adjacent to the fence is therefore not considered necessary to make the development acceptable in character terms.

Clarification has been sought to the colour finish of the boundary fences but it has been confirmed that there is no intention to stain the panels.

Impact on Amenity

In this case the amenity assessment required against Policy DM5 relates primarily to the two residential properties which bound the site.

The original plans showed that the boundary to the north of the footpath would be metal railing which would have gaps allowing footpath users to look into the rear garden and rear elevation of no. 7 Hollies Close.

This was raised as a cause of concern as it was considered to have a detrimental impact on the occupiers privacy particularly given the modest size of their rear garden which would be reduced in size by this development.

The revised scheme, with a maximum height of 1.8m would improve the privacy for the existing occupiers adjacent to the site ensuring that users of the path would not be able to directly overlook private garden areas. The revised scheme is therefore considered to comply with the relevant amenity criteria of Policy DM5.

Impact on Trees and Ecology

At the time of the Officer site visit (late February 2021) it was noted that there were tree specimens on the application site at the boundary of 7 Hollies Close and the extra care scheme behind. This was queried with the agent with the intention of requesting a tree survey. However, it has since been confirmed that the site has been cleared (outside of bird breeding season). The removal of trees to facilitate development before permission has been granted is not an approach which is advocated. However, having seen the specimens before their removal, it is highly unlikely that they would have been worthy of protection. The applicant was within their right to remove the trees without prior approval (the site is not within a Conservation Area nor were the trees protected by a TPO). Again, whilst not something Officers would condone, in the context of the current application there are no longer any concerns as to the impact the development will have on trees and ecology.

Other Matters

A neighbouring party has commented that there is no need for the proposal and that it could lead to additional car parking at Hollies Close which already becomes congested. Whilst these comments are noted, the likelihood of occurrence is considered low. The extra care scheme adjacent was approved with associated car parking and therefore it is this parking that will remain the most desirable to visitors of the scheme. The current proposal relates to a pedestrian footpath and therefore is much more likely to introduce footfall not associated with vehicles. The increase in footfall is not considered to lead to planning harm particularly given that the area is already well served by informal footpaths and connections.

Conclusion

The proposal relates to the creation of a footpath which would increase connectivity within an area of Boughton already well served by an informal network of footpaths. There are no material planning considerations which would prevent the approval of the application 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 accordance with the following approved plans:

- Proposed Site Plan – 37055 00001 C06;
- Topographical Survey and Site Location Plan for the Proposed Footpath – 37055 0002 C01;
- Sectional Elevation of Pedestrian Footpath from Hollies Close – 37055 00040 P03.

Reason: So as to define this permission.

03

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

Reason: In the interests of visual amenity.

04

Prior to the development hereby approved being brought into use, details of additional landscaping to be applied to the trellising section of the fence shall be submitted to and approved in writing by the local planning authority. The approved details shall be completed during the first planting season following the development being brought into use. Any landscaping 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. 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: In the interests of residential and visual amenity.

Notes to Applicant

01

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

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) Order 2010 (as amended).

BACKGROUND PAPERS

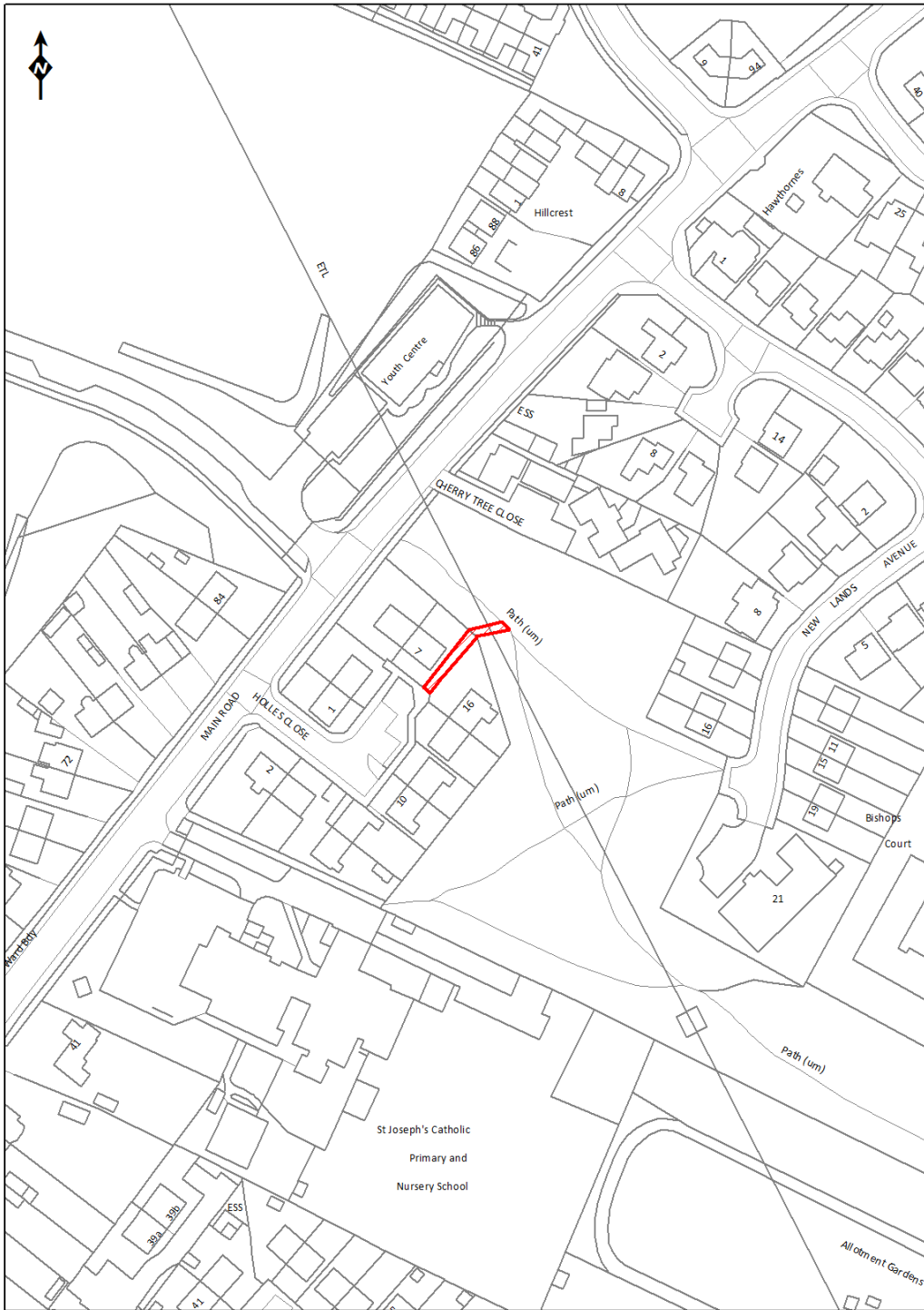
Application case file.

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

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

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 21/00257/FUL



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PLANNING COMMITTEE – 30 MARCH 2021

Application No. 21/00163/FUL

Proposal : Creation of driveway, drop kerb and retaining wall.

Location : 12 Monckton Drive, Southwell, NG25 0AW

Applicant : Mr A Rainbow

Registered : 29 January 2021 **Target Date :** 26 March 2021
Extension of time agreed until : 02 April 2021

This application is presented to the Planning Committee due to the applicant being a Member of the District Council and on the Planning Committee. Therefore due to the scheme of delegation this must be heard by Planning Committee.

The Site

The dwelling is a detached single storey property located within the defined built up area of Southwell, within flood zone 1 and within an area at risk of surface water flooding as defined by the Environment Agency data maps. The site is also located within an area of Southwell Protected Views (So/PV) as stated within the Allocations and Development Management DPD which seeks to protect views of and across the principal heritage assets of the Minster, Holy Trinity church, Archbishops Palace and Thurgarton Hundred Workhouse.

The property is elevated from the highway by approximately 1m. The principal elevation faces north-east with a single garage located to the side of the dwelling, accessed off Monckton Drive which is a cul-de-sac.

Relevant Planning History

03/01731/FUL - Proposed new dwelling Approved 13.01.2004 (*Permitted development rights removed for Schedule 2 Part 1 Classes A, B, C, D and E*)

891354 - Three bungalows and garages Approved 10.01.1990

890467 - Erect on bungalow with integral garage Approved 20.07.1989

The Proposal

The proposal comprises of the extension to the dropped kerb and reducing the existing turfed area by approximately 1.5m to create a flat block paved driveway. In addition the proposal comprises of the construction of a 1.5m high retaining wall and a hand rail.

List of plans/documents considered

DRWG no. 511_2020_01 Existing plans;
DRWG no. 511_2020_02 Rev A Proposed plans;

DRWG no. 511_2020_03 Location plan and block plan;

Departure/Public Advertisement Procedure

7 neighbouring occupiers have been consulted on the application.

Planning Policy Framework

Development Plan

Southwell Neighbourhood Plan (Adopted 2016)

Policy SD1 – Delivering Sustainable Development
Policy E1 – Flood Risk Assessments and Mitigation
Policy E2 – Flood Resilient Design
Policy DH1 – Sense of Place
Policy DH2 – Public Realm

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

Spatial Policy 7 – Sustainable Transport
Core Policy 9 - Sustainable Design
Core Policy 10 – Climate Change
Core Policy 10A – Local Drainage Designations

NSDC Allocations and Development Management DPD (July 2013) (ADMDDPD)

DM5 – Design
DM12 – Presumption in Favour of Sustainable Development
So/PV – Southwell Protected Views

Other Material considerations

National Planning Policy Framework (NPPF) 2019
Planning Practice Guidance (PPG)
Householder Development SPD 2014

Consultations

Southwell Town Council – Southwell Town Council considered application 21/00136/FUL 12 Monkton Drive and agreed unanimously to a decision of no objection to this application, but the committee are concerned over the lack of surface water treatment and the loss of green space at the front of the property.

No neighbours/interested parties have commented on the application.

Comments of the Business Manager

Principle of Development

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

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the Development Plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise.

The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The proposal constitutes an alteration within the grounds of a domestic property and the provision of a dropped kerb to the highway. All of which are generally accepted in principle subject to an assessment of criteria outlined in Spatial Policy 7 of the ACS and Policy DM5 of the Allocations and Development Management DPD. These criteria include the provision that the proposal should respect the character of the surrounding area including its local distinctiveness and have no adverse impact upon the amenities of neighbouring properties. In addition the proposal should be appropriate for the highway network and make for safe and inclusive access.

Therefore in principle the proposal is acceptable subject to the criteria outlined in the succeeding report.

Impact on highway safety

Spatial Policy 7 of the ACS states the proposal should be appropriate for the highway network, and ensure that the safety of the highway is not adversely affected. The proposal includes the provision of a dropped kerb on to a non classified road. The proposal is considered acceptable and would not result in any further harm to the existing highway network. Thus the proposal would comply with Spatial Policy 7 of the ACS and policy DM5 of the ADMDPD.

Design impact

Policy DM5 of the ADMDPD states *“the character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development”*.

The proposal includes reducing the slope of the existing turfed sloped garden area to the front of the dwelling by approximately 1.5m, and laying a new permeable hardstanding block paved area approximately 40m² in area.

The proposal includes a new retaining wall to the perimeter of the new driveway with railings above to approximately 2.1m high. Due to the scale of the wall and the degree of land level change the proposal requires express planning consent.

It is considered that due to the design, use of materials and the scale of the development, the proposal is considered to conform to the character of the area and comply with policy DM5 of the ADMDPD.

Policy So/PV of the ADMDPD seeks to protect views of and across the principal heritage assets identified on the Proposals Map within the ADMDPD. Due to the scale of the development the proposal would not result in an obstruction to the views and thus the proposal would comply with this policy.

The proposal is therefore acceptable and would comply with Policy DM5 of the ADMDPD as well as the relevant policies within the Southwell NP.

Neighbour Amenity

Policy DM5 of the DPD states proposals for new development should have regard to their impact on the amenity or operation of surrounding land uses. The NPPF states in Paragraph 127 that developments should ensure a high standard of amenity for existing and future users.

The proposal would not result in harm to neighbour amenity from loss of privacy.

Due to the scale and design of the proposal and the relationship with existing neighbouring properties, it is not considered that the proposal would result in harm from overbearing impact or loss of light impacts to the amenity of the neighbouring occupiers.

It is concluded that the proposal as a whole is acceptable from a neighbour amenity perspective and would not result in any detrimental impacts from overbearing impact, loss of light or privacy to neighbouring occupiers and complies with Policy DM5 of the ADMDPD, the NPPF and the SPD which are material planning considerations.

Flooding/surface water run-off

The site is located within flood zone 1 as defined by the Environment Agency and therefore at lowest risk from flooding and within an area at risk of surface water flooding.

The proposal includes a substantial area of hardstanding to the front of the dwelling from an area which is currently laid to grass. The agent states that the proposed material would be permeable and incorporate an ACO drain at the end of the driveway. This would enable the surface water to drain within the existing boundary. Core Policy 10A of the ACS states that proposals should ensure that development positively manages its surface water run-off through the design and layout of new development, in order that there will be no unacceptable impact from run-off on surrounding areas or existing drainage regime.

Policy E2 of the Southwell NP states that proposals should be required to demonstrate that the design of the hardstanding areas has been considered carefully to reduce the risk of flooding and increased run-off. Due to the design of the driveway, the use of permeable materials and the insertion of drainage, the proposal would comply with the relevant policies.

As such the proposal would not result in any further increased risk in surface water run-off to the surrounding area. The proposal therefore complies with Core Policy 9 and 10A of the ACS and policy E2 of the Southwell NP.

Conclusion

In conclusion, it is considered that the proposal would, by virtue of its scale, design and use of materials, accord with Core Policy 9 and 10A of the ACS and policies DM5 and So/PV of the Allocation and Development Management DPD and the policies within the Southwell NP as well as the NPPF which is a material planning consideration.

All material planning considerations have been taken in to account as set out above and appropriate weight has been given to each issue and it is concluded that the application satisfies matters relating to design, flood risk, neighbour amenity and highway safety.

Therefore, in considering all the material considerations of this case, a recommendation of approval to Members is proposed and the application is considered to accord with the Council's DPD, the NPPF and the Southwell Neighbourhood Plan, and there are no other material planning considerations that would outweigh this policy stance in this case.

Recommendation

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

01

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

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

02

The development hereby permitted shall not be carried out except in complete accordance with approved proposed plans reference;

DRWG no. 511_2020_02 Rev A Proposed plans;
DRWG no. 511_2020_03 Location plan and block plan;

Reason: So as to define this permission.

03

The materials and colour of such materials, to be used in the construction of the external surfaces of the development hereby permitted shall match those corresponding materials to the existing driveway, those stated within the application form and/or on the approved drawings.

Reason: In the interests of visual amenity.

04

Prior to the first use of the driveway hereby permitted, drainage provisions as shown on drawing no. 511_2020_02 Rev A shall be installed in its entirety and retained for the lifetime of the development.

Reason: In the interests of preventing surface water run-off to the site and surrounding area.

Note to applicant

01

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

BACKGROUND PAPERS

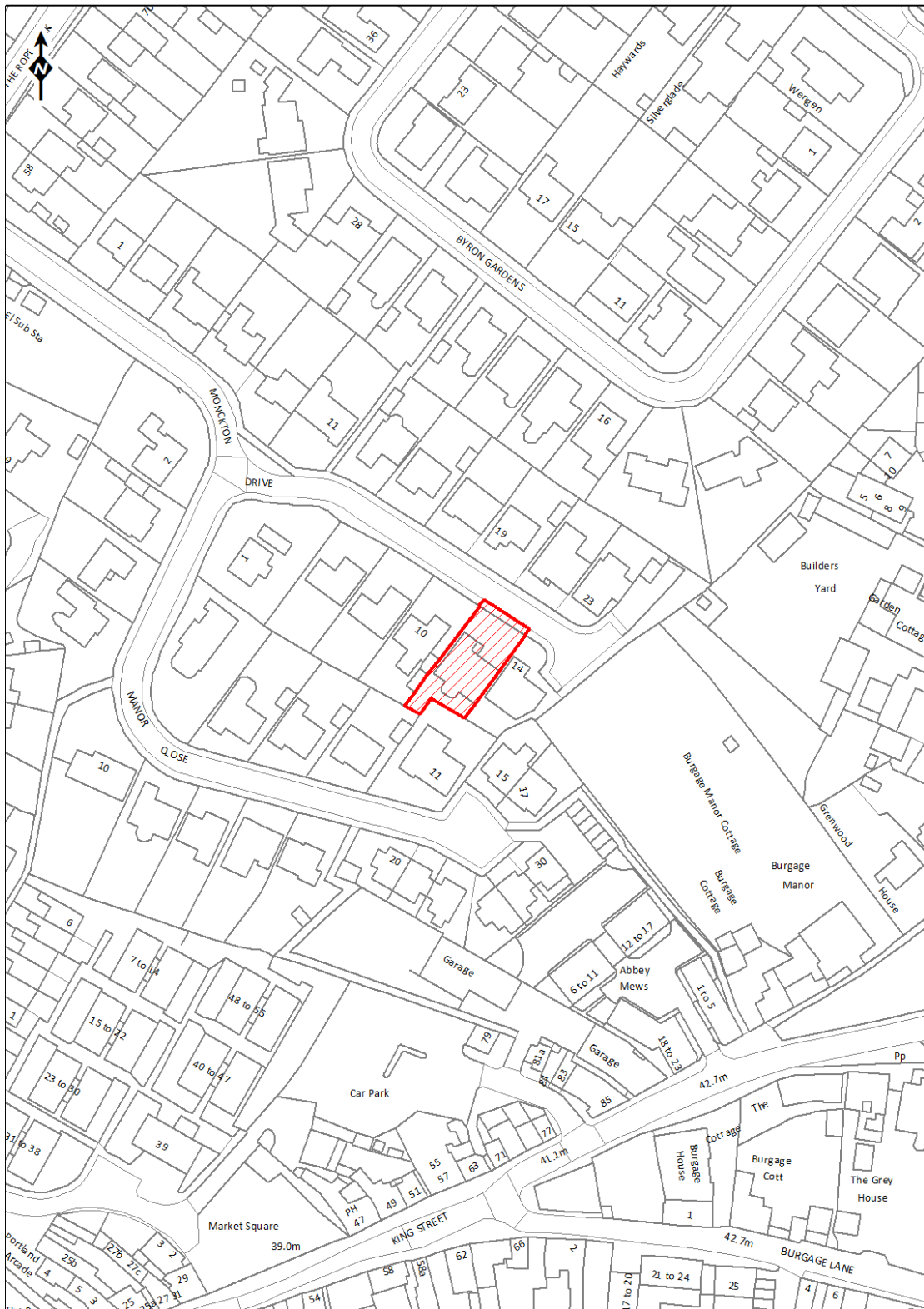
Application case file.

For further information, please contact Lynsey Preston on ext 5329.

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

**Lisa Hughes
Business Manager – Planning Development**

Committee Plan - 21/00163/FUL



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PLANNING COMMITTEE – 30 MARCH 2021

Application No. 21/00091/ADV	
Proposal :	Erection of 4 hoardings, 6 flag poles and 15 airmesh banners fixed to Heras boundary panels (retrospective)
Location :	Land at Lord Hawke Way and Bowbridge Road, Newark.
Applicant :	Arkwood Developments – Mr Edward Langtry
Registered :	25 January 2021
	Target Date : 22 March 2021
	Extension of time agreed until : 02 April 2021

This application is being referred to the Planning Committee under the Scheme of Delegation as the applicant is a company owned by Newark and Sherwood District Council.

The Site

The site is located within the Newark Urban Area as defined within the Allocations and Development Management DPD (ADMDDP). It is also located within an area whereby the existing Newark Leisure Centre, YMCA and Gladstone House development is located.

Relevant Site History

Various applications exist on or near the site for residential and leisure development.

The Proposal

Proposal seeks retrospective advertisement consent for the erection of signs to the existing boundary hoardings, 6 flags on existing poles and 15 airmesh banners fixed to the Heras boundary panels (all non illuminated). The proposal is to advertise the proposed residential development.

Below shows details of the signs submitted for approval:

Timber hoarding signage

Location 1 on site location plan

Sign E - 3m (wide) x 1.8m (height)

Sign F – 3m (wide) x 1.8m (height)

Sign G – 3m (wide) x 1.8m (height)

Location 2 on site location plan

Sign H – 3m (wide) x 1.8m (height)

Sign I – 3m (wide) x 1.8m (height)

Sign J – 3m (wide) x 1.8m (height)

Location 3 on site location plan

Sign K – 3m (wide) x 1.8m (height)

Sign L - 3m (wide) x 1.8m (height)

Sign M – 3m (wide) x 1.8m (height)
Sign O – 3m (wide) x 1.8m (height)
Sign P – 3m (wide) x 1.8m (height)
Sign Q – 3m (wide) x 1.8m (height)

Location 4 on site location plan

Sign R – 3m (wide) x 1.8m (height)
Sign S – 3m (wide) x 1.8m (height)
Sign T – 3m (wide) x 1.8m (height)
Sign U – 3m (wide) x 1.8m (height)
Sign V – 3m (wide) x 1.8m (height)

Material is a rigid diabond 3mm laminated vinyl, secured to the existing timber hoarding.

Flag

Location 5 on site location plan

Sign A - 2m (height) x 1m (width)

Affixed to existing 6m white aluminium flag poles. The base of the flag will be 4m off the ground. 6 flags in total.

Heras fencing sign

Location 6 on site location plan

Sign B - 3.2m (wide) x 1.8m (height)

15 panels to be covered in a mesh material tied back to the existing Heras fencing.

List of plans/documents considered

The following plans are being considered:

Proposed site layout;

Signage plans for A, B, E, F, G, H, I, J, K, L, M, O, P, Q, R, S, T, U, V

Departure/Public Advertisement Procedure

72 neighbouring occupiers have been consulted on the application.

Planning Policy Framework

The Development Plan

Newark and Sherwood Amended Core Strategy DPD (2019) (ACS)

Spatial Policy 7: Sustainable Transport

Core Policy 9: Sustainable Design

NAP1: Newark Urban Area

NSDC Allocations and Development Management DPD (July 2013) (ADMDDP)

Policy DM5: Design

Material considerations

National Planning Policy Framework 2019

Consultations

Newark Town Council – No objection.

Nottinghamshire County Council Highways - The hoarding advertisement is proposed to be erected and displayed along both Bowbridge Road, which is highway maintained at public expense, and Lord Hawke Way, which is presently a private road. The Highway Authority has no objections to the proposal subject to a condition requiring no part of any sign projects over the public highway.

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

Comments from the Business Manager

Principle of Development

In line with The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and paragraph 132 of the NPPF it is considered that the main issues in determining this application for advertisement consent to be related to amenity and public safety, taking account of cumulative impacts. The intentions of national policy are mirrored by Policy DM5 of the Allocations and Development Management DPD. Additionally, the NSDC Shopfronts and Advertisements Design Guide SPD provides guidance on acceptable design.

Impact upon Amenity

It is understood that the term 'amenity' to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement. (PPG Paragraph: 079 Reference ID: 18b-079-20140306)

The justification text for Policy DM5 of the ADMDPD states that the impacts of advertisements in terms of visual amenity will be assessed by reference to criterion 4: Local Distinctiveness. Broadly this element of the policy seeks to ensure that new development reflects the character of the locality in terms of its scale, form and design.

Core Policy 9 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD relate to visual amenity by seeking to ensure the character and appearance of the surrounding area is preserved.

In assessing amenity the LPA should always consider the local characteristics and whether it is in scale and in keeping with the surrounding features. The plans submitted show the signage for the duration of the construction of the residential site. The signs are non illuminated and not located within a sensitive area. The area is currently being developed through a combination of leisure and residential development.

Therefore taking in to account the general character of the area and the cumulative impact of the signs, it is not considered that they would be harmful to public amenity. The proposal therefore would accord with Part 12 of the NPPF and the Council's Development Plan Documents.

Impact upon Public Safety

The PPG advises that at points where drivers need to take more care are more likely to attract public safety. Paragraph: 067 Reference ID: 18b-067-20140306

Policy DM5 of the ADMDPD states that the assessment of advertisement applications in terms of public safety will normally be related to the impact on highway safety. NCC Highways have commented on the application to state they have no objections to the proposal subject to the imposition of a condition. This condition relates to the hoarding signs, which should be on private land, with no projection over the highway from the signage. As the hoarding and signs are already in situ, it is not considered that this condition is relevant as it can be seen that the hoarding and signage is within private land. Therefore should Members resolve to approve the application, this condition is not deemed to meet the tests for reasonableness for imposition.

It is not considered that these signs, would result in a distraction to road users. Therefore it is considered that the safety of the public would not be compromised as a result of the signs.

Conclusion

On the basis of the assessment above, that the proposal complies with Core Policy 9 of the Core Strategy, Policy DM5 of the DPD, and paragraph 132 of the NPPF in terms of public safety and amenity and is in line with the national advertisement regulations.

Therefore, in considering all the material considerations of this case, a recommendation of approval to Members is proposed.

Recommendation

That advertisement consent is approved subject to the following conditions;

01

This consent shall expire at the end of a period of 5 years from the date of this consent.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

02

The advertisements hereby permitted shall not be displayed except in complete accordance with the following plan references;

Application Form for consent to display an advertisement received 02 February 2021;
Proposed site layout;

Signage plans for A, B, E, F, G, H, I, J, K, L, M, O, P, Q, R, S, T, U, V

Reason: So as to define this consent.

03

No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

04

No advertisement shall be sited or displayed so as to:

- (a) endanger persons using the highway.
- (b) obscure, or hinder the ready interpretation of, any traffic sign; or
- (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

05

Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

06

Any structure or hoarding erected or used principally for the purpose of displaying advertisements, shall be maintained in a condition that does not endanger the public.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

07

Where an advertisement under these regulations is to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

Note to applicant

01

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

02

Building Works shall not project over the highway
No part of the proposed hoarding or its foundations, fixtures and fittings shall project forward of the highway boundary.

BACKGROUND PAPERS

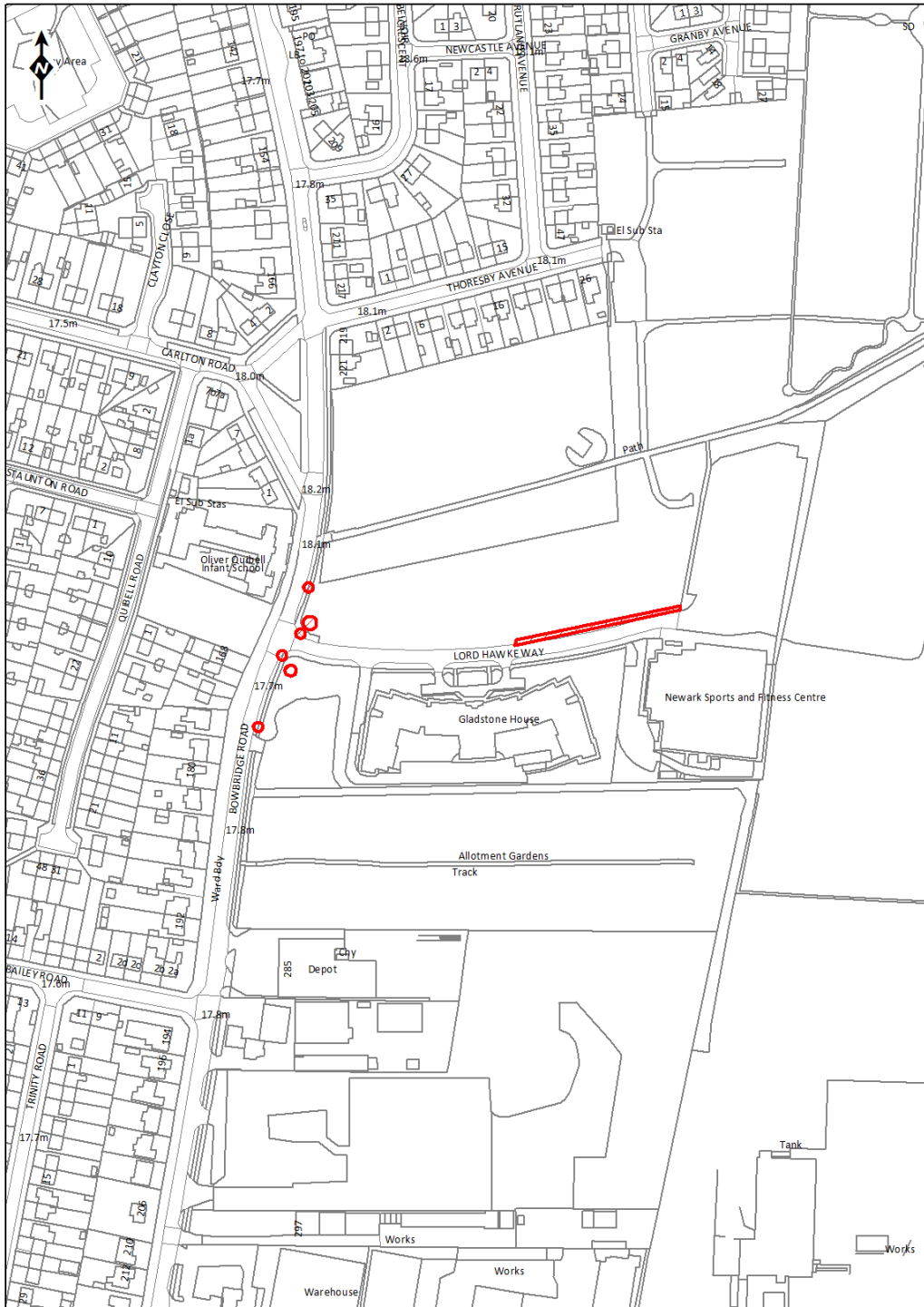
Application case file.

For further information, please contact Lynsey Preston on ext 5329.

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

**Lisa Hughes
Business Manager – Planning Development**

Committee Plan - 21/00091/ADV



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PLANNING COMMITTEE

30 MARCH 2021

PROACTIVE PLANNING ENFORCEMENT AND TEMPORARY STRUCTURES

1.0 Purpose of Report

1.1 To seek approval from Members for the adoption of a policy for under enforcement of temporary structures requested as a result of the Covid-19 pandemic.

2.0 Background Information

2.1 Members will recollect that this report was previously presented to Planning Committee on 3 November 2020 and was adopted. Since that time the District has been in lockdown due to Covid-19 restrictions. The timescales previously approved, for allowing this under enforcement is due to expire on the 31st March 2021. This report seeks to extend the time period until the 31st October to allow for the Government's slow release of restrictions.

2.2 The Covid-19 pandemic has resulted in significant impacts for the whole of the country, not least businesses. One challenge for many businesses is providing a safe environment for operation enabling compliance with social distancing rules. A number of authorities have introduced a temporary relaxation for planning enforcement where structures are provided within a business premise to assist with complying with these rules and enable the business to continue operating or to operate more successfully.

2.3 A number of enquiries have been received from different companies asking if temporary structures including portacabins and gazebos can be erected without the need for planning permission. As is detailed within Appendix 2 of the guidance leaflet, the majority of these structures would require planning permission due to the length of time that they would be in place (more than 28 days).

2.4 In order to guide such enquirers, a guidance leaflet (attached to the end of this report) has been prepared to assist businesses who might wish to take the opportunity of providing additional space for either its customers or staff. It is hoped the principle of under enforcement of planning regulations for a time restricted period enable a number of businesses to continue trading whilst also giving some comfort should they provide additional [enclosed] space. This guidance, is suggested, would only give a temporary period of relaxation from planning enforcement for businesses – it is suggested until the end of October 2021 – when the approach would be reviewed in light of the pandemic.

2.5 It is hoped that a number of businesses will be able to take the opportunity of providing such structures over the summer months. However, it is also of paramount importance to ensure that such developments are not significantly harmful to either the environment in which they are situated or to adjoining neighbours. Additionally, it is important that if agreement is sought and there are significant concerns that the Council has the opportunity to intervene.

2.6 It is also necessary to ensure that anyone wishing to take opportunity of this temporary relaxation is aware that other controls, such as building regulations or licensing approval for example, have not been waived.

3.0 Proposal

3.1 In order for a business to benefit from these temporary changes, they would be required to submit details of their proposal to the Council for consideration. This would ideally be prior to undertaking the works. As detailed in the attachment, information required would comprise:

- Business name, contact details of a named individual,
- A site location plan,
- A location plan including the location of the structure,
- A description of the structure,
- When the structure was erected or when do you plan to erect it,
- Photos of the site including the area where the temporary structure will be located, and,
- A brief overview of what the structure will be used for (including the hours it will be used for) and why the structure is required (related to Covid-19).

This would be assessed by an Officer as to whether or not it is acceptable and any decision made. In view of this being an informal temporary measure to under enforce, there would not be any right of appeal against the decision.

3.2 An assessment after 31st October 2021 would be taken in relation to any complaints that might have been received as well as to the 'state' of the Covid-19 pandemic. It is likely if no complaints have been received and the social distancing measures are still required, that a further extension in time would be permitted. However, this would be limited to ensure the development did not become immune from enforcement action.

3.3 It should be noted that any shelter which is 'substantially enclosed' (more than 50% of the sides are enclosed) will be required to be smokefree in accordance with the Health Act 2006 and the Smoke-free (Premises and Enforcement) Regulations 2006.

3.4 Businesses considering erecting some form of structure will also be advised to consider whether noise from people using the structure could cause problems to people in neighbouring properties?

4.0 Financial Implications

4.1 This process would have no direct financial implications upon the Council outside of the time for Officers to record, assess and provide a decision on the request.

5.0 Equalities Implications

5.1 The Council's approach to under enforcement of temporary buildings is not considered would have impact in terms of equality. Having a defined approach will ensure there is equal opportunity and that no individuals or groups are disadvantaged or discriminated against because of race, sex, disability, religion or belief, sexual orientation, gender reassignment, maternity and pregnancy, marriage or civil partnership, age, or social inequality.

6.0 RECOMMENDATIONS that:

- (a) Members agree to extending the approach to under enforcing breaches of the planning regulations for temporary structures for businesses for a temporary period up until the 31st October 2021; and**
- (b) After 31 October 2021 Officers will review the requests received or any temporary structure erected without a request to determine whether it is appropriate to allow the structure to remain for a longer period of time.**

Reason for Recommendations

To enable businesses to continue to operate more effectively during the Covid-19 pandemic for the benefit of the economy.

Background Papers

None

For further information please contact Lisa Hughes – Business Manager Planning Development on Ext 5565.

Matt Lamb
Director – Growth & Regeneration

TEMPORARY STRUCTURES

Introduction

Covid-19 has presented a wide range of challenges to the safe and ongoing operation of many business and organisations and with this has some concern regarding the compliance with social distancing advice. One issue that has become clear is the need, in some instances, for more physical space to accommodate social distancing and safer operations to enable businesses to operate as effectively as they can. Temporary structures/buildings (for example portacabins, portable buildings, portable welfare blocks) may provide a solution to this issue on a temporary basis. We have received a number of queries about the installation of temporary structures/buildings since the onset of Covid-19 and this guidance is therefore seeking to offer clarification on Newark and Sherwood District Council's approach to these matters.

In most instances temporary structures/buildings require planning permission, in some instances for any time period and in some instances if they are to be in place for longer than 28 days of a year. Given the current COVID-19 situation, Newark and Sherwood District Council is seeking to allow temporary structures/buildings without planning permission in certain circumstances, for approximately five months initially (until the 31 October 2021), to ensure the successful running of existing businesses and organisations in the district, whilst adhering to the government's COVID-19 guidance. This does not apply to residential properties.

What follows, is guidance to existing businesses and organisations who wish to create more space for operational reasons arising directly from Covid-19 by utilising temporary structures/buildings. Below we have set out the information we need to assess the planning requirements for all temporary structures/buildings being considered. We have provided information and links to guidance to ensure risk assessments are in place, Environmental Health standards are maintained and Covid-19 measures are adhered to (see Appendix 1). These matters remain the responsibility of the relevant business and/or organisation and nothing in this documentation overrides that responsibility.

The temporary use of the highway is not covered by this document as that is maintained and managed by Nottinghamshire County Council, and therefore we would suggest that in such instances communication is had with the County Council in the first instance. The highway is defined as:

"All roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements over which there exists a public right of passage, that is to say a right for all Her Majesty's subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance."

This guidance covers planning controls only. Temporary structures/buildings may require building regulation consent. We will make you aware of the need (or otherwise) for building regulation consent when you make enquiries to us. Before doing anything, we suggest having a discussion with one of our officers as follows:

For temporary structures on private land please contact planning@newark-sherwooddc.gov.uk or call **01636 650000**.

If your proposal is within the setting of a listed building, we will aim to take a sympathetic approach to such developments. However, should your building be listed, please contact the Council's Conservation Team prior to submitting the above information for advice. They may be contacted via conservation@newark-sherwooddc.gov.uk.

Appended to this document you will find:

- information and links to guidance to ensure risk assessments are in place, Environmental Health standards are maintained and Covid-19 measures are adhered to,
- Examples of the need for temporary structures, and
- A technical note explaining the planning rationale for this initiative.

General Requirements

Any existing business or organisation wishing to erect (or which has already erected) a temporary structure/building for Covid-19 related reasons on private land will need to email planning@newark-sherwooddc.gov.uk with the following information:

- Business name, contact details of a named individual,
- A site location plan,
- A location plan including the location of the structure,
- A description of the structure,
- When the structure was erected or when do you plan to erect it,
- Photos of the site including the area where the temporary structure will be located, and,
- A brief overview of what the structure will be used for (including the hours it will be used for) and why the structure is required (related to Covid-19).

Council Planning Officers will make an assessment of this information to determine whether the proposal is acceptable (subject to the relevant section below). We will seek to make this determination within ten working days. If we are unable to meet this timescale we will endeavour to communicate with you to provide you with a revised suitable timescale.

We may impose controls on the way in which temporary structures are used (for example limit them to day time use to reduce noise to neighbours).

We will approach this assessment in a positive and proactive manner, although a positive outcome is not necessarily guaranteed.

There is no charge for this initial request. If a Building Regulation Consent or Licence is required, there may be a fee.

Where controls have been imposed at the assessment stage, but these are not being implemented, the Council may instruct removal or changes to operations.

What happens after 31st October 2021?

The guidance above will allow for the erection of temporary structures for Covid-19 reasons for five months (initially) without the need for planning permission in certain circumstances and following assessment. After the 31st October 2021, the Council will review its position and the Covid-19 situation.

We will communicate with you at this stage. Possible outcomes include:

- you are instructed to remove the structure you have erected,
- you are asked to apply for planning permission, or
- this initiative continues for an extended but finite period of time.

Further background information is available in Appendix 2 and 3 below.

Appendix 1 – Environment Health, Risk Assessment and Covid -19 Guidance

There is a wealth of guidance available to businesses and organisations for safe operations during the COVID-19 pandemic. Our website (<https://www.newark-sherwooddc.gov.uk/coronavirus/latestupdatefromthecouncil/>) contains links to some of this information. Guidance is changing at pace, and it is business and organisational operators' responsibility to keep up to speed with and implement the relevant guidance. Below is a summary of some of that guidance and other matters to consider, but this is not intended as an exhaustive or complete list.

1. Inside the area where you place your objects (i.e. tables and chairs), you will be required to maintain 1m social distancing (2m though remains preferable), where possible. <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/5-stepsto-working-safely> states that where the 1m cannot be maintained between people (from different households), you should do everything practical to manage the transmission risk by:
 - considering whether an activity needs to continue for the business to operate,
 - keeping the activity time involved as short as possible,
 - using screens or barriers to separate people from each other,
 - using back-to-back or side-to-side working whenever possible,
 - staggering arrival and departure times,
 - reducing the number of people each person has contact with by using 'fixed teams or partnering'.

Whilst these apply to a workplace, the principles could be applied to the use of temporary buildings and structures to trade safely during the COVID-19 pandemic.

2. You also need to consider how other more general social distancing measures can be supported, such as queuing outside your business. Consideration points for the management of social distancing in the public realm when queuing to enter businesses include:
 - Other queues to other business,
 - Other general queues for cash machines, places where people are waiting for others, bus stops etc.,
 - Available space footpaths and roads,
 - Ability to clearly signpost (Cheltenham businesses can contact the Cheltenham BID for sourcing social distancing stickers),
 - Traffic control and risks to and from cars, cycles and other pedestrians walking by,
 - How roads and pavements might be divided up , – Which street and business premises may have the issues,
 - Limiting the number of people queuing, particularly where your business adjoins others where people will be queuing too.

This assessment will form part of your overall COVID-19 risk assessment. Further guidance on <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/shops-andbranches> can be read online.

Other considerations

1. **Noise and other nuisance:** The Council must balance the use of the temporary space to trade safely during the COVID-19 pandemic with the needs of others, particularly residents. The Council will consider every case on its merits to determine an appropriate start and terminal licensing hour. As a general guide however, businesses can consider their operating options between 0800h and 2200h bearing in mind the terminal hour will be subject to change on a case-to-case basis. Premises should avoid playing amplified music in temporary structures, as they offer little or no acoustic insulation.
2. **Sale of alcohol:** If the sale of alcohol forms part of your business, you must make sure any additional public realm space is adequately licensed for the sale of alcohol.
3. **Risk assessments:** The responsibility to carry out a COVID-19 risk assessment in line with the HSE guidance (<https://www.hse.gov.uk/simple-healthsafety/risk/index.htm>) remains with individual businesses to ensure they can trade safely and comply with the Government's safe working and social distancing guidelines. A new structure creates new risks from both its form and function and these must be addressed. If the structure is large or specially designed it may be a Temporary Demountable Structure (TDS) see <https://www.hse.gov.uk/eventsafety/temporary-demountable-structures.htm>
4. **Regulation and enforcement:** Through this guidance and more generally via the council's recovery strategy, we have a clear aim to support businesses with their recovery and safe trading practices. There is also a role for businesses to play. Businesses must operate in a responsible manner, being sensitive to their environments and making sure they comply with their duties; for example, any licence conditions and other legal duties.

As a statutory regulator, the Council will be under a duty to investigate and respond to complaints and non-compliance issues. Enforcement will be undertaken in accordance with the principles set out in the Council Planning Enforcement Policy (<https://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/planningpolicy/pdfs/REPORTTOEDC-PEP.pdf>) available on the website.

5. **Fire Safety:** All premises will have carried out a fire risk assessment which will need to be reviewed and amended as appropriate: <https://www.gov.uk/workplace-firesafety-your-responsibilities/fire-risk-assessments>
6. **Environmental Impact:** Gas-fired patio heaters have a huge environmental effect and should not be used. It is recommended blankets are used instead.

Appendix 2 – Technical Planning Note

Part 4 (Temporary Buildings and Uses), Class B (temporary use of land) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) reads:

“Permitted development B. The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of—

- (a) the holding of a market;**
- (b) motor car and motorcycle racing including trials of speed, and practising for these activities, and the provision on the land of any moveable structure for the purposes of the permitted use.**

Development not permitted B.1

Development is not permitted by Class B if—

- (a) it would consist of development of a kind described in Class E of this Part (temporary use of land for film-making);
- (b) the land in question is a building or is within the curtilage of a building;
- (c) the use of the land is for a caravan site;
- (d) the land is, or is within, a site of special scientific interest and the use of the land is for—
 - (i) motor car and motorcycle racing including trials of speed or other motor sports, and practising for these activities;
 - (ii) clay pigeon shooting; or
 - (iii) any war game, or
- (e) the use of the land is for the display of an advertisement.”

Any building (temporary or otherwise) that does not meet the requirements above generally requires planning permission. Failure to seek planning permission(s) can result in enforcement action.

All Local Planning Authorities are required to investigate alleged breaches of planning controls with a view to deciding whether or not to take enforcement action to remedy the situation. The decision as to whether to enforce following an investigation is discretionary and is dependent on a number of factors including whether it is expedient to do so having regard to the development plan and any other material considerations.

We understand that businesses and organisations are experiencing difficult choices and decisions at present. For some who need more space but do not have the time to apply for and wait until planning permission is granted for a temporary structure may face a difficult choice – either proceed and install a temporary structure and risk council enforcement action OR don't proceed and risk a negative business impact.

In recognition of this challenge and in order to exercise our statutory duty to investigate breaches of planning controls effectively, this guidance document seeks to 'front load' our enforcement investigation obligations. Businesses and organisations are being asked to report breaches to planning controls that they intend to implement or already have implemented. The Council will then investigate these breaches and determine an appropriate course of action.

The Council will approach this initiative in a positive and proactive manner. That said, the Council remains willing to enforce a breach where it is expedient and in the public interest to do so. The Council maintains absolute discretion over whether to relax enforcement for a set period of time in lieu of planning permission being sought, and this is subject to the structure being safe, suitable and appropriate etc.

The implementation of this initiative in no way ensures or implies that planning permission will be given to structures introduced through this initiative. These are exceptional times and the Council's decision as to whether to enforce alleged planning breaches will be based on exceptional circumstances.

Planning enforcement action would be unlikely to be taken against developments that are put up without planning permission, unless there are serious environmental or amenity concerns arising from them such as:

- Repeated noise nuisance at unsociable hours, for example from a temporary external cover or marquee
- Road Safety hazards from insufficient parking if displaced for use by customers
- Environmental harm, for example to trees, hedges or wildlife
- Damage to Listed Buildings
- Obstruction of rights of way
- Production of litter or other debris

In many instances it is likely that any temporary structures erected as a direct result of Covid-19 through this initiative will not receive planning approval in the long run and will need to be removed at the owner's cost. It is important that anyone considering the installation of temporary structures is aware of these risks.

Appendix 3 – Examples

Example 1 – Light Industrial Business B

Light Industrial Business B needs more office space to accommodate staff and ensure social distancing. Home working is not possible. They want to locate a temporary building on hardstanding alongside the industrial unit to accommodate staff. The temporary structure is located away from residential properties, does not compromise the car parking or operation of the site. In principle, this would be supported.

Example 2 – Manufacturing Business C

Manufacturing Business C is unable to accommodate social distancing on its production line. The business can expand the production line into its existing store, but requires temporary space to use as a store. The business wants to locate a temporary structure on a grassed area with its ownership next to its main building. The store does not contain any noisy plant or equipment and only requires accessing now and again. In principle, this would be supported.

Example 3 – Café in the Park Business D

Café in the Park Business D wants to create a covered, open sided area to allow customers to queue for takeaways within an area of a park they currently lease from the Council. This will be temporary. The covered area allows customers to queue in comfort in adverse weather, whilst observing social distancing. In principle, this would be supported.

Planning Committee – 30 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

That the report be noted.

Background papers

Application case files.

Further information regarding the relevant planning application and appeal can be viewed on our website at <https://publicaccess.newark-sherwooddc.gov.uk/online-applications/search.do?action=simple&searchType=Application> or please contact our Planning Development Business Unit on 01636 650000 or email planning@nsdc.info quoting the relevant application number.

Lisa Hughes

Business Manager – Planning Development

Appendix A: Appeals Lodged (received between 15 February 2021 and 15 March 2021)

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/W/20/3260155	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	Written Representation	Refusal of a planning application
APP/B3030/W/20/3263541	20/00373/FUL	Victoria Cottage Station Road Lowdham NG14 7DU	Proposed re-use (incorporating refurbishment, remodelling, partial demolition and first floor extensions) of former residential care home to 9no. apartments	Written Representation	Refusal of a planning application
APP/B3030/C/20/3264934	20/00205/ENF	Manor Cottage Beck Street Thurgarton NG14 7HB	Appeal against enforcement notice; Without planning permission, 'development' consisting of the erection of a means of enclosure (brick wall with fence on top), as shown on photographs 1 & 2, along the south & east boundaries of the site.	Written Representation	Service of Enforcement Notice
APP/B3030/W/20/3265592	20/00163/FUL	Cranfield House Church Street Southwell NG25 0HQ	Proposed erection of 1no. dwelling house	Written Representation	Refusal of a planning application
APP/B3030/C/21/3266438	20/00336/ENFC	7 Ransome Close Newark On Trent NG24 2LQ	Appeal against Enforcement Notice - Alleged unauthorised fence	Written Representation	Service of Enforcement Notice
APP/B3030/D/21/3267640	20/02047/HOUSE	Glenfield Lodge Honeyknab Lane Oxton NG25 0SX	Demolition of outbuilding; new single storey and two storey rear extensions. Alterations to existing vehicular access.	Fast Track Appeal	Refusal of a planning application
APP/B3030/W/21/3267746	20/01776/OUT	Land To The Rear Of Corner Farm Fiskerton Road Rolleston NG23 5SH	Erection of a proposed bungalow and associated access arrangements.	Written Representation	Refusal of a planning application

APP/B3030/D/21/326787 7	20/01851/HOUSE	Manor Barn Manor Farm Main Street Thorpe NG23 5PX	Alterations and Extension to Existing Dwelling	Fast Track Appeal	Refusal of a planning application
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Planning Committee – 30 MARCH 2021

Appendix B: Appeals Determined (between 15 February 2021 and 15 March 2021)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
20/00476/FUL	Signal Box Middle Lane Morton	Careful dismantling of signal box and its re-erection on the Vale Of Berkeley railway, Gloucestershire	Delegated Officer	Not Applicable	Appeal Allowed	8th March 2021
20/01421/FUL	Land Rear Of 49 The Ropewalk Southwell	Erection of 3 No. dwellings: 2 x 2-storey and 1 x single storey (Scheme B)	Planning Committee	Committee Overturn	Appeal Allowed	25th February 2021
20/01120/S73	Girton Farm Bungalow New Lane Girton Newark On Trent NG23 7HY	Application to remove condition 3 attached to planning permission E/12/46 to remove the agricultural occupancy condition as no longer required	Delegated Officer	Not Applicable	Appeal Dismissed	23rd February 2021
20/01027/FUL	Land Off Moor Lane East Stoke	Erection of two dwellings with garages and new vehicular access	Delegated Officer	Not Applicable	Appeal Dismissed	15th February 2021
20/00018/ENF	Glebe Steading Gonalston Nottinghamshire NG14 7JA	Without planning permission, development consisting of the erection of a building, shown on photograph 1 and on Plan B marked X	Not Applicable	Not Applicable	Appeal Dismissed	12th March 2021
19/02064/FUL	Land Rear Of 49 The Ropewalk Southwell	Erection of 5 new dwellings	Planning Committee	Committee Overturn	Appeal Dismissed	25th February 2021
20/00498/FUL	Daisy Cottage 88 Low Street Collingham NG23 7NL	Erect two storey dwelling with existing gate access from Low Street, car parking, and garden.	Delegated Officer	Not Applicable	Appeal Dismissed	25th February 2021
20/01418/FUL	Land Rear Of 49 The Ropewalk Southwell	Erection of 4 No. 2-storey dwellings (Scheme A)	Planning Committee	Committee Overturn	Appeal Dismissed	25th February 2021
20/01433/FUL	Land At Rear Of 49 & 49A The Ropewalk Southwell	Erection of 5(no.) single storey dwellings (Scheme D)	Planning Committee	Committee Overturn	Appeal Dismissed	25th February 2021

20/00774/LBC	2-4 Balderton Gate Newark On Trent NG24 1UE	Installation of external security shutters (retrospective)	Delegated Officer Contrary to Parish	Not Applicable	Appeal Not Determined (Out of Time)	4th March 2021
20/00244/FUL	24 Lyndhurst Avenue Blidworth NG21 0RJ	Proposed 1 x two storey new two bed residential unit on the side of the existing house	Delegated Officer	Not Applicable	Appeal Not Determined (Out of Time)	8th March 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 quoting the relevant application number.

Lisa Hughes
Business Manager – Planning Development



Appeal Decision

Site Visit made on 26 January 2021

by Steven Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2021

Appeal Ref: APP/B3030/W/20/3260763

Fiskerton Signal Box, Middle Lane, Morton, Nottinghamshire NG25 0UY

- 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 Miss Emma Foster of Network Rail Ltd against the decision of Newark & Sherwood District Council.
 - The application Ref 20/00476/FUL, dated 16 March 2020, was refused by notice dated 12 May 2020.
 - The development proposed was originally described as '*careful dismantling of signal box and its re-erection on the Vale of Berkeley railway, Gloucestershire*'.
-

Decision

1. The appeal is allowed and planning permission is granted for the dismantling of the signal box at Fiskerton Signal Box, Middle Lane, Morton, Nottinghamshire NG25 0UY in accordance with the terms of the application, Ref 20/00476/FUL, dated 16 March 2020 subject to the following 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 plan: site location plan (scale 1:2500)
 - 3) The developer shall give the local planning authority 14 days' notice prior to the commencement of the start of works and access shall be afforded at all reasonable times to allow a person or body nominated by the local planning authority, for the purpose of inspecting the works or recording the building by making measured drawings or taking photographs. Access shall be afforded during works and upon completion.

Preliminary Issue

2. I have amended the description of development in my formal decision to remove any superfluous wording not related to the development. In addition, I have removed the wording relating to the re-erection of the signal box, as this decision cannot grant approval for works in a different planning authority area.

Main Issue

3. The main issue is whether the development would preserve or enhance the character or appearance of the Morton Conservation Area (MCA).

Reasons

4. The appeal relates to a redundant and vacant railway signal box located on the outskirts of the small rural village of Morton. The site is adjacent to a

functioning level crossing. The former crossing keeper's cottage is located on the opposite side of the railway line. This small cluster of railway related activity is separated from the main built form of the village by fields. Nevertheless, the boundary of the MCA extends from the village to include the site.

5. As the site is within the MCA, I have had special regard to my statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I have also had regard to paragraph 193 of the National Planning Policy Framework (the Framework) which states that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
6. The Morton Conservation Area Appraisal (CAA) (2003) suggests that the special character of the village lies in its compact size and simple layout that has not changed significantly since the time of enclosure between 1839 and 1841. It has an overtly rural character and the CAA highlights the importance of farming to the history and built form of the village. The focus of the Conservation Area is therefore on the historic built form and layout of the main part of the village, which reflects its agricultural past. The scattering of agricultural buildings and features, the informal layout of the settlement and resistance to change over a considerable period provide the area with the majority of its significance. The fields on either side of the road which stretch out toward the railway line reinforce the agricultural character and history of the village and thus add to its setting in this regard.
7. The railway line and buildings clearly differ to this character. The line was opened in 1846 and there has been a signal box on or near the site since around the 1880s. There is however nothing in the evidence which suggests the railway buildings, or the signal box in particular, are of fundamental importance to the MCA's significance. The CAA makes little mention of the railway buildings themselves, only referring to them as being a gateway feature. The signal box is identified as an unlisted building of local interest in both the MCA and recently adopted Fiskerton cum Morton Neighbourhood Development Plan (FMNP). However, neither document provides any detailed justification for this status.
8. Nonetheless, the fact that little has changed in the form or layout of the MCA since enclosure and the introduction of the railway shortly after is likely to be of some importance to the historic context of the village.
9. The signal box itself is one of the later standard designs and is an inter-war addition to the area. As such, it is not contemporaneous with the cottage or the introduction of the railway itself. It is a prefabricated building typical of many signal boxes introduced during this period. As such, it was not designed specifically for this location. Some of the original windows remain in place, but the majority have been replaced by uPVC. This has had a moderately detrimental impact on the appearance of the building. However, the original name board is still present, and other than what appear to be mainly cosmetic timber and metal work issues, the building appears to be in a reasonable state of repair. Nevertheless, there is no strong evidence to suggest this is a particularly important example of signal boxes nationally. The building is therefore only of local interest.

10. The signal box is prominent in the approach to the village along the narrow Causeway Lane. It stands out in stark contrast against the open fields and hedgerows. In this regard, both it and the level crossing mark out the approach to the village. While clearly a functional building, it is of now of some age and has been in place for a considerable period. The position and prominence of the building is therefore likely to give it some status as a local landmark. The extension of the MCA to encompass the building and references to it in the CAA and FMNP confirm this. The main contribution it makes is however that of its historic operational functionality, rather than any beneficial impact on the visual appearance of the area.
11. From the village itself, the signal box and cottage appear somewhat remote and disconnected from the main built form. The site is some distance from any buildings on Middle Lane and views toward it are filtered to an extent by intervening trees. This visual isolation means that removal of the signal box would have no impact on the agricultural character or significance of the village, its form and layout, important buildings or other elements that provide the MCA with much of its significance.
12. While the line may have been introduced at around the same time as enclosure, there appears to be no other strong connection between the railway and the village. There is no railway station and the village does not appear to have been reliant on the railway for employment. The cluster of buildings here are indicative of the operation of a junction and level crossing, which in themselves are not unusual or novel features in the wider area. The railway line, level crossing and cottage would also all remain in place. Therefore, while the removal of the box would diminish the collective group interest of the railway related buildings, it would not alter the perceived importance of the railway line to the historic layout or context of the village. This would still be able to be appreciated through the features that would remain.
13. This is not to say that the removal of the building would not result in some harm. The proposal would remove a long-standing local landmark which marks the approach to the village. It also provides a physical reminder of the historic operation of the junction and level crossing in this location. This would be lost. In turn, this would have a negative impact on the contribution the cluster of railway activity makes to the historic layout and form of the village. While of clear secondary importance to the agricultural character and history of the village, the railway is still seen as contributing to the significance of the MCA.
14. In this regard, I find that the development would still fail to preserve or enhance the character and appearance of the MCA. Although I consider the harm to be only moderate in scale, there would still be conflict with FMNP Policy FCM6 which seeks to resist development that would have a detrimental impact on the character and appearance of Conservation Areas.
15. Newark and Sherwood Amended Core Strategy (CS) (2019) Core Policy 14 requires the conservation and enhancement of the character of heritage assets as required by national policy. The policy states that where an adverse impact is identified there should be clear and convincing justification, including where appropriate, a demonstration of public benefits. In terms of non-designated assets, it requires a balanced judgement having regard to the scale of harm or loss and the significance of the asset. FMNP Policy FMC10 broadly reflects this approach. Newark and Sherwood Allocations and Development Management

Policies (ADMP) (2013) Policy DM9 requires development in Conservation Areas to take account of their distinctive character but defers to Core Policy 14 in considering potential impacts.

16. I would characterise the harm caused to the significance of the MCA to be 'less than substantial'. For the reasons given above, I consider the harm would be at the lower end of any scale. Nonetheless, Core Policy 14 and paragraph 196 of the Framework requires the harm to be weighed against the public benefits of the proposal.
17. The development would remove any costs of on-going maintenance and security of the building. The appellant has estimated that maintaining the box to its most basic level, and not factoring in major repairs or security features, would be around £10,000 per annum. There is nothing before me which quantifies how this figure has been derived. However, as there is no likelihood that a use will be found for the building in-situ, this liability could extend indefinitely, resulting in significant costs over time. Considering the age and nature of the building, including its materials, it would also be reasonable to assume that the cost of maintaining the building could increase over time. I therefore accept that the saving to the public purse, and potential for reinvestment in operational rail infrastructure, is a public benefit of substantial weight
18. The appellant has raised the associated concern that the signal box could become a target for trespass and vandalism. No evidence has been provided which suggests the box has been a target for crime or anti-social behaviour in the period it has already been vacant. Therefore, while I consider the appellant's fears in this regard to be somewhat generalised, the proposal would completely remove any risk. Again, it would be reasonable to assume that even in this relatively remote location, and with some measures in place to deter such behaviour, the longer the building remains vacant the greater the chance that it could become a target. Given the importance of maintaining the safety of the railway, this factor also weighs substantially in favour of the proposal.
19. I acknowledge that the Council has powers to ensure buildings in Conservation Areas do not become eyesores through lack of maintenance or vandalism. While this might provide some comfort, it does not mean there would be no public benefits derived from the removal of the building from its current location.
20. I am mindful that there is little prospect of the building being used for any other purpose for the foreseeable future. In addition, as a prefabricated building, it can be removed and rebuilt elsewhere without any likely harm to the building's fabric and character. The appellant has indicated that the signal box would be rebuilt at the Vale of Berkeley Railway Heritage Centre. There appears to be financial support for the relocation and re-use of the signal box as part of the visitor attraction. Putting this non-designated asset to beneficial use and facilitating the operation of a tourist and heritage attraction would also have some clear public benefits.
21. While I have no reason to question the intentions of the appellant or other parties involved, there is no formal mechanism before me which would guarantee the relocation of the box. This inevitably tempers the weight I can give to this factor. I am also mindful that any benefits would be derived some distance from Morton. Nevertheless, there appears to be substantial

commitment to ensuring the use of the box. Furthermore, given the alternative of remaining vacant, unused and being subject to minimum maintenance, I have still given substantial weight to the potential benefits of a use being found for the building elsewhere.

22. Overall, I find that the public benefits of the development would outweigh the moderate harm caused to the significance of the MCA. In coming to this conclusion, I have also had regard to the effect on the non-designated asset and the scale of harm caused by its removal. On balance, I am satisfied that the development would accord with the relevant national policies and, by extension, CS Core Policy 14, ADMP Policy DM9 and FMNP Policy FCM10, the objectives of which are set out above. This would also outweigh any conflict identified with Policy FCM6.

Conditions

23. I have considered the suggested conditions from the Council in accordance with the Planning Practice Guidance (PPG). I have imposed the standard condition which limits the lifespan of the planning permission. I have imposed a condition specifying the relevant site location plan as this provides certainty over the extent of the permission.
24. I have also imposed the Council's suggested condition requiring the appellant to provide notice of any works so that the Council can carry out inspections and any recording it sees fit. This is to ensure the historic interest of the building is safeguarded. I have made some amendments to this condition in the interests of precision. I am confident any health and safety issues are not unusual in this regard and can be easily dealt with by the parties.
25. In my view, this condition negates the need for the Council's condition on building recording, which I do not consider to be reasonable or necessary in this case. While of some local interest, the signal box is not of such importance for a specific recording condition to be necessary.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR



Appeal Decisions

Site visit made on 9 February 2021

by **Paul Cooper MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2021

Appeal A Ref: APP/B3030/W/20/3262263

Land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW

- 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 D Shaw (Ablehomes Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 19/02064/FUL, dated 7 November 2019, was refused by notice dated 30 April 2020.
 - The development proposed is erection of 5no. new dwellings.
-

Appeal B Ref: APP/B3030/W/20/3263598

Land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW

- 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 D Shaw (Ablehomes Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 20/01418/FUL, dated 29 July 2020, was refused by notice dated 9 October 2020.
 - The development proposed is erection of 4no. 2-storey dwellings.
-

Appeal C Ref: APP/B3030/W/20/3263609

Land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW

- 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 D Shaw (Ablehomes Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 20/01421/FUL, dated 29 July 2020, was refused by notice dated 9 October 2020.
 - The development proposed is erection of 3no. dwellings: 2x2-storey and 1 x single storey.
-

Appeal D Ref: APP/B3030/W/20/3263611

Land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW

- 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 D Shaw (Ablehomes Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 20/01433/FUL, dated 8 July 2020, was refused by notice dated 9 October 2020.
 - The development proposed is erection of 5no. single storey dwellings.
-

Decisions

1. Appeals A, B and D are dismissed. Appeal C is allowed, and planning permission is granted for erection of 3no. dwellings: 2x2 storey and 1x single storey at land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW in accordance with the terms of the application Ref 20/01421/FUL dated 29 July 2020, subject to the conditions on the attached schedule.

Procedural Matter

2. The appeals are all in the name of Mr D Shaw of Ablehomes Ltd and all relate to the same site. There are slight variations in the format of the name and company name of the appellant and how the site is addressed across the appeals. I have taken one consistent name and site address on the banner heading. I am satisfied that the appellant name is correct, and the site can be clearly identified. I am therefore satisfied that no party has been prejudiced by this approach.

Background

3. The site has a considerable planning history. The site was part of a larger site for seven dwellings that was granted consent in 1971. Five of the properties were built, but two properties were not built on the current appeal site. Revised dwelling designs were given permission via a non-material amendment (NMA) in 2016.
4. Separate proposals were submitted for two dwellings in 2014 with new designs and revised siting but were refused permission and dismissed at appeal.
5. In 2019 (19/02064/FUL) permission was sought for five dwellings on site, and refused permission, which is the subject of one of the appeals (APP/B3030/W/20/3262263). Following this refusal, four alternative schemes were put forward, for two, three, four and five dwellings respectively. The application for two dwellings has subsequently been granted consent, but the other three applications were refused (APP/B3030/W/20/3263598, 3263609 and 3263611) and are subject of the remaining appeals in front of me.
6. So, to summarise, in front of me are the following four appeals:
Appeal A - 3262263 – Erection of five dwellings, one of which is single storey
Appeal B – 3263598 – Erection of four dwellings
Appeal C – 3263609 – Erection of three dwellings, one of which is single storey
Appeal D - 3263611 – Erection of five single storey dwellings

Main Issues

7. The reason for refusal was very similar in wording across all four appeals. Therefore, the main issue in all of the appeals is the effect of the development on the character and appearance of the area

Reasons

8. The appeal site is a plot of scrubland, with dwellings to all sides. The area is predominately residential, of relatively traditional designs. The site cannot be seen easily in the wider street scene as it is located to the rear of properties on The Ropewalk. The properties on The Ropewalk are mainly two-storey, whilst the properties on Nursery End are single storey.
9. The original approval and the subsequent recent approval for two dwellings represent a "fallback" position for the applicants for the site, and the principle of residential development for the site is established and is not disputed by the Local Planning Authority. It is the nature of the development that is the heart of the matter.
10. Assessing the siting and design of the appeal proposals is the key issue. I find that the overall site is modest in size and would not easily accommodate multiple dwellings. I note that the density of development in all cases is below what would normally be expected, but I have to take into consideration the site circumstances and surroundings for what is effectively a backland form of development.
11. In this instance, two dwellings have been approved on site and investigating those approvals further, the dwellings sit appropriately and comfortably in the site, and respect the residential nature of their surroundings.
12. I find that in the case of Appeals A, B and D that the number of dwellings, and the siting and layout of those dwellings, would not sit well and integrate with the surroundings of the site, nor would they provide private amenity space of the level that I would expect for dwellings of the size and nature proposed for the site. To a lesser extent, they would also cause harm to the living conditions of the occupiers of properties that surround the site due to the siting and design. Overall, these three appeals would result in a cramped, contrived layout that would not be in keeping with the character and appearance of the area.
13. However, I find that Appeal C, the proposal for three dwellings, one of which would be single storey, would be acceptable in terms of layout and siting, far less cluttered overall, with the single storey dwelling located on the Nursery End side of the site, and therefore integrating with the existing single storey properties in that location. The two storey properties would be sited in a manner that would assimilate well with the taller properties on The Ropewalk side and be in keeping with that locality. Apart from a minor infraction that requires a window to be obscurely glazed to protect privacy, there would be no issue that would affect living conditions to a material level of harm.
14. As such I find that Appeals A, B and D are contrary to Core Policy 9 of the Newark and Sherwood Local Development Framework Amended Core Strategy (adopted 2019) and Policy DM5 of the Newark and Sherwood Local Development Framework Allocations & Development Management Development Plan Document (2013) but Appeal C is consistent with those policies which collectively, amongst other matters, expect development to be of an appropriate form and context, optimise site potential at a suitable level and be in keeping with the general character of existing development in the area.

Conditions

15. The Conditions relate to Appeal C only, as Appeals A,B and D are dismissed.
16. I have taken into consideration the Conditions requested by the Council, and consider that with minor changes to the wording, they are acceptable.
17. Conditions 1, 2 and 16 are in the interests of proper planning, Condition 3 is to protect visual amenity. Conditions 4, 5 and 15 are in the interests of highway safety. Conditions 6 to 10 relate to biodiversity. Condition 11 protects trees and hedgerows. Condition 12 relates to safe and sustainable drainage. Condition 13 retains the privacy of existing occupiers and Condition 14 restricts Permitted Development rights, given the limitations of the site and the need to control any future development and to assess any future proposals for the possibility of causing harm to living conditions for new and existing residents.

Conclusions

18. For the reasons given above, and taking into account all other matters, I conclude that Appeals A,B and D are dismissed (Appeals 3262263, 3263598 and 3263611)
19. With regard to Appeal C (3263609), for the reasons given above, and taking into account all other matters, I conclude that the appeal should be allowed, subject to the conditions set out in the attached schedule.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS (APP/B3030/W/20/3263609 ONLY)

(Application LPA Ref 20/01421/FUL)

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

2. The development hereby permitted shall not be carried out except in complete accordance with the following approved plans :-
 - Scheme B Site Plan – B02
 - Scheme B Plot 1 Elevations – B P1 01A
 - Scheme B Plot 1 Floor Plans – B P1 02
 - Scheme B Plot 2 Elevations – B P2 01
 - Scheme B Plot 2 Plan – B P2 02
 - Scheme B Plot 2 Garage – B P2 03
 - Scheme B Plot 3 Elevations – B P3 01
 - Scheme B Plot 3 Floor Plans – B P3 02

3. No development above damp-proof course/slab level shall take place until full details of the external facing materials (and samples if requested) have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with those approved details.

4. Plots 1 and 3 hereby permitted shall not be occupied until the visibility splays of 2.4m x 43m at The Ropewalk are provided in accordance with Scheme B Site Plan – B02. The area within the visibility splays shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

5. Plots 1 and 3 hereby permitted shall not be occupied until the access to the site has been completed, with a width of 5.25m and surfaced in a bound material for a minimum of 5m behind the highway boundary (back edge of footway), with a suitable means of surface water disposal to be submitted to and approved in writing by the Local Planning Authority.

6. Prior to first occupation of the development hereby approved, full details of both hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority and those works shall be carried out as approved. Locally native plant species shall be used. The details shall include :-
 - Full details of any trees, shrubs and hedges to be planted (to include location, species and size)
 - Full details of any tree planting pits, including irrigation, staking, guards and structural cells.
 - Proposed finished ground levels and contours
 - Means of enclosure
 - Car parking layouts and materials to be used
 - Hard surfacing materials

7. The approved landscaping shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is the soonest, unless agreed in writing with the Local Planning Authority. If within a period of five years from the date of planting, any tree, shrub or hedgerow or its replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted in the same place. Variations may only be planted with the written consent of the Local Planning Authority.

8. No dwelling on site shall be occupied until details including the location of a hedgehog house and a minimum of two bat boxes and two bird nest boxes have been submitted to and approved in writing by the Local Planning Authority. The hedgehog houses/nest boxes shall then be installed, prior to occupation of the associated dwelling, in accordance with the approved details and retained thereafter for the lifetime of the development.

9. No clearance works of vegetation within the site shall take place during the bird nesting season (beginning of March to end of August inclusive).

10. Development shall be carried out in accordance with the submitted Ecological Walkover Survey (dated 12 November 2019) namely Section 4.2 (Evaluation) and the Enhancements section. Details and locations of these enhancements including an implementation and timescale programme shall be submitted to the Local Planning Authority in writing and such measures shall be implemented and retained for the life of the development.

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

- 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.
- No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on the application site.
- No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.
- No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on the application site.
- No soakaways to be routed within the root protection areas of any retained tree/hedgerow on the application site.
- No stripping of topsoils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on the application site.
- No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on the application site.
- No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

12. No development above damp-proof course/slab level shall take place until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. Sustainable Urban Drainage Systems (SUDS) should be considered where feasible and details of maintenance and management should be submitted to and approved in writing by the Local Planning Authority. Permeable paving should also be considered to reduce the reliance on mainstream drainage measures and other such water saving measures should be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out thereafter in accordance with the approved details and implemented prior to first occupation of the first unit and retained for the lifetime of the development.

13. The first floor window openings on the north east side elevation of Plot 3 shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the dwelling is occupied and thereafter be retained for the lifetime of the development.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development to any unit approved under this permission under Schedule 2, Part 1 of the Order in respect of:-
- Class A: The enlargement, improvement or other alteration of a dwellinghouse.
 - Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
 - Class C: Any other alteration to the roof of a dwellinghouse.
 - Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.
15. Plot 2 shall not be brought into use until the dropped kerb vehicular crossing at Nursery End is available for use and constructed in accordance with the Highway Authority's specification.
16. In the event that the permission hereby approved is implemented, the alternative schemes considered under references 19/02064/FUL, 20/01418/FUL; 20/01422/FUL and 20/01433/FUL shall not be implemented.

END OF SCHEDULE

PLANNING COMMITTEE - 30 MARCH 2021

DEVELOPMENT MANAGEMENT PERFORMANCE REPORT

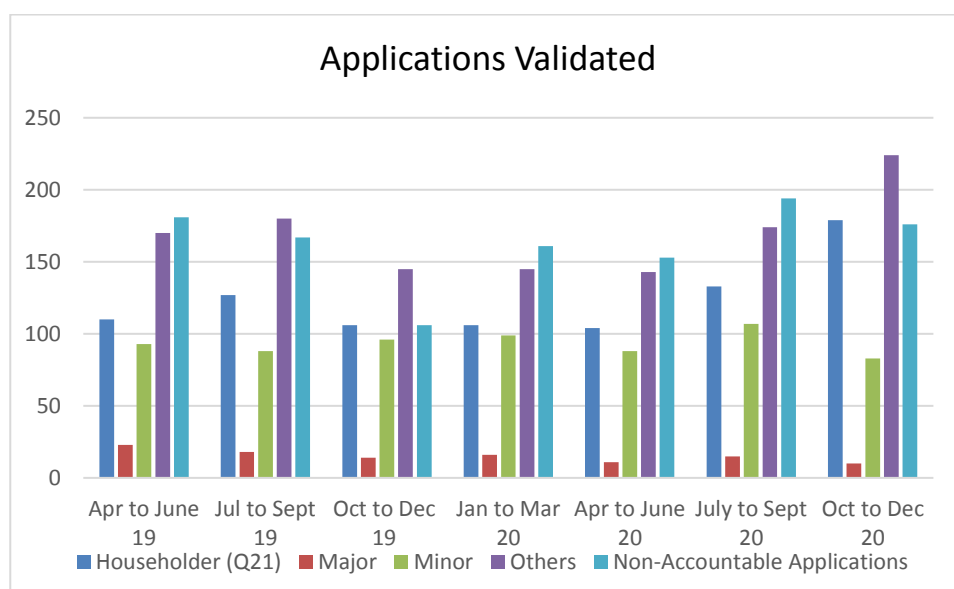
1.0 Purpose of Report

1.1 This report relates to the performance of the Planning Development Business Unit over the three month period October to December 2020. However, in order for the latest quarter's performance to be understood in context, in some areas data going back to January 2019 is provided. The performance of the Planning Enforcement team is provided as a separate report.

1.2 It is hoped the following information is useful and provides insight into the activities undertaken by the section.

2.0 Application Numbers

2.1 The graph below show the number of applications that have been received as valid each quarter from January 2019 up until December 2020. They are presented in line with the Council's reporting to Government. Definitions of what each application type constitutes is provided below the graph. In the third quarter of 2020/21, a total of 873 applications were received. This, compared to the same quarter in 2019/20 shows an increase from 690 or a 26% increase in workload. The biggest increase in numbers are tree applications where applications have increased by more than 100% from 94 applications to 192. All other categories remain relatively consistent. Taking account of the impact of the Covid-19 pandemic on the economy, it would appear from the first 3 quarters that there has not been a significant change in activity for planning, however monitoring over the coming months will determine whether this is the case.



Major applications are those with 10 or more dwellings, sites of 1 hectare or more, or provision of 1,000m² new floor area or more.

Minor applications include (but are not limited to) up to 9 dwellings, gypsy and traveller sites and commercial proposals not falling within the major category.

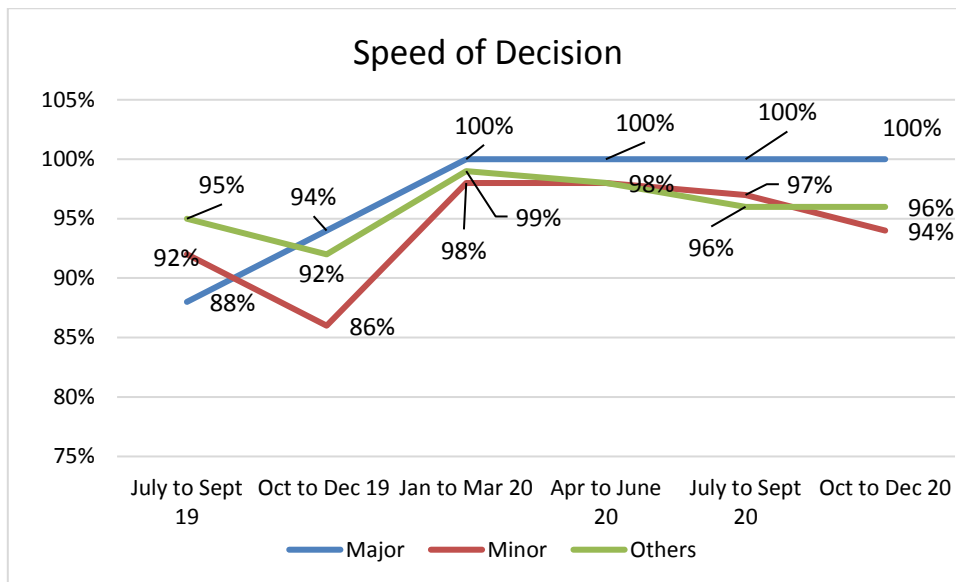
Others include (but are not limited to) householder, advertisements and listed building applications. However, for the benefit of the above graph, householders have been extracted from the others category.

The 'non countable' category are those applications which are not reported to the Ministry for Housing, Communities and Local Government (MHCLG). Such applications include, but are not limited to: prior approvals, discharge of conditions, etc.

From the graph above, it can be seen that non-countable and others generally comprise the highest numbers, with householders shortly behind. For the previous quarter however, the number of householder proposals are at a comparable level with others and non-countable for all of the previous quarters. This is not surprising based on the larger scale of development major and minor predominantly comprise (and thus fewer are submitted).

3.0 Performance

- 3.1 Government (MHCLG) monitor planning authorities on their speed of making decisions in relation to major and non-major applications. The target at national level is to determine 60% of major applications within the statutory period of 13 weeks or subject to the agreement of a time extension over a rolling two-year period. From quarter 4 2018 to quarter 3 2020, 94% of major applications have been determined within these timescales. For non-majors, it is 70% over a two-year period. From quarter 4 2018 to quarter 3 2020, 92% of non-major applications have been determined within these timescales. These targets are challenging when taking account, in accordance with the National Planning Policy Framework, to work positively and proactively with applicants in determining applications i.e. trying to find solutions as opposed to refusing a planning application that might be amended. However, it can be seen that performance has significantly exceeded these targets.
- 3.2 For authorities who under-perform against their national target, they will be classed as 'poorly performing' and applications for major development may be made by developers directly to the Planning Inspectorate. The Council would not receive the fees for these but would be expected to deal with all of the associated administration.
- 3.3 The following graph relates to the percentage of planning applications determined within set timescales.



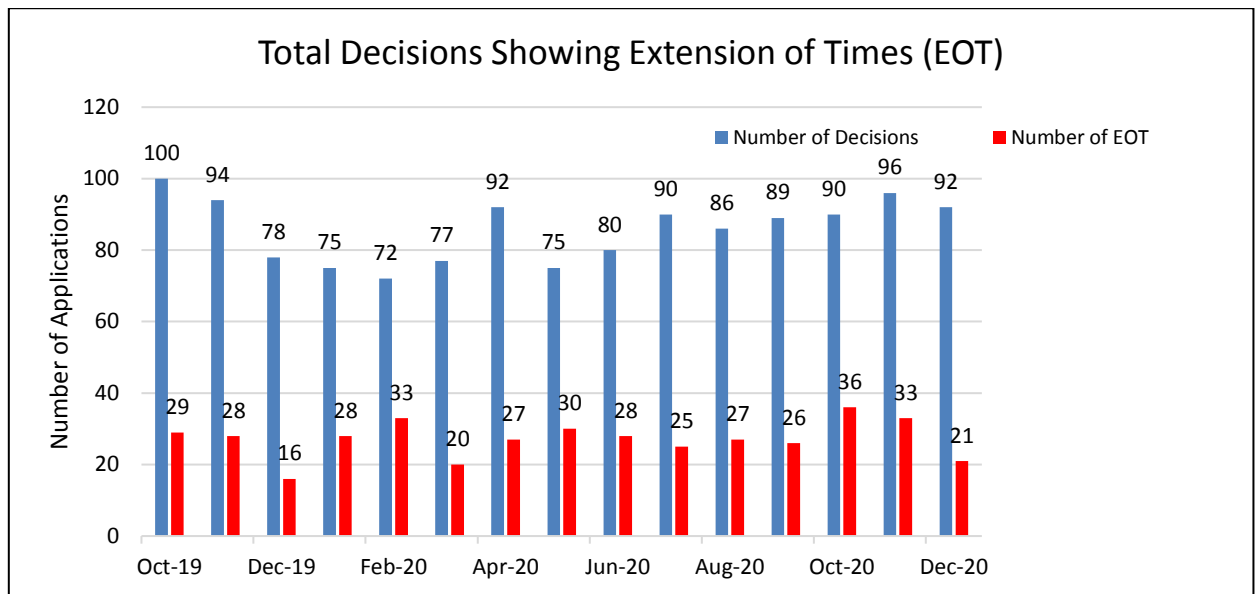
3.4 Over the previous four quarters, performance for majors has remained at 100% increasing from 94% and 88% in the second and third quarters of 2019. Minors has reduced slightly from 98% to 97% to 94% and for others has remained at 96% compared to the quarter. As Members will be aware, since April last year Officers have worked solely from home. There has been a little fluctuation in the performance over the previous 12 months since January, but overall the graph demonstrates how the team has been able to maintain and exceed previous performance.

3.5 These targets continue to be achieved due in part to seeking time extensions for dealing with the applications beyond their statutory time period from applicants. Time extensions might be sought for a variety of reasons but might include seeking negotiations, complex and/or controversial proposals and items presented to Committee. Time extensions do not go against the authority in terms of speed of decision making when reporting. However, Members will be aware that the White Paper is suggesting that the determination timescales set out in legislation should be adhered to and are looking to potentially implement this as part of the overall planning changes.

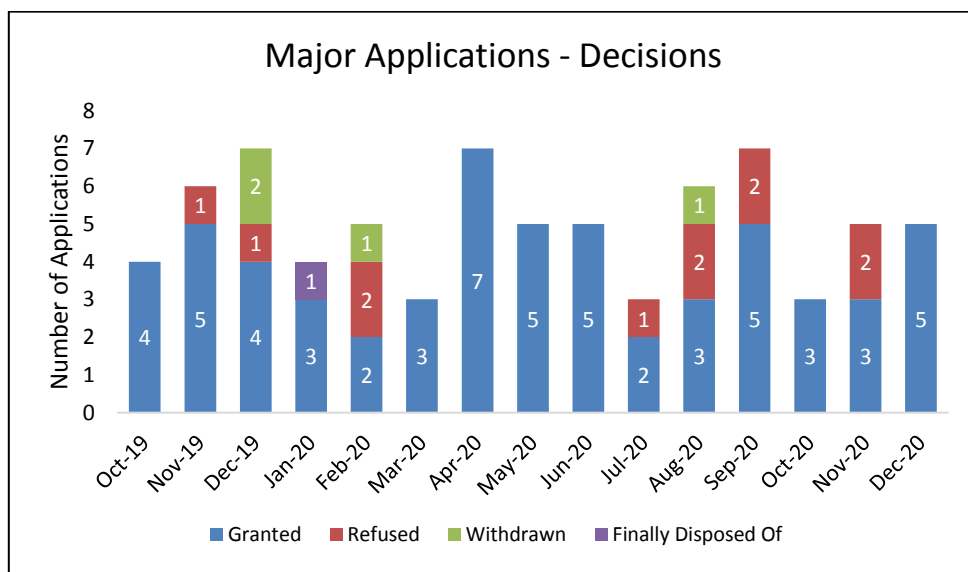
3.6 The graph below shows the total number of applications determined each month in blue and alongside, those in red are the number of applications where time extensions have been sought of those determined. Seeking time extensions means that case officer workloads increase overall which makes dealing with newer applications on time more challenging. Over the longer term, approximately one third of all applications determined are subject to a time extension. It is hoped, following recent recruitment, that it might be possible to reduce the number of applications with time extensions and following that also reduce the overall time taken to determine planning applications. New local performance targets have been introduced addressing the speed of decision making for major and minor planning applications. As longer term monitoring takes place details will be provided as a better understanding is obtained. Alongside this reporting, a review will be undertaken in due course of processes to try and assist in issuing decisions more speedily.

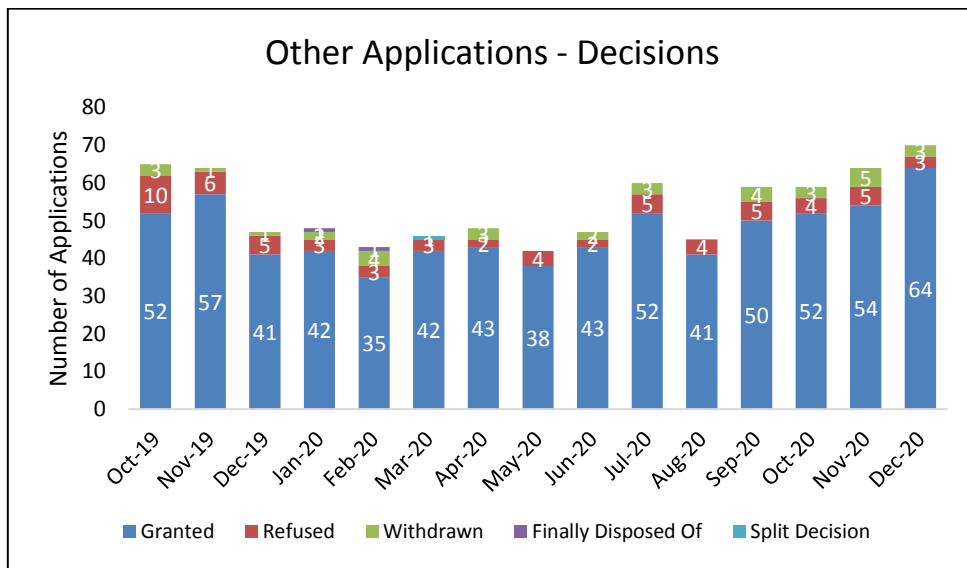
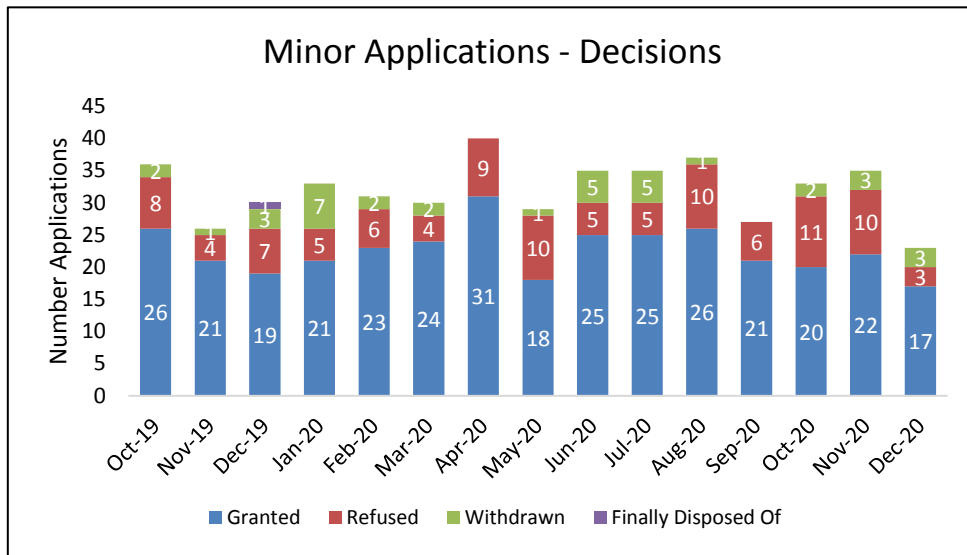
Caution needs to be given in relation to providing a quick decision. For example, it would be theoretically possible to determine all applications within statutory timescales without a request for a time extension. However, this would likely mean that a significant number of applications would be refused due to the inability to negotiate leading to complaints and

resubmission of applications which in the majority of instances would not be subject to a further planning application fee.



3.7 Of the decisions reported above, the following graphs show the number of decisions that were granted, refused, split (i.e. part granted and part refused) and withdrawn across the major, minor and other categories. The only types of applications where a local planning authority is able to issue a split decision are for advertisement and tree applications unlike the Planning Inspectorate who is able to do this for all application types. All three graphs demonstrate that the majority of applications are granted (cumulatively approximately 81% across the 3 months). Withdrawals (total of 19) are not reported as part of our overall performance to government but will still have involved a significant amount of work by the case officers. These applications are frequently resubmitted, often as a ‘free go’, whereby no fee is payable. Finally disposed of applications are those which have gone beyond the time period for determination and the time period for making an appeal has expired and the applicant has not engaged in further discussions regarding the proposal, notwithstanding the department’s attempts to engage.





4.0 Tree Applications

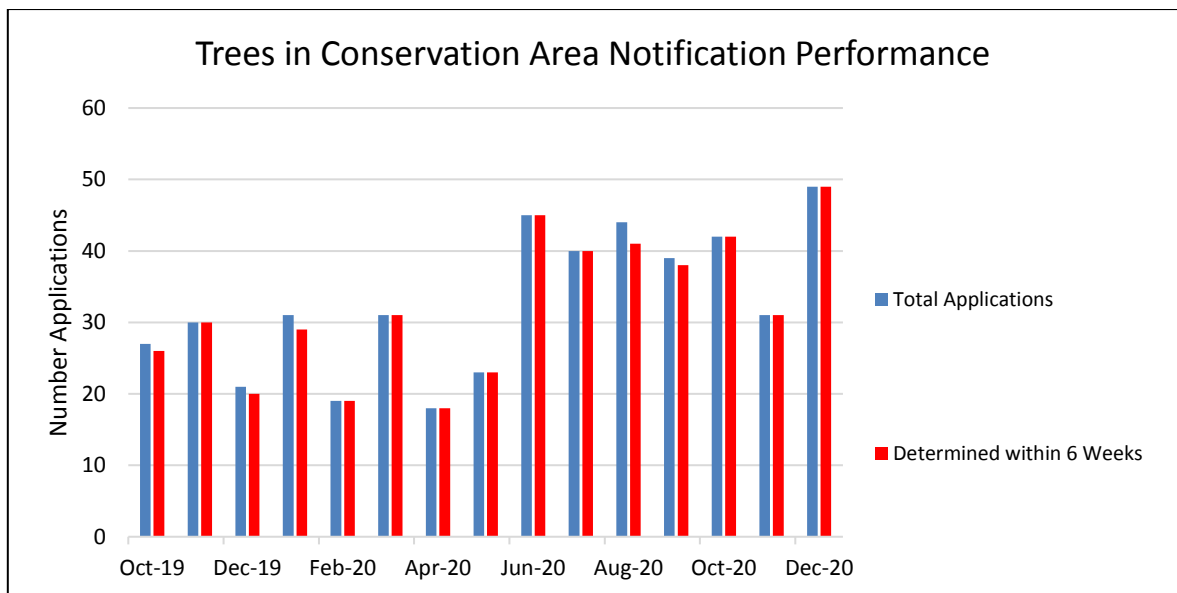
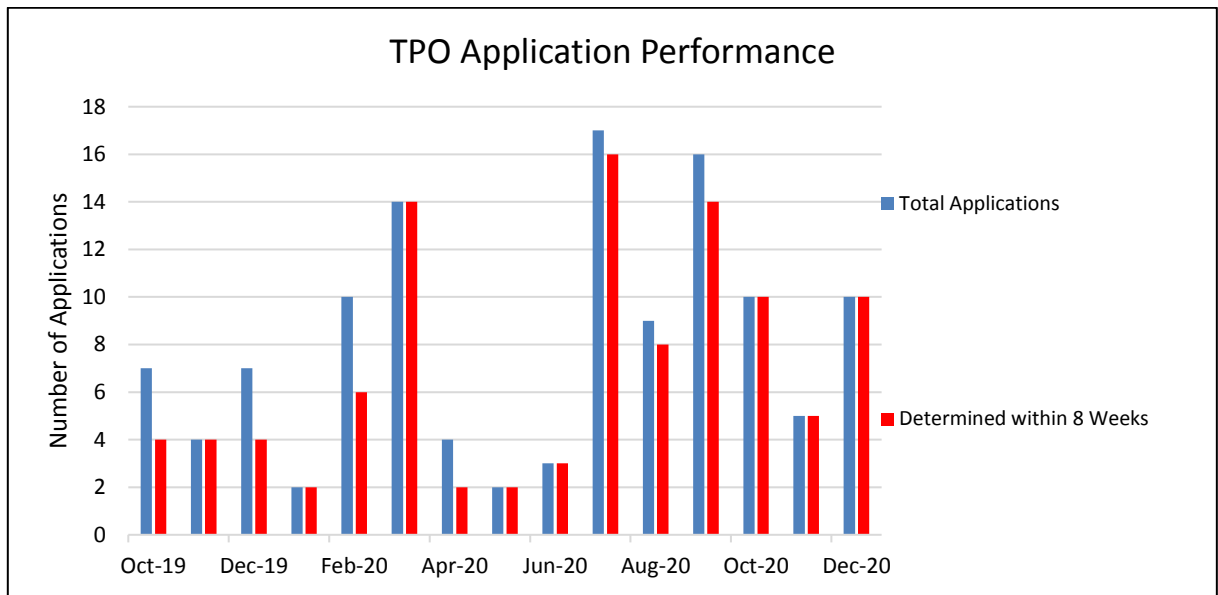
4.1 Trees are a valued amenity contribution to the character of the District. Those that are subject to a Tree Preservation Orders (TPOs) or within a Conservation Areas require consent from the Council before works are commenced. In relation to unprotected trees within a Conservation Area, the consent seeks the Council’s decision as to whether or not the tree has the necessary amenity criteria such that it should be subject to a Preservation Order. These criteria include consideration to:

- Its condition and suitability
- Its remaining longevity (in years) and suitability
- Its relative public visibility and suitability
- Other factors, such as whether it has historical value, its rarity, whether it is part of a group etc.

Where it meets these criteria, a TPO will be made. Applications for works to trees in Conservation Areas require the Council to make their determination within 6-weeks and the Order issued within this timescale. If a decision is not made by the first day of the 7th week,

the applicant may undertake the works that they were seeking consent for. These applications are not subject to a planning fee.

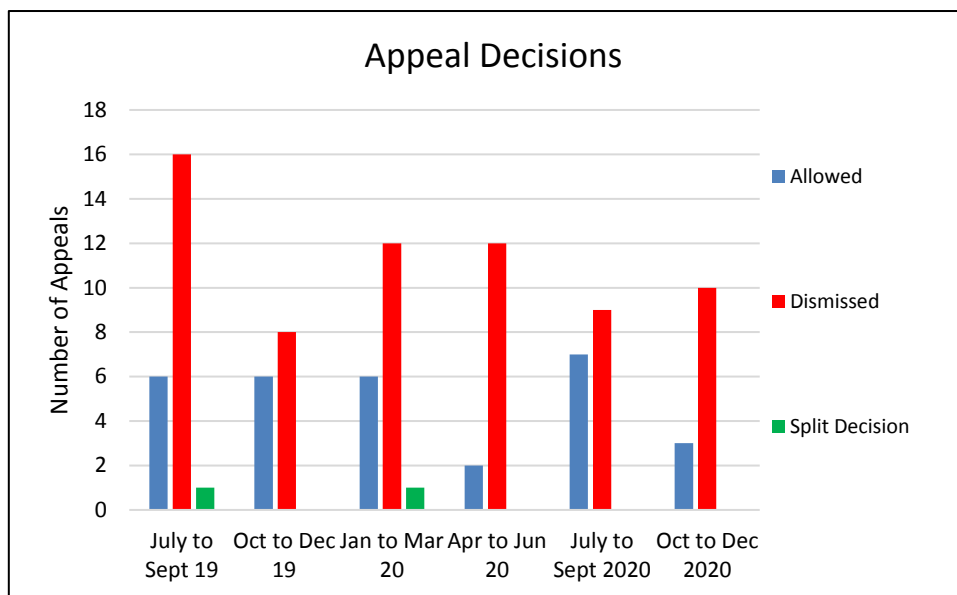
4.2 The following graphs show the number of TPO and Trees within a Conservation Area applications determined each month and whether they were determined within the statutory timescales. The number of applications received each month have no consistency making resourcing more difficult. It should be noted however that where the Officer identifies a potential risk to a tree of value, this is determined within the statutory period in order that further protection for the tree can be put in place.



5.0 Appeals

5.1 The chart below shows the number of appeals against planning applications and enforcement notices that have been allowed, dismissed and split (part allowed and part refused). It can be seen that the total number of appeals fluctuates quite considerably, and like Tree applications makes resourcing them a little challenging, with a need to balance appeal work against the number of applications a case officer is dealing with, where possible. Additionally, the type of appeal makes resourcing more challenging. There are 4 types of

appeal – inquiry, hearing, written representations and fast track with the amount of resource responding accordingly from very high to low. This quarter has seen a slight fall in the number of decisions compared to the previous quarter, from 16 to 13. It is anticipated this is largely due to Covid-19 and the Planning Inspectorate assessing how its appeal inspectors could work safely. The number dismissed exceeds the number allowed and is line with the Government’s previous target of having no more than 33% allowed. A review of appeal decisions will be provided as part of the next performance report which will analyse the whole financial year. Where a split decision has been issued, in terms of the Government’s monitoring, this is treated as a dismissal.



- 5.2 As well as the Government monitoring authorities in relation to performance for determining applications, it also monitors quality in relation to the number of major and non-major applications overturned (i.e. allowed) at appeal. The threshold is for fewer than 10% of major applications overturned at appeal over a rolling two-year period. For authorities who exceed this target, they will be classed as ‘poorly performing’ and applications for major developments may be made by developers directly to the Planning Inspectorate.
- 5.3 As of 1 April 2018 the Ministry of Housing, Communities and Local Government (MHCLG) implemented a threshold for quality of decisions for major and non-major applications at 10%. For clarification, this is 10% of all major decisions and all non-major applications (i.e. minor and others) decisions refused by the Council and subsequently overturned (allowed) at appeal over a rolling two-year period.
- 5.4 Data from government has not been updated since the quarter 1 report was presented to Members which showed the Council is significantly below the thresholds set out.
- 5.5 As well as the cost of administration of appeals, the Council must have regard to the potential to have costs awarded against it, should it be found that the decision, or the Council’s behaviour was unreasonable, such cases are reported to the Planning Committee. There have been no costs awarded against the Council in the previous quarter.

6.0 Updates

- 6.1 Staffing – Since the previous report was presented, there has been some change in relation to staffing. One officer left the authority in November and recruitment is underway to find a replacement. A new starter joined in November (Isabel Verheul). Four other posts have been recruited to – Conservation Officer (Megan Atkinson); Heritage Action Zone (Charlotte Hetherington); Planning Apprentice (Joshua Harvey); Planning Support Officer (Maternity Cover) (Michael Read). The two conservation appointments will assist in delivering the Council’s ambitious heritage projects and also with the apprentice looking to improve the functionality of back office systems to assist in the delivery of the increased workload.
- 6.2 Workloads at present are very high due to the 2 public inquiries (PI) at Flowserve, Newark and Eakring Road, Bilsthorpe. Preparation for a public inquiry is significantly more intensive in relation to resources than an appeal dealt with either by written representations or a hearing. A PI in effect removes the case officer from being able to deal with any more than a handful of applications (for a full time employee) at any one time. With the increased workload reported earlier together with these inquiries, this is causing significant pressure on the rest of the team trying to meet performance deadlines.
- 6.3 Changes are being looked at in relation to the weekly list of planning applications received with the addition of the case officers name and phone number and a link to the application documents on the Council’s website. It is hoped these changes will make it easier for everyone to be able to speak to the right person and view plans etc.
- 6.4 Nationally, a number of changes that were temporarily made following the outbreak of the Covid-19 pandemic have been extended. These include:
- allowing the hospitality sector to extend pavement licenses for a further 12 months,
 - increased number of days for temporary events from 28 to 56 days is extended until 31 December 2021,
 - allowing restaurants and pubs/cafés to continue to serve takeaway food until March 2022.

Details are awaited regarding extending the time limit for holding virtual [planning] committees which is due to expire in May this year.

7.0 Equalities Implications

- 7.1 None from this report

8.0 Financial Implications

- 8.1 None from this report.

9.0 Conclusion

- 9.1 Performance has continued to be met and exceeded, notwithstanding the need to work remotely due to Covid-19. The recent recruitment has and will enable further positive changes to be made to the service for the benefit of the District’s communities and businesses.

10.0 Community Plan – Alignment to Objectives

10.1 Deliver inclusive and sustainable economic growth

Create more and better quality homes through our roles as landlord, developer and planning authority

Enhance and protect the district’s natural environment

11.0 RECOMMENDATION

That the Committee note the contents of the report.

Reason for Recommendation

To keep Members informed of the actions and progress of the Planning Department.

Background Papers

None

For further information please contact Lisa Hughes (Business Manager – Planning Development).

**Matt Lamb
Director – Planning & Regeneration**

PLANNING COMMITTEE – 30 MARCH 2021

QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report follows on from the report that was presented to Members on 3rd November 2020 which highlighted planning enforcement performance during the second quarter of 2020/21. This report relates to the third quarter 1st October to the 31st December 2020 and provides an update on cases where formal action has been taken. It also includes case studies which show how the breaches of planning control have been resolved through negotiation.

It should be noted that due to periods of national and local lockdowns due to Covid-19, response times for visits and compliance periods for remedial works have been affected. Members will also note that Officers have received more cases than in previous years and achieved positive results despite these challenges.

This report presents a snap shot on the general volumes of cases received and dealt with and shows an overview of the enforcement activity compared to previous quarters;

Chart 1 demonstrates the numbers of cases received by the enforcement team in comparison to those that have been closed. Members will note the positive trend that has been experienced over the Q3 period following the increase in the enforcement resource. The chart shows a continuing progressive increase in the number of investigations that have been closed in comparison to those received/ opened and demonstrates a clear return on the work of officers despite the challenges presented by the ongoing Covid situation and the difficulties posed to resolving investigations.

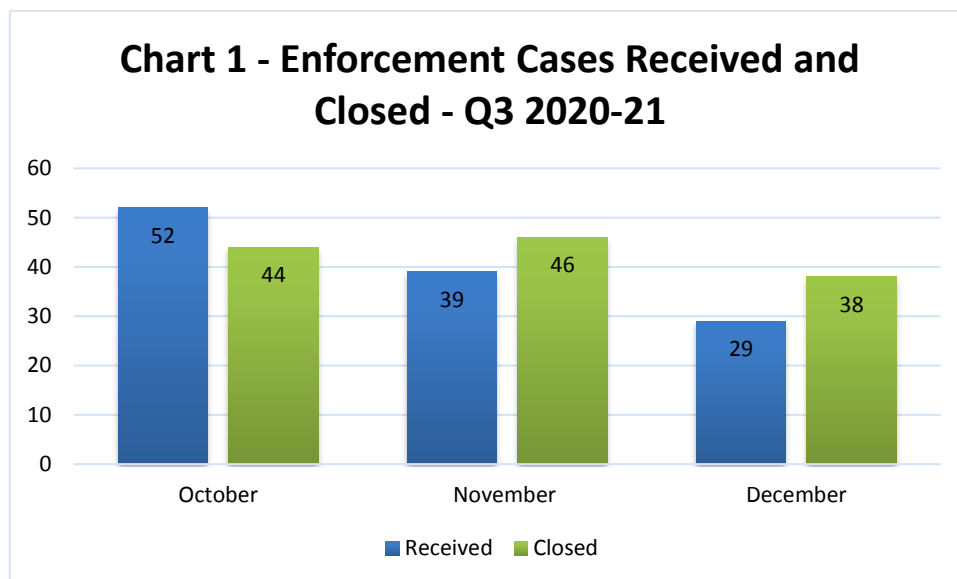
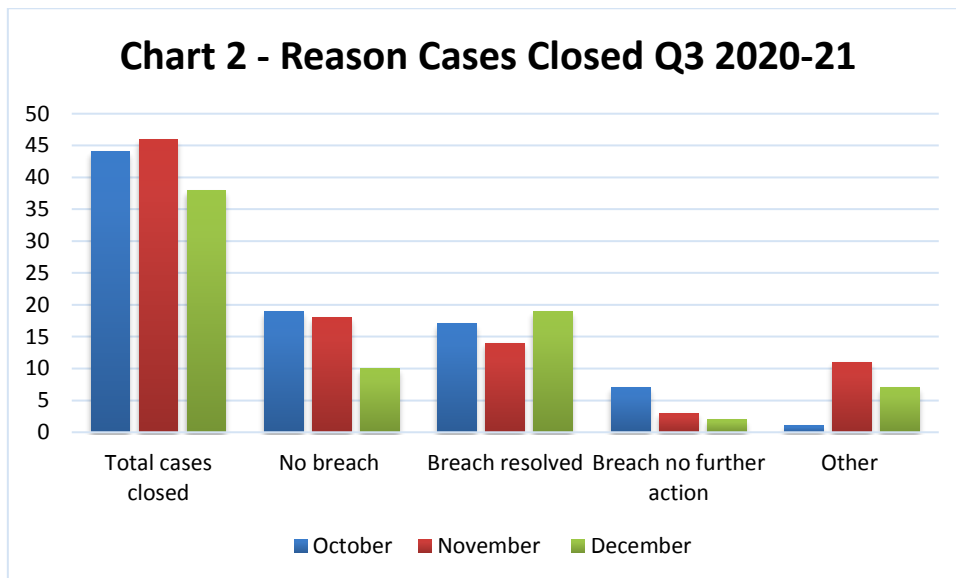
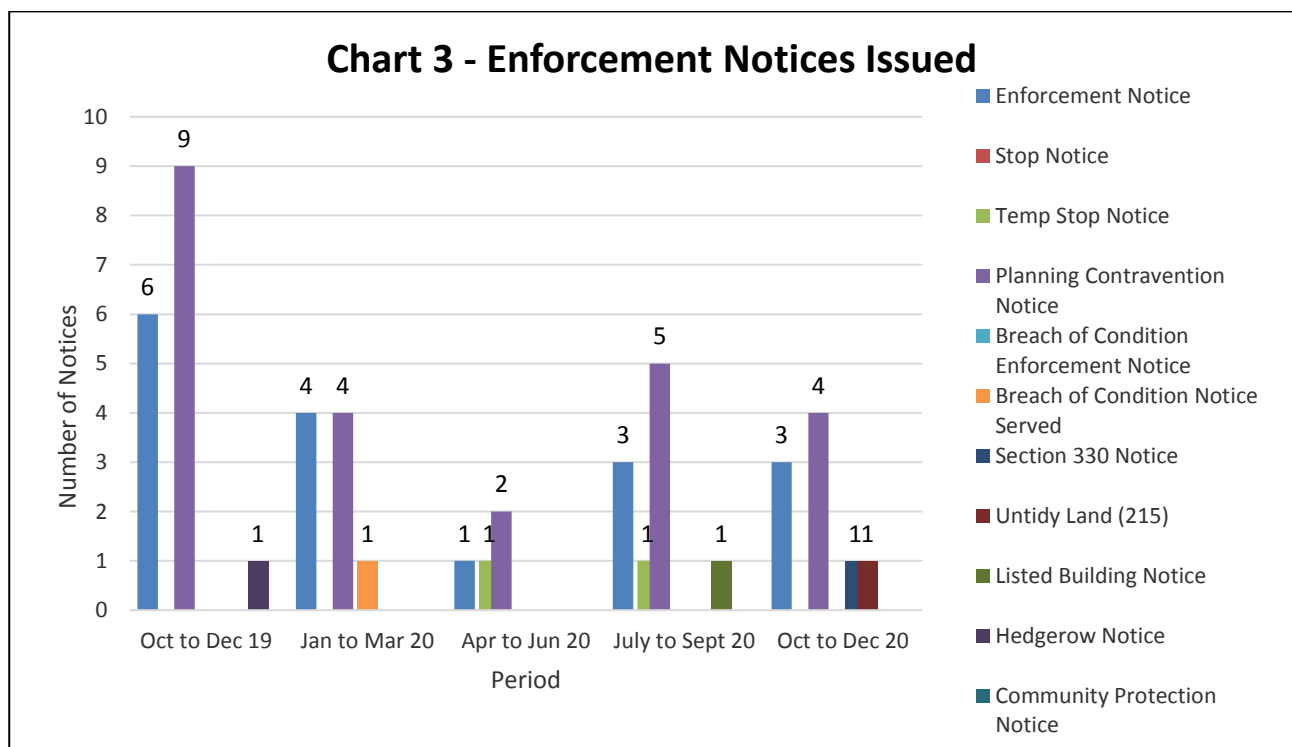


Chart 2 represents the reason that enforcement cases have been closed. Members will note the positive trend of the number of cases having been closed due to breaches having been resolved (this can include notices having been complied with, breaches resolved via negotiation with contraveners and planning permission having been granted retrospectively). The chart includes those cases that have been closed for 'other' reasons. These include duplicate cases that have been created for the same breach and cases closed pending further action (such as we are awaiting compliance with a notice which may have a long compliance period). It must be noted that a system has been put in place to 'pick' these cases up again at a later date to check for compliance or possible further action.



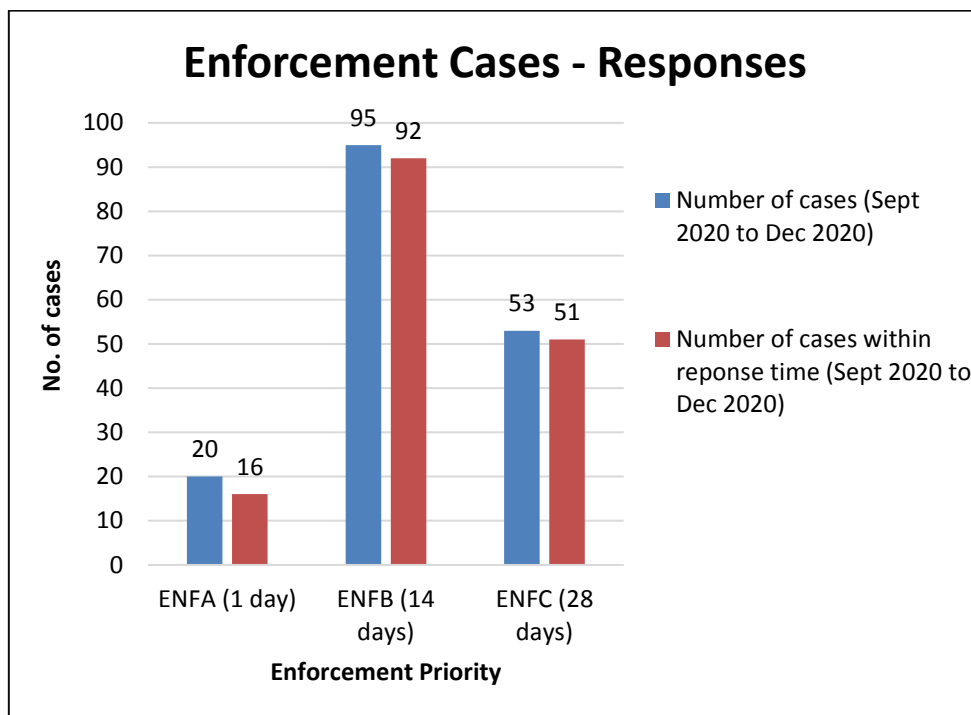
Members will note from chart 3 that the overall number of notices issued has reduced slightly in comparison to Quarter 2. However, as noted within Chart 2, the team has successfully managed to resolve an increased number of enforcement cases during Q3. As Members will be aware from the Planning Enforcement Plan (PEP), the aim of planning enforcement is to resolve the breach of planning control and that the issue of a notice should be a last resort and not used for punitive purposes. As such it is therefore considered that the figures being presented to Members, when taken as a whole, present a positive trend.



In addition Members will be aware that in September the PEP was adopted. As well as setting out how the enforcement service will operate and what Members and the public can expect from the service, the PEP also put in place a system of case prioritisation which encompassed targets for initial investigations to take place.

Members will note that the target for initial action has been met in 94.6% of investigations over the Q3 period. Whilst it is hoped that Members will agree that this is a significant achievement for the

enforcement team, in order to try and achieve full compliance, measures have been put in place for all members of the team to be made aware of priority A cases when received (some targets were missed due to officers being on leave) and regular reviews of cases have been designed so as to pick up those remaining priority B & C cases.



Appeal Outcomes in Quarter 3

18/00036/ENF – ‘Stable Yards’, Winthorpe Road, Newark – This case relates to the unauthorised gypsy and traveller caravan site which was established without the grant of planning permission in February 2018. Members will recall that the Planning Inspectorate originally upheld the Council’s two Enforcement Notices in April 2019.

The Planning Inspectorate’s decision was appealed to the High Court by the owners of the land, and the Inspectorate’s decision quashed in October 2020 on account of the Inspector not having had satisfactory regard for the need of the Local Planning Authority’s capacity to meet a 5-year supply of deliverable sites.

The Matter has returned to the Planning Inspectorate to re-determine the Enforcement Notices served by the LPA in February 2018 and November 2018. We await further instruction on when this process will commence.

SCHEDULE B. FORMAL ACTION TAKEN (1st October to 31st December 2020)

Schedule B provides a more detailed position statement on formal action (such as enforcement notices served) since the previous performance report was brought before Members. This section does not detail Planning Contravention Notices served.

Enforcement Ref: 20/00205/ENF

Site Address: Manor Cottage, Beck Street, Thurgarton, NG14 7HB

Alleged Breach: The erection of a means of enclosure adjacent to the highway measuring more than 1 metre in height

Date Received: June 2020

Action To Date: Enforcement Notice Served

Background: A considerable length of wall has been erected around the boundaries of Manor Cottage, a prominent property within the Thurgarton Conservation Area. The owner of the property had previously been advised that planning permission would be required for such a means of enclosure, but no application was submitted prior to the wall and fencing being erected. The wall is considered to be contrary to policies regarding good design and preserving and enhancing the Conservation Area, and as such an Enforcement Notice has been served requiring the height to be lowered in accordance with permitted development allowances.

Compliance Timescale: 56 days after the notice takes effect (being 4 January 2021)



Enforcement Ref: 20/00210/ENF

Site Address: 5 Mount Pleasant, Lowdham, NG14 7BL

Date Received: June 2020

Action To Date: Planning Application Refused and Enforcement Notice Served

Background: A high area of decking and a summerhouse (the summerhouse alone was 'permitted development and therefore not a breach) had been erected. A retrospective application for planning permission was submitted seeking to retain the decking but refused in October 2020 on account of a considerable loss of privacy for the occupants of nearby dwellings. A corresponding Enforcement Notice was issued requiring the decking height to be reduced in accordance with permitted development allowances.

Compliance Timescale: 90 days after the notice takes effect (being 14th December 2020)



SCHEDULE C: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION

Formal enforcement action is usually the last resort and where negotiations have failed to produce a satisfactory resolution of a breach of planning control. In the vast majority of cases negotiation, or the threat of formal action, is enough to secure compliance with planning legislation and the following are just a few examples of how officers have resolved breaches through negotiation during the last quarter.

Enforcement Ref: 19/00327/ENF

Site Address: 59 & 61 Syerston Way, Newark On Trent, NG24 2SU

Alleged Breach: Unauthorised Extension of Residential Garden and Infilling of Drainage Ditch

Date received: August 2019

Background: Two properties on Syerston Way had purchased vacant overgrown land bordering the rear gardens and those of properties along Beacon Hill Road; extending their residential garden space and infilling a drainage ditch which runs along the length of this housing development. These cases followed on from three other properties having undertaken similar works. The infilling of the drainage ditch and concerns over biodiversity were addressed in the retrospective applications for planning permission which were approved on the proviso that the drainage ditch was reinstated, and hedgerow planted.



Before



After

Enforcement Ref: 20/00334/ENFB

Site Address: 10 Edward Jermyn Drive, Newark On Trent, NG24 2FP

Alleged Breach: Unauthorised Rear Extension/Canopy

Date Received: September 2020

Background: The LPA was notified that a timber canopy affixed to the rear elevation of 10 Edward Jermyn Drive was under construction, with no planning permission having been approved. The structure was of considerable scale, to be finished with felt roofing thus required planning permission on account of its scale and the materials used.

Officers required the scale of the structure to be reduced to a size that would be permitted development. Felt roofing was considered to be an inappropriate material on a rear extension, and mock slate tiles were requested and implemented. The property owner promptly undertook the

works and the structure is now finished. The structure technically still requires planning permission on account of the materials used; however the finish is considered to be satisfactorily acceptable that further enforcement action is not considered necessary.



Before



After

SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER 3

Enforcement Ref: 18/00051/ENF

Site Address: Hardy's Business Park, Hawton Lane, Farndon

Alleged Breach: Unauthorised Extension of Storage Yard

Date Received: February 2018

Action To Date: Two Enforcement Notice Served

Background: An area of agricultural land to the rear of the established Hardy's Business Park, an industrial area on the outskirts of Farndon, was being used for open-air storage of shipping containers for self-storage purposes on a considerable scale. A Lawful Development Certificate was granted for a portion of the land on the basis that the unauthorised use was now immune from enforcement action due to the passage of time.

However, a later expansion of the site was not immune and enforcement action was taken. A 2018 Enforcement Notice was quashed by the Planning Inspectorate in June 2019. A second Enforcement Notice was served in November 2019 following the service of two Planning Contravention Notices to ascertain further information.

The second Notice was upheld by the Planning Inspectorate in June 2020, with compliance required by the end of 2020. A site visit in November found that the expanded area of open-air storage had been cleared, secured and returned to agricultural usage.

Enforcement Ref: 18/00204/ENF

Site Address: 43A Great North Road, Sutton on Trent

Alleged Breach: Unauthorised Domestic Outbuilding on Agricultural Land

Date Received: June 2018

Action To Date: Enforcement Notice Served

Background: A makeshift building had been erected on agricultural land, comprising of a number of storage containers and other materials. The unit was used for domestic purposes, being the repair of tractors for domestic enjoyment. This change of use and the building both required planning permission.

Retrospective planning permission was refused (reference 18/01482/FUL) and an enforcement notice issued requiring the reversal of the works. The Notice was appealed but the appeal dismissed by the Planning Inspectorate in June 2019. A site inspection in October 2020 confirmed full compliance.



Before



After

RECOMMENDATION

That Planning Committee notes the contents of the report.

Background Papers

None

For further information please contact Richard Marshall (Senior Planner, Enforcement - Planning Development).

Matt Lamb
Director – Planning & Regeneration