



**NEWARK &
SHERWOOD**
DISTRICT COUNCIL

*Castle House
Great North Road
Newark
NG24 1BY*

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Friday, 25 June 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, 6 July 2021 at 4.00 pm

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

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

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

AGENDA

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13. Exclusion of the Press and Public	
<p>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.</p>	

Agenda Item 4

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of the **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 1 June 2021 at 4.00 pm.

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

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

APOLOGIES FOR ABSENCE: Councillor L Brazier (Committee Member), Councillor Mrs S Saddington (Committee Member) and Councillor K Walker (Committee Member)

1 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor Mrs L Dales declared a personal interests regarding Agenda Item No. 12 – 1 Beacon Hill Road, Newark on Trent (21/00936/HPRIOR) as she knew the applicant. Councillor Mrs L Dales was also the Council’s appointed representative on the Trent Valley Internal Drainage Board and Upper Witham Valley Drainage Board.

Councillor M Skinner declared a personal interest in Agenda Item No. 5 – 293 Bowbridge Road, Newark (20/00580/FULM), as he was a Director of Active4Today.

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

The Business Manager – Planning Development declared personal interests regarding Agenda Item No. 10 – Andreas, Great North Road, Newark (21/00246/DEM) and Agenda Item No. 11 – Newark Livestock Market, Great North Road, Newark (21/00247/DEM), as she was a member of the project board and Agenda Item No. 12 – 1 Beacon Hill Road, Newark (21/00936/HPRIOR), as she knew the applicant.

The Senior Planning Officer – Laura Gardner declared a personal interest regarding Agenda Item No. 12 – 1 Beacon Hill Road, Newark (21/00936/HPRIOR), as she knew the applicant.

2 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.

3 MINUTES OF THE MEETING HELD ON 27 APRIL 2021

The Chairman informed the Committee of an error in Minute No. 335 – Declaration of Interests by Members and Officers, Councillor Mrs P Rainbow declared a personal interest in Agenda Item No. 343 – Seven Hills Temporary Accommodation, Quibells Lane, Newark (20/02410/OUTM), as she was the owner of adjacent land and not

Agenda Item No. 5 – International Export Packages Ltd.

Minute No. 341 – 293 Bowbridge Road, Newark (20/00580/FULM) the minute should read ‘After discussion, a vote to approve the application fell with 5 votes For and 9 votes Against’.

AGREED that subject to the above amendments, the minutes of the meeting held on 27 April 2021, were approved as a correct record of the meeting and signed by the Chairman.

4 293 BOWBRIDGE ROAD, NEWARK ON TRENT NG24 4EQ 20/00580/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of 87 dwellings.

This application had been deferred from the previous Planning Committee held on 27 April 2021, to allow Officers to discuss the implications of developing the site with Environmental Health Officers. The response of the Environmental Health Business Unit were contained within the report.

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 the Applicant/Agent’s Counsel; Malcolm Lawer – Head of Strategic Planning & Geology – Central; and Newark and Sherwood District Council Legal.

Members considered the application and a Member urged Committee to approve the application as the development was in accordance with Policy and the developer contribution was a significant amount of money to be used to benefit the community. Other Members raised concerns regarding the noise nuisance and dust from adjacent sites and that the land was contaminated. The Business Manager Public Protection advised Committee that it was not uncommon for developers to build on contaminated land, this was a previous industrial site with contaminants on site and remedial work would be undertaken.

AGREED (with 8 votes For, 2 votes Against and 2 Abstentions) that planning permission be approved subject to the conditions and reasons contained within the report and the sealing of an associated Section 106 agreement to secure contributions towards:

- Community Facilities (Upgrade of facilities at Newark Sports and Fitness Centre) -£120,414.09;
- Health (Balderton Surgery; Fountain and Lombard Medical Centre) - £80,040;
- Transport (bus stop improvements for NS0006 Bailey Road) - £15,500;
- Libraries (stock at Newark Library) - £3,064;
- Open Space (specification and maintenance of on site

- provisions);
- Affordable housing (retention of minimum 30% for the lifetime of the development);
- A Travel Plan in accordance with Section 10 “Monitoring” of the Framework Travel Plan by hsp consulting – C3191 – dated January 2021.

5 BANKWOOD HOUSE, OXTON ROAD, THURGARTON, NG25 0RP 21/00553/FULM (MAJOR)

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the change of use of former agricultural land to private residential garden; garden area extension with boundary treatments and associated and ancillary garden buildings. The application was a re-submission of application 20/01829/FULM.

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

Councillor Mrs K Chan on behalf of Thurgarton Parish Council spoke in support of the application, in accordance with the views of Thurgarton Parish Council, as contained within the report.

Councillor R Jackson, Local Ward Member for Dover Beck, spoke in support of the application on the grounds that the piece of land naturally formed part of the applicant’s garden. It was commented that the land in question was 50 x 10 metres and was previously part of the farms stock yard and not part of a field. It was commented that it would make sense to include this piece of land into the garden area of Bankwood House, which would give the owners privacy from the new development.

Members considered the application and found it acceptable on the basis that the land formed part of the extant permission to the north and would therefore already be read as residential curtilage and had no agricultural value.

A vote was taken and lost to refuse planning permission with 4 votes For, 6 votes Against and 2 Abstentions.

AGREED (with 9 votes For, 1 Vote Against and 2 Abstentions) that contrary to Officer recommendation planning permission be approved subject to reasonable conditions delegated to the Business Manager – Planning Development.

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

Councillor	Vote
R. Blaney	For
L. Brazier	Absent

M. Brock	For
R. Crowe	For
Mrs L. Dales	For
Mrs M. Dobson	Abstention
L. Goff	For
Mrs R. Holloway	For
Mrs P. Rainbow	For
Mrs S. Saddington	Absent
M. Skinner	Abstention
T. Smith	For
I. Walker	For
K. Walker	Absent
Mrs Y. Woodhead	Against

6 LAND AT COGHILL COURT, SOUTHWELL 21/00535/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of four two bed semi-detached bungalows.

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 the Agent/Applicant requesting a minor amendment to the proposed site plan to extend the footpath proposed to the north of Plot 1 to meet the western boundary, which a proposed change to Condition 2 was provided; and the Rights of Way Officer, which was subject to an informative note to the applicant.

Members considered the application acceptable with additional conditions regarding the hours of construction.

AGREED (with 11 votes For and 1 Abstention) that full planning permission be approved subject to the conditions contained within the report with the following amendments to those conditions:

- (i) Condition 2, amended as detailed in the Schedule of Communication;
- (ii) Condition 14 for requirement to submit details for hours of construction; and
- (iii) Informative note to the applicant as detailed in the Schedule of Communication.

7 STAUNTON INDUSTRIAL ESTATE, ALVERTON ROAD, STAUNTON IN THE VALE NG13 9QB 21/00295/FULM

The application had been withdrawn from the Agenda.

8 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), the application was part retrospective.

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 the Applicant; Residents; and an anonymous complaint.

Members considered the application and raised concern regarding the number of caravans that were on site. The Chairman confirmed that once planning permission had been granted enforcement action could be taken for the removal of the additional caravans.

AGREED (with 8 votes For, 2 Votes Against and 2 Abstentions) that planning permission be approved subject to the conditions and reasons contained within the report.

The Business Manager – Planning Development, having declared a personal interest due to being a member of the Newark and Sherwood District Council Project Board, left the meeting for the following two applications.

9 ANDREAS, GREAT NORTH ROAD, NEWARK ON TRENT, NG24 1BY 21/00246/DEM

The Committee considered the report of the Business Manager – Planning Development, which sought prior notification for the demolition of one dwelling and associated garage and outbuildings. The application was referred to the Planning Committee as Newark and Sherwood District Council was the applicant.

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

Members considered the application acceptable.

AGREED (unanimously) that prior approval was required and approved for the demolition of the building subject to the conditions and reasons contained within the report.

10 NEWARK LIVESTOCK MARKET, GREAT NORTH ROAD, NEWARK ON TRENT 21/00247/DEM

The Committee considered the report of the Business Manager – Planning Development, which sought prior notification for the demolition of the single storey steel framed cattle market buildings, including associated single storey office buildings, livestock pens and fences. The application was referred to the Planning Committee as Newark and Sherwood District Council was the applicant.

Members considered the presentation from the Senior Planning Officer, which

included photographs and plans of the proposed development.

Members considered the application acceptable.

AGREED (unanimously) that prior approval was required and approved for the demolition of the building subject to the conditions and reasons contained within the report.

11 1 BEACON HILL ROAD, NEWARK ON TRENT, NG24 1NT 21/00936/HPRIOR

The Committee considered the report of the Business Manager – Planning Development, which sought householder prior approval for a single storey rear extension. The length that the extension extended beyond the rear wall of the original house was 6.38 metres; eaves height of the extension 2.4 metres; and maximum height of the extension was 3 metres.

The application was referred to the Planning Committee for determination as the applicant was an Officer of the Council.

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

Members considered the application acceptable.

AGREED (unanimously) that that the application was determined as prior approval was not required, subject to the conditions contained within the report.

12 APPEALS LODGED

AGREED that the report be noted.

13 APPEALS DETERMINED

AGREED that the report be noted.

14 DEVELOPMENT MANAGEMENT PERFORMANCE REPORT

The Committee considered the report of the Director of Planning & Regeneration which related to the performance of the Planning Development Business Unit over the three month period January to March 2021 as well as providing an overview of the performance and achievements across the financial year. In order for the latest quarter's performance to be understood in context, in some areas data going back to January 2019 was provided. The performance of the Planning Enforcement team was provided as a separate report.

AGREED that the content of the report be noted.

15 QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

The Committee considered the report of the Director of Planning & Regeneration which followed on from the report that was presented to the 30 March 2021 Planning Committee, which highlighted planning enforcement performance during the third quarter of 2020/21. The report related to the fourth quarter 1 January to the 31 March 2021 and provided an update on cases where formal action had been taken. It also included case studies which showed how the breaches of planning control had been resolved through negotiation. The report also provided an appraisal of the financial year 2020/2021 as a whole.

AGREED that the content of the report be noted.

Meeting closed at 5.05 pm.

Chairman

PLANNING COMMITTEE – 6 JULY 2021

Application No:	21/00295/FULM (MAJOR)	
Proposal:	Erection of commercial storage units and erection of new office with associated parking.	
Location:	Staunton Industrial Estate, Alverton Road, Staunton In The Vale NG13 9QB	
Applicant:	Pete Norris Ltd, Midland Feeds	
Agent:	Grace Machin Planning & Property	
Weblink:	21/00295/FULM Erection of commercial storage units and erection of new office with associated parking. Staunton Industrial Estate Alverton Road Staunton In The Vale NG13 9QB (newark-sherwooddc.gov.uk)	
Registered:	17.02.2021	Target Date: 19.05.2021
	Extension of Time Agreed Until 09.07 2021	

This application is presented to the Planning Committee for determination given that it is major scheme which has a recommendation of approval (on balance) contrary to the views of the Parish Meeting and a recommendation which represents a departure from the Development Plan. This application was withdrawn from the June agenda to allow officers to consider additional information provided by the applicant which has altered the recommendation.

The Site

The site is situated at the long established Staunton Industrial Estate, approximately 750m to the north-west of Staunton-in-the-Vale which is located in the open countryside to the south of the district. This part of the industrial estate comprises a mix of compacted bare ground, improved grass and tall ruderals vegetation. This and the wider field to the north and east appears agricultural in character. There is a balancing pond located to the east, fed by a culvert that runs parallel with the drive that serves the industrial units.



JP Concrete is the business occupying the unit and associated land immediately adjacent (west) of the site. Midland Feeds occupy the larger unit (with a square footprint) west of that along with the land to the south, east and west of it where they produce animal feeds.

The proposed development site is located approximately 150m to the east of existing industrial buildings within the Estate. An existing industrial estate access lies to the south of the application site and connects to the public highway C3 (Grange Lane) that runs parallel with the A1 to the east.

The site lies within flood zone 1 although lies in an area that is prone to superficial deposit flooding according to the EA maps.

Relevant Planning History

Wider site including this application site

94/51746/LDC – Use of site (Staunton Works British Gypsum Ltd) for general industrial purposes within Use Class B2. Certificate issued 04.12.1995.

94/51747/LDC – Retention of existing buildings (non-compliance with planning conditions requiring removal of such buildings) certificate issued 04.12.1995.

94/51748/OUT – Demolition of some existing buildings and replacement with new buildings and use of site for B1, B2 and B8. Approved 18.09.1995.

Land to south-west

12/00224/AGR – Prior notification for proposed open cattle area, prior approval not required 23.04.2012

97/51912/CMM – Restoration of land to agricultural. NCC were decision makers.

Land to west

09/00995/FULM - Proposed change of use for storage and associated haulage for Farrell Transport Ltd, refused on 17.02.2010 (on grounds of impact on living conditions upon occupiers living alongside the local highway) but appeal was allowed 27.07.2010 under appeal ref APP/B3030/A/10/2126156.

02/02452/FUL – Proposed extension for storage of Glulan & I Beams, approved 19.12.2002

98/51825/FUL – Change of use of agricultural land for open storage, approved 25.08.1998.

The Proposal

Amendments (involving omitting a previously proposed triple bay feed store) have been submitted during the lifetime of the application in an attempt to overcome officer's concerns.

Full planning permission is now sought for new commercial development by Midlands Feeds who already occupy a unit on the Staunton Industrial Estate to allow them to relocate their other site

and staff from Bottesford (within Melton Mowbray borough) and consolidate and expand their business. The business is for animal feed storage.

The applicants existing site at Bottesford is said to comprise c10,000 sq ft (c929m²) of storage. The applicant has advised that they currently operate or store at six different sites and this application will allow the company to consolidate down to two sites (this one and the other at Claypole; just across the Lincolnshire border into South Kesteven) with all staff moved to the Staunton site.

The development proposals includes storage buildings and an office, detailed as follows:

An office building (24.68m x 9.68m x 3m eaves x 6.35m ridge) is proposed comprising an open plan office space of 239m², reception, server room, toilet/shower room, lobby and small kitchen, additional lobby, kitchen, store, plant room, office and board room. This would be located at the southern part of the site adjacent to the site access that serves the estate. This would be constructed of profiled metal coated cladding, glazed roof lights, with metal windows and doors.

Parking for 19 cars to the west of the office is proposed and the access road would loop around the office and parking (a weigh bridge is proposed to the north also).

To the north of the office and in the center of the site, a double bay feed store is proposed (c38.36m x 25m x 8.75 ridge x 5.6m eaves) giving 2 x storage areas of 466.63 m² and 466.62m². A further 4 parking spaces would be provided adjacent. This would be constructed in a portal steel frame, with dark brickwork, profiled pvc coated metal cladding and metal roller shutter doors.

A service yard to the north of the site is proposed now instead of the previously proposed triple bay feed store.

A weighbridge 18m long with 3m ramps at either end is also proposed between the offices and the two bay feed store.

The application form is noted as having 16 full time and 2 part time employees. However these employees would be existing staff relocated from Melton Mowbray.

The application has been assessed on the basis of the amended plans and documents listed below.

- Topographical survey, drawing no. 20-202-01 & 20-202-02
- General arrangement, feed store 2 plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2011 P02
- General Arrangement, office plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2012 P01
- General Arrangement external works, location plan, 8952-CPMG-oo-ZZ-DR-A-7001 P03
- General Arrangement external works, proposed site plan, 8952-CPMG-oo-ZZ-DR-A-7010 P02
- Design and Access Statement P4
- Planning Statement
- Ecological Appraisal, FPCR, December 2020
- Flood Risk Assessment and Drainage Strategy Rev P03, BSP Consulting, 12 March 2021
- BSP Consulting written response to NCC LLFA objection
- Transport Statement, BSP Consulting, (amended, version P03) 21 May 2021
- General arrangement drawings Plans and Elevations (weighbridge) drawing no. CPMG-00-ZZ-DR-A-2013 Rev P1

- Appeal decision APP/R2520/W/20/3254834 dated 4th May 2021 relating to Thorpe Grange Farm in Auburn (North Kesteven DC) where an inspector considered an outline application (only appearance was reserved) for the erection of industrial and commercial units at Enterprise Park. One of the key issues was whether it was an appropriate location for employment development with particular reference to whether it is classed as a 'Local Employment Site'. The inspector found that whilst the site was open countryside, it was adjacent to the established business park and to expand the site it would have to be into the open countryside in order to allow the business to expand, support economic growth and productivity recognizing the specific locational requirements of different sectors etc. He found this to be in accordance with the Development Plan and allowed the appeal
- Emails 24.05.2021 from agent setting out further commentary on the need for the rural location and 08.06.2021 setting out links with cattle business.
- Plan showing location of cattle sheds.

Departure/Public Advertisement Procedure

Occupiers of 16 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press given that this is a major development and a potential departure from the development plan. Re-consultation has taken place on the amended plans.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2019)

Spatial Policy 1 - Settlement Hierarchy
 Spatial Policy 2 - Spatial Distribution of Growth
 Spatial Policy 3 – Rural Areas
 Spatial Policy 7 - Sustainable Transport
 Core Policy 6 – Shaping our Employment Profile
 Core Policy 9 -Sustainable Design
 Core Policy 10 – Climate Change
 Core Policy 10A – Local Drainage Designations
 Core Policy 11 – Rural Accessibility
 Core Policy 12 – Biodiversity and Green Infrastructure
 Core Policy 13 – Landscape Character

Allocations & Development Management DPD

DM1 – Development within Settlements Central to Delivering the Spatial Strategy
 DM4 – Renewable and Low Carbon Energy Generation
 DM5 – Design
 DM7 – Biodiversity and Green Infrastructure
 DM8 – Development in the Open Countryside
 DM9 – Protecting and Enhancing the Historic Environment
 DM10 – Pollution and Hazardous Substances
 DM12 – Presumption in Favour of Sustainable Development

Other Material Considerations

National Planning Policy Framework
NPPG
Landscape Character Assessment SPD, 2013

Consultations

Staunton Parish Meeting – (on 07.05.2021 in response to amended plans) **Object** (6 objections, 4 support). The reasons for objection remain the same as our original response below. In addition some felt aggrieved that a building has been erected without planning consent adjacent (within the existing industrial estate) and this would have been a suitable area for this development. Those in support felt the proposed development, including landscaping, would improve the look of the industrial estate in this rural area.

Previous comments (on 08.03.2021 in response to original submission) **Object** (7 against, 3 support, 2 abstentions) due to the following reasons:

- They did not wish to see Staunton Industrial estate expand into open countryside, as designated in the local plan.
- Such expansion into a grass field would negatively impact the rural landscape and could set a precedent for further expansion into open countryside
- There was concern over increase traffic to the new offices and industrial units including heavy goods vehicles
- There was unanimous concern (including those in support) regarding light pollution. Those in support wished this to be subject to low level lighting on the new development only. (The high level bright all night lighting on the recently erected building at Farrell Transport adjoining continues to cause significant concern within the village)
- There are existing foul and surface water drainage problems at Staunton Industrial estate. There are worries that this additional development could add to these problems and that the applicant should submit more detailed plans on how this issue will be addressed should the development go ahead.

NCC Highways Authority – (22.06.2021)

‘Further information has been submitted, including a revised transport assessment which details the parking provision, the only outstanding concern from Highways since the size of the development was reduced.

23 spaces are indicated. The office requires 7 spaces, but as highlighted previously, 13 staff are indicated within the office. Given the unsustainable location, staff are likely to drive to work. The development is too small for a travel plan to encourage car sharing etc.

Whilst the TA indicates that 8 spaces are required for a B8 use, the intended classification of the development remains unclear. The information submitted with the planning application indicates that a B2 use would suit the proposed description and this would require 17 spaces.

The provision of 23 spaces meets the minimum requirements for office space and B8 storage, with an excess of 8 spaces. However, the information has not addressed the concerns in regard to the offices showing 6 more staff than spaces provided, the lack of clarity over the use class of B8 or B2,

nor addressed the indicated retail element of the site and parking spaces required for this. This would require 30 spaces plus any required for the retail use.

If the development is accepted by the LPA as a B8 use, then it is likely that the car parking spaces provided are adequate, even in consideration of retail use. Accordingly, we would have no objection as there would be no overspill parking impacting on highway.'

(14.05.2021) Object; Insufficient information received for them to remove their holding objection. They comment that whilst the size of the unit has been reduced to one where a Transport Assessment isn't required, impacts are considered cumulatively. They have concerns that the parking may be insufficient given the unsustainable location and as the site is situated within an existing Environmental Weight Limit, it causes some concern as even with less traffic, the development would increase the numbers of HGVs using the roads subject to this weight limit and an acceptable routing agreement would be required with routing to the south, through the villages to the north of the A52 unlikely to be acceptable.

NCC Lead Local Flood Authority – 31.03.2021 – Confirmed no objection based on the drainage plans submitted which addressed their previous holding objection and they have confirmed there is no objection in respect of the amended plans on 05.05.2021.

Natural England – No comments to make

NSDC (Environment Health, Land Contamination) - Advice Note relating to Radon (included in the informatives).

Representations have been received from 4 local residents/interested parties in response to the original proposals (no comments received in respect of the amendments); 3 of these support and 1 objects which are summarized below:

Support:

- It would make positive contribution to area in terms of aesthetics and by helping encourage business to the area;
- It will help with screening the existing buildings from the village as long as there is adequate landscaping;
- The style and look of the new buildings will in my opinion be an improvement to what is already there.

Object

- This further extension of an industrial site would continue to negatively impact this part of the Vale and would be detrimental to local environment;
- Amenity is already severely impacted in terms of both light and noise pollution from the existing businesses operating out of Staunton Works;
- We do not need additional Industrial or Warehousing or even office space locally. There is no shortage locally and there are much better sites where this sort of development would have no or little impact to both the local community and environment;
- Would mean further increased traffic and heavy goods lorry use of Grange Lane which rightly has a 7.5T weight restriction upon it. Grange Lane already suffers from excessive traffic from heavy goods vehicles from both Farrells and other local businesses exempt from the existing weight restrictions and other traffic illegally using it as a short cut from A1 to A52/A46;
- There has been a noticeable increase in general traffic over the last few years along Grange Lane at speeds seemingly well in excess of the prevailing national speed limit (60mph) which

resulted in a local petition and application (2018/19) requesting a 40mph speed restriction from the junction of Grange Lane with turning for Staunton in the Vale up to the junction with Valley Lane (for Long Bennington);

- This development would mean expansion into the open countryside and would also set a precedent for potential further expansion into open countryside adjoining the site in the future leading to a further degradation of the environment for the local community;
- There are new structure on the Staunton Industrial Estate owned by the applicant which does not seem to have had any planning permission.

Comments of the Business Manager

The Principle

Development of this scale in this location requires some justification. This proposal, if permitted, would effectively extend Staunton Industrial Estate despite there being undeveloped land within its current boundary and a more than adequate supply of available land suitable for employment uses elsewhere in the District.

The spatial strategy seeks to focus employment development in the sub-regional centre, Service Centres and Principal Villages, with a range sites having been made available in such locations. The Development Plan seeks to ensure that development in the open countryside is strictly controlled (through policies SP3 and DM8) and it is important that any permissions granted do not set a precedent that undermines the ability of the District Council to resist inappropriate development proposals elsewhere.

Policy DM8 (Development in the Open Countryside) strictly controls development in the open countryside limiting it to certain exceptions of which there are 12. Exception no. 8 'Employment Uses' is considered the most applicable to this proposal. This states:

'Small scale employment development will only be supported where it can demonstrate the need for a particular rural location and a contribution to providing or sustaining rural employment to meet local needs in accordance with the aims of Core Policy 6. Proposals for the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment.'

I therefore assess the scheme against this exception having regard to four key factors; 1) whether the proposal can be considered to be small-scale, 2) whether the proposal is considered a proportionate expansion of an existing business, 3) whether there is a need for this development to be in a rural location and 4) whether there would be a contribution to ongoing local employment.

Whether the proposal is small-scale

As originally submitted the scheme proposed 2,589m² of new floor space which has been reduced to 1,172m² by the omission of the triple bay feed store. Nevertheless, this amount of development and with a land take of 1.04 hectares, I would say is not a small-scale development. Major developments in planning terms are defined by government as those having a floor area of 1,000 m² or above, or those exceeding 1 hectare in land area. This scheme exceeds both and constitutes a major development. Policy DM8 is silent on large-scale employment developments simply because it is expected that these would be located on sites allocated for employment type uses; only development demonstrated as necessary is permitted in the open countryside in line with the

sequential approach to site selection. This element is considered further later in this report.

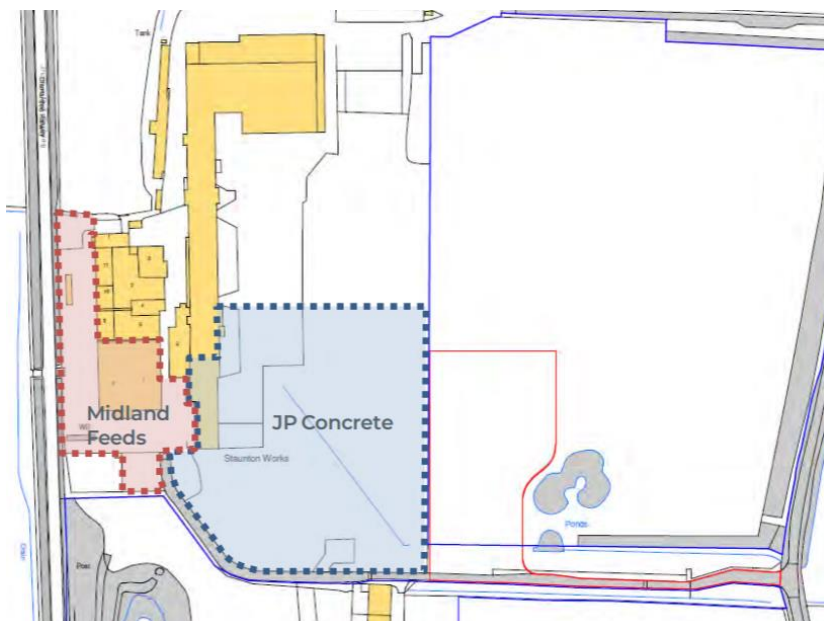
Whether the proposal is considered a proportionate expansion of an existing business

Core Policy 6, underpinning Policy DM8, requires that development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact. Policy DM8 refers to proportionate expansion, so a judgement needs to be reached as to whether the scale of this proposal is acceptable and proportionate. There is no definition in policy DM8 as to what is meant by a 'proportionate' expansion of an existing business. While proportionality should be considered in relation to the existing Midland Feeds Ltd. site, it is reasonable to view this in the wider context of the whole Industrial Estate.

In terms of whether the 'expansion' is proportionate, on a simple mathematical comparison, the existing business occupies a land area of approximately 0.672ha whilst the proposed site relates to 1.04ha which represents a 154.7% increase in land take which I do not consider to be proportionate to the existing business.

The applicant points to the fact that the scale of development has now been significantly reduced to a level which they feel is a proportionate expansion of the existing business. They also consider that significant weight should be given to the NPPF and point to an appeal recently allowed within North Kesteven's jurisdiction whereby an inspector considered an outline application (only appearance was reserved) for the erection of industrial and commercial units at Enterprise Park.

One of the key issues was whether it was an appropriate location for employment development with particular reference to whether it is classed as a 'Local Employment Site'. The inspector found that whilst the site was open countryside, it was adjacent to the established business park and to expand the site it would have to be into the open countryside in order to allow the business to grow, support economic growth and productivity recognizing the specific locational requirements of different sectors etc. He found this to be in accordance with the Development Plan and allowed the appeal. The key and fundamental difference is that in this case the proposal would be contrary to the Development Plan policy (which have different objectives) which is the statutory starting point in decision making and as such this appeal decision doesn't weigh heavily in the planning balance.



As can be seen from the plan extract above, the application site does not sit immediately adjacent to the existing business which is seeking to expand and there is a separate business on the intervening land between the sites. Whether we can consider this proposal as an expansion of the existing business at all (rather than a separate business operating independently) is a matter that needs to be carefully considered. This issue is intertwined with the next issue discussed below.

Whether there is a need for this development to be in a rural location

The applicant has been asked why existing industrial units at Staunton Industrial Estate cannot be acquired for the expansion of the feed stores and office. They have commented that currently all units and space is occupied by other businesses and that in any case none of the other units are suitable for HGV access, nor lend themselves to being suitable to the feed business as they are mainly workshops with small offices. The applicant has also been asked what benefits this relocation would bring to the business already operating. They have said:

“The biggest benefit and the main reason for relocating is that the business has continually grown over the last 5 years and we are now at a situation where we need more room/space. Proportionate growth at Staunton will make the business a more efficient operation with a less dispersed array of sites to minimise unnecessary car journeys. There will be less vehicle movements internally by relocating from Bottesford. We want to invest in Newark and Sherwood and help in bringing prosperity and jobs to the District.”

The applicant also indicates that the other auxiliary stores around the country that they use would no longer be needed by the business which would reduce the amount of vehicle movements between these sites and this one.

Whilst this is all noted, the same statement could be true for alternative land available at Newark Industrial Estate which is where we would expect to see such growth which also has good (I would suggest better) site access from major transport links to the applicant’s other site at Claypole given it is just off the A1.

Midland Feeds Ltd is a company that produces animal feeds by blending and processing grains and cereals for cattle and sheep. It stores these on-site and delivers nationwide. While a rural setting seems appropriate for such a business, it is still important to be satisfied that this is the correct location for it and that the location is sufficiently justified compared with other locations which would be more consistent with the spatial strategy. The site is neither within the established Staunton Industrial Estate (in the sense that it is undeveloped land) nor adjacent to the existing Midland Feeds site and the impacts of the proposed development would be akin to a new business venture being established in the open countryside. As such I initially took the view that it was appropriate to undertake a sequential approach to site selection. The necessity of this location, and the unsuitability of alternative available land elsewhere will need to be understood (including but not necessarily limited to allocated employment sites).

In this regard the applicant has been asked why the business needs a rural location and how the existing unit and proposed site at Staunton interrelate together as it appears that both elements of the business could operate independently as they do currently on different sites. They initially responded as follows:

“A rural location is essential for the business for a number of reasons. We have customers coming in to collect (feed) in a variety of transportation, ranging from small trailers to large tractors and

trailers, as well as HGV lorries. We currently carry out all processing at the Claypole site (which is essentially an old farm, situated outside of Claypole village). To ensure the short, medium and long term viability of the business, expansion at Staunton is critical in order to store finished material and raw materials for blending. There is currently no plan to process at the new site, in order to keep it as "clean" as possible. However, there is a small amount of dust produced when for example we load a lorry (our feed is 90% dry) therefore being positioned on a 'urban' commercial site in a location with other operators where you have people coming for meetings (offices), dropping cars off for repair (i.e. you have a human interface within a reception area, etc) is simply unworkable."

Whilst it is understood that the variety of vehicles being able to collect the feed might be better suited to a rural location, it should be remembered that the office element of the scheme is exactly the type of urban commercial site that the applicant says would be unworkable. Notwithstanding my initial reservations regarding the need for a rural location the applicant maintains that the existing operational site is the best location to expand the business based upon its proximity (adjacent) to the existing business access, operational activity and to provide a natural sense of arrival to a 'business gate-house' office area. They maintain the units would be physically connected to one another by way of access and landownership and are clear that two planning units are not proposed and that the proposal would be ancillary to the existing business.

Based on this, I was not convinced that a rural location was necessary and previously considered that the applicant had not fully demonstrated a compelling need to be sited here as opposed to on the ample employment land we have allocated within the Development Plan; for example the Newark Industrial Estate which is close to the applicant's other site in Claypole and with arguably better transport links.

Further information has since been provided regarding the need for the location (emphasis added):

*"Midland Feeds Ltd has experienced business growth in the last 5 years and even throughout the pandemic, we have been extremely busy and under pressure to find more stores to accommodate the growth of our business. Existing jobs have been retained and we are wanting to create more jobs in the Newark and Sherwood District. It is an existing rural business in a rural location and would not operate in an urban or edge of urban location. Midlands Feeds needs to be in a rural location. They are a rural business....**Their associated business Pete Norris Ltd, produce cattle, using Midland Feeds. They run trials throughout the year to ensure they are producing the best and most effective feed possible. The cattle must be in a rural location. The customers that collect the feed from their site, often in tractors and trailers, also like to see cattle on site, so they can see the effectiveness of the product they are buying firsthand. The nature of the business is totally rural and there are no sites available in the local area that would be remotely suitable.**"*

The link between Midlands Feeds and Pete Norris Ltd was not previously advanced. My understanding is that the associated business is operated by a close family member and there are formal contracts between the two. Pete Norris Ltd has a holding at the Staunton site (to the south of the site) and currently has 150 cattle but can hold 450 at any one time. This being the situation, I accept that this supports the case that the business does indeed need a rural location.

Whether there would be a contribution to ongoing local employment

Turning now to employment. Policy DM8 requires schemes to demonstrate a contribution to providing or sustaining rural employment to meet local needs. The application form notes the proposal would have 16 full time and 2 part time employees. However the Planning Statement

submitted in support of this application makes clear in paragraph 2.4 that the staff would be existing employees currently based in other locations. As currently set out there would be modest, if any, benefits in terms of local employment although of course in the future it is possible that local residents could find work here and the scheme would at least 'sustain' employment (though notably a move to Newark Industrial Estate would equally).

Of course there would be benefits to the district from the inward investment and the overall aim of Core Policy 6 is to strengthen and broaden the economy of the District so in that regard the proposal would align with the Development Plan.

In terms of general sustainability the site is not well served by public transport. The business is clearly dependent on the use of motor vehicles, including lorries, by both staff and customers. 23 car parking spaces are proposed and it is inevitable that there will be some impact on the local road network. Paragraph 84 of NPPF states that 'planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist'.

The applicant has indicated that, if permission were granted, they would be willing to accept a condition restricting the use of the site to Midland Feeds Ltd, so the suitability of the site for other potential future users may be less of an issue than would otherwise be the case. Even so, it could be difficult to resist alternative future uses of comparable scale if the impacts were considered similar, as the principle of this type of development in this location would have been established. Equally, a further application to expand the business by building on the service yard I suspect would also be difficult to resist if this application were to be approved so long as further appropriate levels of parking could be provided.

Loss of agricultural land

The proposal is for brand new buildings in the field beyond the existing business in the open countryside. This is encroachment into good quality agricultural land. This is of relevance in that the final paragraph of Policy DM8 requires that where the loss of the most versatile areas of agricultural land is proposed, that a sequential approach to site selection is taken and implies that environmental or community benefits must outweigh this harm. The NPPF sets out at paragraph 170 that planning decisions should contribute to the natural and local environment by ' (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – *including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.*.' emphasis added.

Clearly agricultural land is an important natural resource and how it is used is vital to sustainable development. The Agricultural Land Classification system classifies land into 5 grades, with Grade 3 subdivided into sub-grades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a (as defined by the NPPF) and is the land which is most flexible, productive and efficient in

response to inputs and which can best deliver food and non-food crops for future generations. This is a method of assessing the quality of farmland to assist decision makers.

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

The applicant is not able to confirm whether the land is either 3a or 3b graded land. No soil analysis has been undertaken to understand the versatility of the soil albeit the agent notes that the land was restored by British Gypsum prior to their ownership.

Without the soil analysis to confirm either way, taking a precautionary approach one could assume the land is Grade 3a quality land. The loss of an additional 1.04ha of Grade 3 agricultural land would be a negative factor in the overall planning balance. However without knowing what proportion of other land within the district is 3a and 3b it is difficult to quantify its true impact and in reality it is questionable as to whether the land could or would be actively farmed commercially given it is within the confines of an established industrial estate. This is particularly the case given that the land was restored from its previous quarrying history and given its location adjacent to the industrial uses.

Landscape and Visual Impacts

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

A LCA has been prepared to inform the policy approach identified within Core Policy 13 of the Core Strategy. The LCA has recognised a series of Policy Zones across the five Landscape Character types represented across the District. The site falls within Policy Zone 10 (Alverton Village Farmlands) within the South Nottinghamshire Farmlands Regional Character Area. Here landform is predominantly flat with the landscape being in a mix of arable and pastoral farmland. The landscape condition is described as very good with its sensitivity described as moderate giving a policy action of 'conserve'. In terms of built features this means conserve what remains of the rural landscape by concentrating new development around existing settlements of Alverton, Kilvington and Staunton in the Vale.

The proposed grain store building is large in scale at 8.74m to ridge and with a large footprint of over 900m² with the office building being smaller in scale at 6.35m to ridge height and having a footprint of 238.90 m² (2571.49sq ft). These substantial buildings would be seen with industrial buildings as a backdrop albeit further forward towards the roadside on currently undeveloped rural land.

Current view towards the site from the main C3 highway



The proposal goes against the landscape actions and objectives (conserve) set out in the SPD and CP13 in that it does not limit development to around the settlements. It could be argued that this doesn't limit development to around the industrial unit. As existing the industrial estate is reasonably compacted in a linear arrangement to the west. This scheme would be notably separate being in the adjacent field over from the built development and would represent encroachment into the countryside,

which could set a precedent for the remainder of this field to be developed. I do acknowledge that the site is reasonably well screened from the road and the applicant has stated they could propose further landscaping to increase screening and improve biodiversity in the local area if required. This would go some way to mitigate the proposals but cannot completely mitigate the impacts from encroachment and in summary I conclude there would be a level of harm from encroachment in the landscape and it would be contrary to CP13, CP9 and DM5.

Highway Impacts

Together Spatial Policy 7 and Policy DM5 seek to ensure that new development minimises the need for travel, provide safe and convenient accesses for all, be appropriate for the network in terms of volume and nature of traffic generated, ensure the safety of highway users, provide appropriate and effective parking and service provision and ensure schemes do not create or exacerbate existing problems.

The site has access onto the C3 road which links Newark to the north with the A52 at Elton-on-the-Hill to the south. The proposal would utilise the existing access arrangements on site.

A Transport Statement (TS) was submitted with the original application which included an additional grain store. NCC raised a number of concerns and sought some clarification in terms of what is actually being applied for and whether there would be a retail element as the submission indicates customers visit the site. They raised concerns that the scheme was not considered sustainable as it would encourage the use of private motor vehicles. They raised concerns that the TS deducted the vehicle movements to the existing Bottesford site but they don't accept this as the existing site at Bottesford could continue to operate, either with the existing or a new occupier. Significant concerns were also raised with the data with the trip rates used and that the parking provision showed a shortfall of 40% and no customer parking.

In an attempt to address the concerns officers raised, amended plans have been received removing the triple grain store which takes the scheme to a development below which a Transport Statement needs to be provided. Further transport information has also been provided.

NCC Highways Authority remain unclear as to how the use should be categorised (B2 or B8) and consequently how many parking spaces ought to be provided. I take the view that the site would be

in a mixed use. I note that 13 staff are indicated as being within the office. The application previously clarified there would be no processing of feed on the site and I take the view that the grain stores therefore should be considered a B8 (storage and distribution) which require 8 spaces (together equating for 21 spaces). As 23 spaces are shown this appears to be satisfactory and NCC HA have commented that if we were to accept that the site would operate as B8 use the parking spaces would be adequate even if there were an element of retail use (the office plan shows a payment lobby where it is assumed customers would visit to collect their goods) and they would have no objection as there would be no overspill parking impact the highway. I consider that a condition to ensure the use of the site remains as advanced would be reasonable given the parking implications outlined.

NCC have previously stated they would require an acceptable routing agreement to be submitted and that it is unlikely that routing to the south, through the villages to the north of the A52 would be acceptable. This is a matter that can be controlled by condition.

Residential Amenity

Given the site's isolated location in the countryside, the nearest residential neighbours are some distance from the site, almost 700m away from the site. As such I have no concerns that the scheme would give rise to impacts such as overlooking, overlooking, loss of light etc. Concern has been expressed regarding general disturbance from noise and light pollution which it is said are already occurring from uses already operating closer to the objector in question. The concerns regarding light pollution from the Parish Meeting regarding light pollution are also noted. However I consider that in the event of an approval low level lighting could be secured by condition. I do not expect that noise from the proposal would be an issue here given the distances involved and as such it would comply with Policy CP9 and DM5 in this regard.

Drainage and Flood risk

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

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

The application has been accompanied by Flood Risk Assessment and Drainage Strategy to show how both surface water would be managed. This has been revised to address concerns raised by the Lead Local Flood Authority. In order to ensure flood risk is minimised the strategy makes a number of recommendations which could be secured by condition in the event of an approval. The LLFA as technical experts have now confirmed they have no objection to the scheme and therefore the scheme complies with the relevant policies in terms of drainage and flood risk.

Ecological Impacts

CP12 and DM7 seek to protect, promote and enhance the environment through site development proposals and requires developments affecting sites of regional or local importance, sites supporting priority habitats, priority species, or where they contribute to the ecological network, to be supported by an up to date ecological survey.

An ecological appraisal has been undertaken and submitted in support of the application. The scope of this appraisal relates to the application site and the wider agricultural field within which it lies.

This concludes that given the lack of direct access from the site to the nearest local wildlife sites (of which there are 3) there would be no negative impacts. Given the land is under intensive agricultural management there is low ecological value. No evidence on site was found of protected species likely to be found given the environment such as badgers, water voles, great crested newts and the habitat was not considered suitable for these. Plants that are food for some species of Section 41 butterfly species were found on site and would be lost to the development. However the ecologist considers that this would not be a significant impact.

The appraisal recommends the following in order to provide a new high-quality foraging opportunities for locally present bat and bird species, enhancing the overall ecological value of the site.

- New planting should incorporate native tree and shrub planting, including flower, fruit and nut bearing species.
- Any grassland areas should consider native seed mixes that maximise their benefit to biodiversity. Amenity areas could for example be seeded with a flowering lawn mix and managed appropriately achieving a tidy appearance whilst enhancing nectar sources for invertebrates. Overseeding with a species-rich native meadow mix should be considered for areas of retained grassland habitat.
- Inclusion of ecological enhancement features within the development such as bat, bird and invertebrate boxes on retained trees.
- A suitable lighting scheme implemented to reduce lighting to the minimum required for safety and security.

Having assessed the scheme against the Natural England Standing Advice and against the Development Plan, it appears to me that the scope and findings of the appraisal is fair, appropriate and in accordance with the development plan. The recommendations outlined above also appear appropriate and could be secured by planning condition.

Economic Factors

The applicant has been keen to impress that it is essential that this business is supported. They say that Midlands Feeds have been taking on bigger contracts of material, which is getting increasingly difficult to manage, and they have simply run out of room on a weekly basis. They take on all available auxiliary stores in the local area. Often those that are required are unavailable or those available are inadequate. They say that this application is about rural economic growth and productivity and refusing the application would severely hinder the business which wants to invest in its Newark & Sherwood site. They also state that they have taken on stores as far away as Sewstern (Melton area) which they say is not environmentally friendly, nor cost effective for the

business and too far away to maintain and manage our quality assurance checks. The extension they ask for is required as they have outgrown their existing offices and are unable to take on more staff or progress to the next level because of not being able to accommodate office staff. New contracts are being offered all the time and they require units for storage urgently.

They also comments that in recent weeks they have taken a contract from a flour mill for the over production of flour for human consumption for the use in their feeds and have had to accommodate 700 tonnes of material that wasn't particularly planned for but that will be extremely good feeding material for cattle and sheep. They comment that it has been very difficult to find storage for this amount of material at short notice which is often the case in their line of work. They also state that they are having to turn down contracts that require more staff because of their inability to expand. They also mention that they have a new staff member starting in the office who will take their last available seat with the director no longer having a seat and working remotely to free up space. Without more space they are unable to create more jobs.

Planning Balance and Conclusion

Development in the countryside is strictly controlled and requires careful scrutiny. Having assessed the scheme carefully, I have concluded that the scheme is not small-scale nor proportionate to the existing business which is seeking to expand. This is contrary to the Development Plan. Notwithstanding that, I accept that whilst the proposed expansion site is not directly adjacent to the existing site there would be some linkages between the two and following the submission of further information I am inclined to accept that the business would require a rural location given the linkage with the associated business which relies on cattle grazing which could not reasonably occur in an urban/industrial area. As such I am persuaded that the sequential approach to site selection is passed.

I am also mindful that the proposal would bring about inward investment to the District, bringing with it short term benefits to the construction industry and the local economy. It would sustain existing employees of the business through their relocation, though not in the first instance offer any new employment opportunities at the site once operational. It appears that that main benefit to the applicant is that they simply need more space to make it a more efficient operation. However longer term I accept there may be employment opportunities that arise as the business grows. I consider that the economic factors weigh in favour of the scheme.

Whilst the loss of grade 3 agricultural land could be a negative through a loss of a resource, its true impact is difficult to quantify given it is not known if this is 3a or 3b land and nor is it clear whether the land is likely to be in active agricultural use given its location adjacent to an industrial estate.

There would be some landscape harm arising from the encroachment into the open field adjacent to the industrial estate which, had it not been for the rural location requirement, could otherwise have set a precedent for similar forms of development which the LPA could find difficult to resist.

Following the submission of further information I am now satisfied that the parking provision is satisfactory and NCC Highways Authority raise no objection on highway safety grounds so this is neutral in the planning balance.

Whilst the scheme is contrary to the Development Plan (in terms of its size and proportionality), there are factors that are material planning considerations which are capable of overriding it in this instance. I have accepted that the site requires a rural location to get the best out of its proper

functioning and thus there are no better sites available than which is located close to its existing operation within our district. Some degree of landscape harm is inevitable in accepting the need for the development, a harm which I do not consider need be fatal to the scheme. The impacts of the development are acceptable in terms of highway impacts. The size and scale of the proposed business are indicative of the success of a rural business which on balance I consider should be supported particularly in the current (pandemic) climate and I give significant weight to the economic factors which have been advanced. I find that all of the factors have tipped the balance to an approval.

Recommendation

That planning permission is approved subject to the following conditions:

Conditions

01

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

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

02

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.

03

Prior to first occupation of the development hereby approved full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include

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

- proposed finished ground levels or contours;
- any means of enclosure;
- car parking layouts and materials and other hard surface materials; and
- other vehicle and pedestrian access and circulation areas.

Reason: In the interests of visual amenity and biodiversity.

04

The approved soft landscaping shall be completed during the first planting season following the first occupation of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use.

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

05

The development hereby approved shall be carried out in accordance with the details contained within the Flood Risk Assessment and Drainage Strategy dated 12 March 2021 by BSP Consulting.

Reason: In order to ensure that surface water on the development site is managed appropriately in accordance with the details submitted as part of this application.

06

No part of the development hereby permitted shall be brought into use until the parking areas shown on the drawing 'General Arrangement external works' reference 8952-CPMG-oo-ZZ-DR-A-7010 P02 are constructed in accordance with details agreed as part of Condition 3 of this permission and they are made available for parking. The provision parking shall be kept available for parking at all times and retained for the lifetime of the development.

Reason: To ensure that adequate parking provision is made available at the appropriate time in the interests of highway safety.

07

The development hereby approved shall not be brought into use until a routing plan relating to heavy goods vehicles associated with the use has been submitted to and approved in writing by the Local Planning Authority. Vehicles within the control of the applicant/occupier shall thereafter operate in accordance with the approved routing plan.

Reason: In order to limit the numbers of HGV's using the road network that are subject to the existing Environmental Weight Limit in the interests of highway safety.

08

No part of the development hereby approved shall be brought into use until an Ecological Enhancement Scheme has been submitted to and approved in writing by the Local Planning

Authority. This scheme shall build upon the recommendations set out in the Ecological Appraisal, by FPCR, dated December 2020 which formed part of the application and set out details of how this will be managed. The approved enhancement measures shall be implemented on site prior to first occupation or to an alternative timetable embedded within the scheme and shall thereafter be retained for the lifetime of the development.

Reason: In order to provide new high-quality foraging opportunities for locally present bat and bird species, enhancing the overall ecological value of the site in line with the requirements of the Development Plan, the NPPF and in line with the applicants own submission.

09

Prior to first occupation details of any external lighting to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution for nocturnal wildlife. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development.

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

010

The buildings hereby approved shall be used for offices and storage/distribution uses and for no other purpose, including any other use falling within class B1(a) and B8 of the Schedule to the Town and Country Planning (Use Classes Order) 1987 or the Town and Country Planning (General Permitted Development) (England) Order 2015, or in any provision equivalent to that Class or Order or in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: In the interests of ensuring appropriate levels of parking are provided pursuant with those uses in the interests of highway safety.

011

The development and use hereby permitted shall be occupied and carried out only by Pete Norris Ltd/Midland Feeds. When the premises cease to be occupied by the named applicant in this condition, the use hereby permitted shall cease and the buildings shall be removed and the site restored to its current condition.

Reason: In recognition of the special circumstances of the development, namely that the business is an expansion of an established business at the site that requires this rural location, without which the Local Planning Authority would not have been prepared to grant planning permission.

012

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

- General arrangement, feed store 2 plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2011 P02

- General Arrangement, office plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2012 P01
- General Arrangement external works, location plan, 8952-CPMG-oo-ZZ-DR-A-7001 P03
- General Arrangement external works, proposed site plan, 8952-CPMG-oo-ZZ-DR-A-7010 P02
- General arrangement drawings Plans and Elevations (weighbridge) drawing no. CPMG-00-ZZ-DR-A-2013 Rev P1

Reason: So as to define this permission.

Notes to Applicant

01

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accord 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 hereby approved as the development type proposed is zero rated in this location.

03

The proposed development is in a potentially Radon Affected Area*. These are parts of the country where a percentage of properties are estimated to be at or above the Radon Action Level of 200 becquerels per cubic metre (Bq/m³). Given the above it would be prudent for you to investigate if the proposed development will be affected by radon and incorporate any measures necessary into the construction to protect the health of the occupants. Further information is available on the council's website at: <http://www.newarksherwooddc.gov.uk/radon>

*based on indicative mapping produced by the Public Health England and British Geological Survey Nov 2007.

BACKGROUND PAPERS

Application case file.

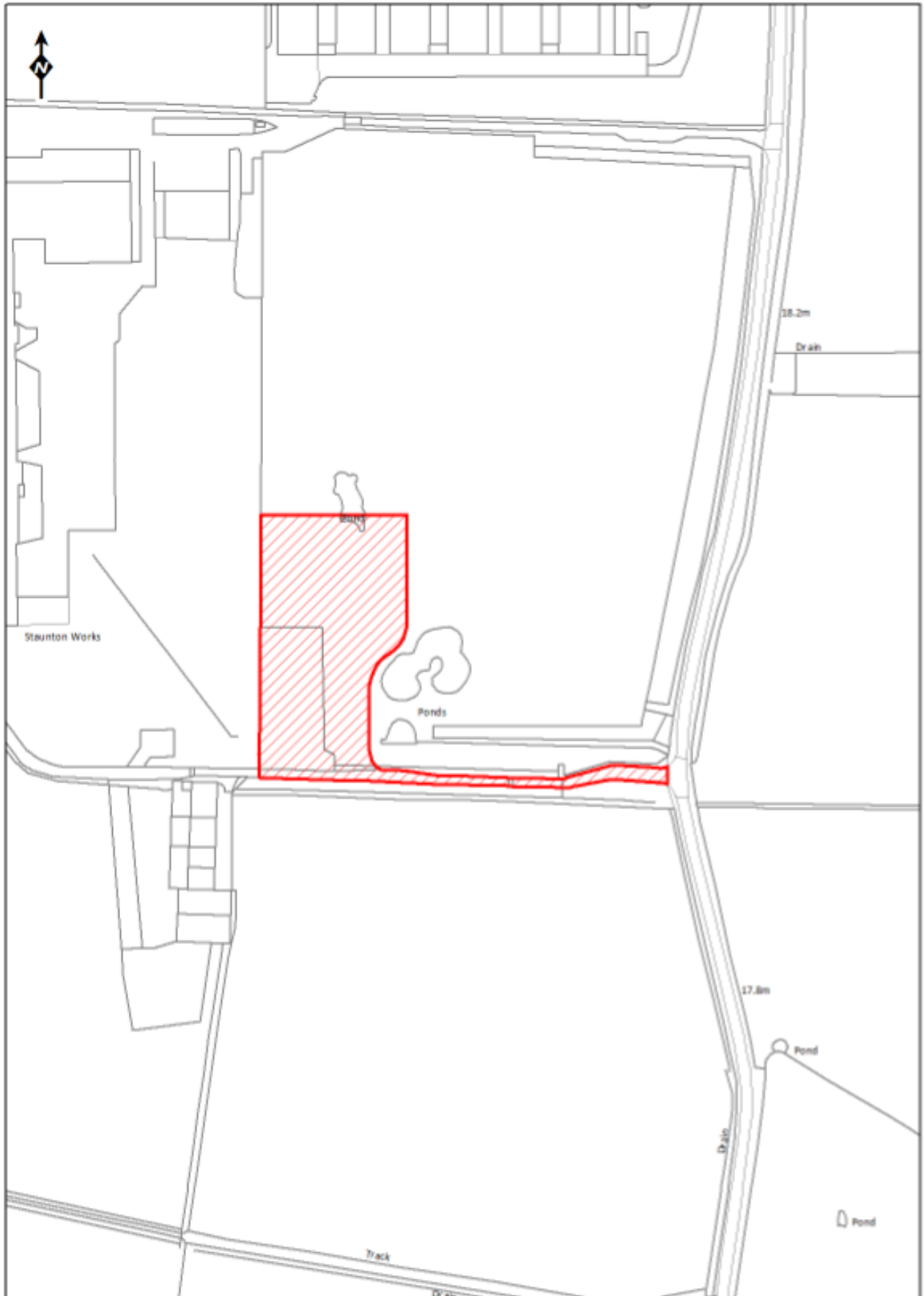
For further information, please contact Clare Walker on ext 5834.

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

Lisa Hughes

Business Manager – Planning Development

Committee Plan - 21/00295/FULM



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PLANNING COMMITTEE – 6 JULY 2021

Application No:	21/01081/PIP	
Proposal:	Application for Permission in Principle for Residential Development of Four (4) to Six (6) Dwellings	
Location:	Land to the Rear of No.39 Hawton Lane and to the West of Centenary Close, Balderton, Newark On Trent, NG24 3DH	
Applicant:	Mr & Mrs Roger And Tina Bevan	
Agent:	Mr Anthony Northcote	
Registered:	11.05.2021	Target Date: 15.06.2021 Extension Agreed To: 09.07.2021
Link To Application:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QSQRZYL80DL00	

In line with the Council's Scheme of Delegation, as the Parish Council's view is in objection to the proposal, which is contrary to the Officer recommendation, the local ward members, Cllr L Hurst and Cllr R White, have been notified. Cllr L Hurst has requested to call in this application to Planning Committee on the grounds that the amount of development sought in this application would be overintensive, result in backland development and impact on the amenity of existing residents contrary to CP3, CP9 and DM5 of the Development Plan.

The Site

The application site relates to an approx. 0.15Ha parcel of land to the south of 39 Hawton Lane, within a residential area of Balderton. To the north of the site lies the extended rear garden of the residential property 39 Hawton Lane, to the east is Centenary Close where access to this site would be taken in front of no.51 via the existing turning head. No. 37 to 43 Centenary Close back onto the eastern boundary of the site and the side boundary of no. 51 abuts the eastern boundary at the southern side. A collection of trees subject to a Tree Preservation Order (TPO) lie directly adjacent to the NE corner of the site. A block of flats (no. 1-16 South View on Vessey Close) lie to the south and no. 65-75 Stafford Avenue lie to the west. The site lies within the urban boundary of Newark as defined on the Policy Map. There are a number of trees also within the site which is bound by a mixture of boundary treatments such as close boarded fences, chain link fencing and hedgerows.

Relevant Planning History

03890449 - Residential Development – Permitted 14.11.1989

Site to the north: 92/50035/OUT - Single Storey Dwelling – Refused 19.02.1993

Centenary Close: As set out in the Planning Statement accompanying this application Centenary Close originally obtained outline planning permission for residential development under 03890337. This is usefully summarised in the extract from the Planning Committee report from July 1994:

Application Ref 3890337

The site of the current application was granted outline planning permission for residential development previously under Ref. 03890337 (now expired). One of the conditions of this former approval required provision for (an) access road(s) up to the western boundary (except for a possible "ransom strip") that could physically allow for the land adjacent also being served via this site. In addition an explicit constraint identified a possible restriction in siting any property within 12 metres of the western boundary (so as not to jeopardise a future proposal on land adjacent to the west).

92/50034/OUT - Residential Development – Permitted 17.02.1993

94/50056/RMA - Erect 26 no. Dwellings Including 2 No. Single Storey Dwellings With Garages (Where Shown) Together With Associated Roads And Sewers (As Amended) – Permitted 14.10.1994

The Proposal

The application seeks Permission in Principle (the first of a 2 stage process) for four to six dwellings on the site. No specific details are required at this stage. Permission in Principle requires only the location, the land use, and the amount of development to be assessed. If residential development is proposed, the description must specify the minimum and maximum number of dwellings proposed.

It is the second stage of the process, Technical Details Consent, which assesses the details of the proposal. This must be submitted within 3 years of the Permission in Principle decision (if approved).

Submitted Documents

- Site Location Plan
- Planning Statement

Departure/Public Advertisement Procedure

Occupiers of 36 properties have been individually notified by letter. A site notice has also been displayed near to the site.

Earliest decision date: 14.06.2021

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 3 – Housing Mix, Type and Density

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

Consultations

Balderton Parish Council – Object – “Members consider that the layout as proposed is over intensive use of the land and the dwellings would have a detrimental impact on neighbouring properties located on Centenary Close”

NCC Highways – “The site is proposed to be served off Centenary Close, which is a 5.5m wide carriage way with 2.0m wide footpaths on both sides, which is suitable for provision of further development.

From the details submitted, it is our concern that the access may not be possible to be achieved as the land shown in red may not fully be in the applicant’s control. The land proposed for the access should be in the applicant’s ownership or have the landowner’s permission to create access over their land. At present, it seems that the land that the applicant wants to use as an access route to the site may be in the ownership of no. 51 Centenary Close and possibly partially of 49 Centenary Close. If the applicant is the landowner of these properties, or indeed the landowner(s) of no. 49/51 Centenary Close will be party to future application, these properties should be included within the blue line plan. We will also request details at later stage to provide the proof of land ownerships and any agreements and/or deeds that would allow for this road connection to be made.

Please note that the Highway Design Guide allows for only 5 no. dwellings off a shared private driveway. Therefore, if the applicant wishes to build 6 dwellings, the proposed road will be required to be designed to adoptable standards for residential access way. Further information can be found in Nottinghamshire Highway Design Guide available online on <https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide>

The proposal would be conceptually acceptable from highways perspective; however, it is difficult to highlight any highway concerns and agree a scheme in principle considering the limited information and detail submitted for the purpose of this consultation.”

Comments have been received from 2 interested parties that can be summarised as follows:

- The access from Centenary Close is in front of 49 and 51 Centenary Close and belongs to 51 Centenary Close as part of their private Driveway. Turning this into an access road for the properties to be built would mean no border between the proposed road and the private land bordering it.
- There would be increased traffic flow to an already busy road which could become a further safety hazard to the young children playing outside.
- Land in the ‘red zone’ already has excessive on road parking issues.
- Centenary Close is a mixture of young and older residents and increased traffic flow will

- create a significant threat to residents safety
- Land in the 'blue zone' is not mentioned in the application, which is currently accessed from Hawton Lane, is this to become an extension to the 'red zone' in future applications?

Comments of the Business Manager

Principle of Development

The application seeks 'Permission in Principle' for the residential development of four to six dwellings on land to the south of 39 Hawton Lane and to the west of Centenary Close in Balderton, Newark. This type of application requires only the principle of the proposal to be assessed against the Council's Development Plan and the NPPF. The 'principle' of the proposal is limited to location, land use and the amount of development only. Issues relevant to these 'in principle' matters should be considered at the permission in principle stage. Any other details regarding the development are assessed at the second stage of the process under a 'Technical Details Consent' application which must be submitted within 3 years of the Permission in Principle decision if approved.

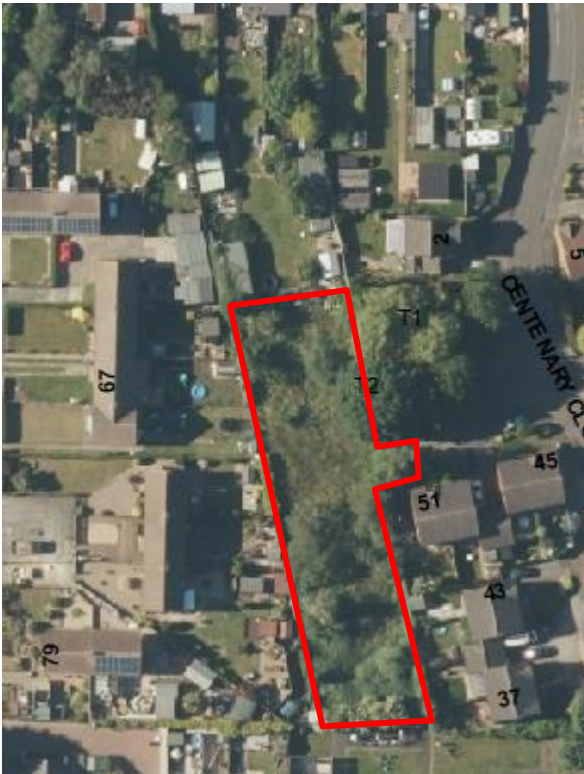
Location and Land Use

The site lies within the defined urban boundary of Newark, a 'Service Centre' as defined by the Core Strategy settlement hierarchy where the principle of residential development is acceptable subject to site specific impacts. Under Core Strategy Policies SP1 and SP2 the principle of residential development within the urban boundary of Newark is supported. Identified within the settlement hierarchy as the Sub-Regional Centre, Newark is regarded as a highly sustainable location for development. In principle therefore, housing development could be appropriate subject to other considerations which I shall discuss below.

Amount of Development

The application is for four to six dwellings. The site is approximately 0.15Ha (20m wide and 70 m long). It is not yet clarified if the proposal would consist of four or six dwellings on the site nor, if six are proposed, whether these would all be detached dwellings. Again, this would be submitted at the Technical Details Consent stage. Planning Practice Guidance offers limited advice on how to assess the relevant factors of an application for PIP but the intention for these applications is to establish the principle of development within a range to provide flexibility, with more detailed matters such as the exact quantum and house type reserved for the technical details stage. On this basis, and having looked at examples for guidance, it could be argued that simply assessing the amount of development as if it were the maximum proposed/worst case scenario (six separate detached dwellings) pre-determines matters that are specifically reserved for the Technical Details Consent Stage and overlooks the purpose of setting a minimum and maximum range. On this basis I therefore consider the most appropriate assessment to be whether the range sought, which in this case is 4 to 6 dwellings, could be accommodated on the site in principle in any potential form, layout or size.

Core Policy 3 of the Core Strategy sets a minimum density of 30 dwellings per hectare for unallocated sites – in this case, six dwellings would give a density of c. 40.7 dwellings per hectare and four dwellings 27.2 which would more or less align with the requirements of CP3. Similarly the proposed density would accord with the existing urban grain on Centenary Close (estimated density of c. 39.7dph based on the supporting statement).



2016 Aerial Image of the Site

The width of the plots along Hawton Lane vary, however given the location of this Site I am mindful that any development here would not be read in the same context as properties on Hawton Road, nor would the proposal have any immediate visible effects on this streetscene given the site positioning. The development would more likely be read in the context of existing development on Centenary Close – this is characterized by a mix of semi-detached and terraced housing with some detached properties. On Centenary Close properties have small-medium size residential curtilages and are orientated around the close itself. Properties to the north on Hawton Lane are typically detached and semi-detached with medium size curtilages and to the west on Stafford Avenue are terraced with longer rear gardens.

In this case, I am conscious that six detached dwellings would not be characteristic of the surrounding house types and given the size of the site, would likely have quite small residential curtilages in comparison to existing properties and could give rise to other adverse impacts. However, I am also mindful that the actual scale and position of the dwellings, their design, impact on amenity and the character of the area would be assessed at the Technical Details Consent stage.

Overall, having regard to the general density of development within the locality I consider the amount of development proposed would be within an acceptable range. However, consideration will need to be given at technical details stage as to the appropriate design and layout for the site and whether this would enable the site to be developed for 4 or 6 dwellings.

Matters for Technical Details Consent Stage

The Technical Details Consent application is required to be submitted within three years of the decision date. Policy DM5 of the DPD sets out the criteria for which all new development should be assessed against. This includes but is not limited to safe and inclusive access, parking provision, impact on amenity, local distinctiveness and character, biodiversity and green infrastructure.

The technical details consent application would need to carefully consider these criteria which I set out below with useful commentary.

Impact on Visual Amenity and the Character of the Area

Core Policy 9 seeks to achieve a high standard of sustainable design which is appropriate in its form and scale to its context, complementing the existing built and landscape environment. Policy DM5 of the DPD sets out the criteria by which all new development should be assessed. It includes (but is not limited to): safe and inclusive access; parking provision; impact on amenity; local distinctiveness and character; and flood risk.

In relation to the character of the area it states, 'the rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.' In addition, paragraph 127 of the NPPF states inter-alia that developments should be sympathetic to character and history including the surrounding built environment; and should establish or maintain a strong sense of place.

The site is located to the west of the turning head on Centenary Close. Development in the vicinity is generally medium-high density for the area giving it a clear residential appearance. Given the context of the site I am mindful that six detached dwellings (which would be the worst case scenario given the range sought) would result in much smaller plots and a house type that would be less characteristic of existing properties in the vicinity. However, the area is typically residential and I consider a scheme could be developed so as not to adversely impact the character of the area. I am however mindful that green space outside of the application site contributes positively to the streetscene and Centenary Close development, there are also trees within the application site which are positive features (albeit have reduced visual amenity given their location within an enclosed site separated from the public realm). The design of any future proposal should be of a high quality and should reflect the character of the area regardless of whether the design is contemporary or traditional. Aspects to consider are the scale, materials, window styles, orientation and built form, plot width and position within the site and retention and reinforcement of existing features (such as trees), to accord with the policies set out above.

Impact on Residential Amenity

Policy DM5 states that 'The layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.' New housing developments should ensure a layout and design that provides high standards of privacy and outlook for both existing and proposed residents. Proposals should avoid the following in order to encourage high levels of amenity and privacy:

- Siting new dwellings close to existing properties such that overlooking of existing windows and gardens occurs, significantly reducing existing levels of amenity.
- Significant overbearing impacts on existing properties and their private amenity space.

The application site is encircled by existing residential dwellings and their curtilages. The land is approx. 20m wide x 70 m long. To the north, properties on Hawton Lane (two storey) are approx. 45 m from the northern boundary of the site, to the east the closest properties on Centenary Close (two storey) are between approx. 4-8m from the eastern boundary of the site. To the south, properties on Vessey Close (three storey) are approx. 14 m from the southern site boundary and to the west, properties on Stafford Avenue (two storey) are between approx. 15-20m away from the western boundary. Whether the proposed development could be accommodated on this site without resulting in any adverse impact on the amenity of existing residential properties would require very careful consideration and I am conscious that given the aforementioned distances that it could be difficult to achieve six two storey detached dwellings on this site in a suitable arrangement.

Whilst there is no policy within the Development Plan that sets out appropriate separation distances, the following dimensions and advice given are considered as guidelines to ensuring appropriate standards of amenity for future and existing occupiers. I would advise that the minimum back to back distance between habitable rooms (for existing and proposed dwellings) should be 21m, where dwellings are of the same number of storeys. Where there is a relationship

with three storey built form this distance should be increased to 24m. Proposed walls without habitable windows such as blank gable side elevations opposing habitable principle elevations should be a minimum of 15-18m. Consideration needs to be given to overlooking impacts into both habitable rooms and external amenity spaces in addition to how any new dwelling would impact existing properties and how they in turn would impact the new dwellings. Consideration also needs to be given to overbearing or overshadowing impacts on both dwellings and their amenity space to as not to adversely effect any existing or future occupiers.

In terms of amenity space the site appears to be large enough to accommodate 6 dwellings with off street parking and gardens. However the scale and positioning of the dwellings should be carefully considered to avoid any adverse impact on existing and future occupiers

Access and Highways Safety

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities. I note the comments received from local residents regarding traffic increase and highways safety, however matters relating to access and highways impact is reserved for consideration at the technical details consent.

The Highway Authority have provided comments on this application which can be found in the consultation section above - any forthcoming application would need to consider these comments in full in addition to the requirements of the Nottinghamshire Highways Design guide and NSDCs adopted Parking Standards SPD when considering a proposed layout and parking provision.

Careful consideration to the above comments and the comments of the Highways Authority would need to be undertaken at technical details stage in order to accord with policy DM5 and SP7.

Ecology and Trees

Policy DM7 seeks to protect, promote and enhance green infrastructure whilst Core Policy 12 aims to conserve and enhance the biodiversity and geological diversity of the District. The proposal is likely to include the removal of some trees. A tree survey would be required to ensure no adverse impact of trees/ecological impacts would arise from the development of the site. Landscaping and green infrastructure should also be incorporated into the proposal in line with Policy DM7.

Other matters

I note comments have been received from an interested party that queries the 'red and blue zones' on the submitted plan. The red outline demarcates the extent of the Site within which this development is proposed and the blue outline is land also within the applicant's ownership. This application does not relate to the land within the blue outline and any future proposal for development within it would be considered on its own merits at the time of submission.

I also note the comments of Balderton Parish Council which state that they consider the "layout as proposed is over intensive use of the land and the dwellings would have a detrimental impact on neighbouring properties located on Centenary Close". However I would highlight that no proposed layout plan has been submitted with this application and that matters relating to neighbour amenity impact etc. are matters for consideration at the Technical Details Consent stage.

Conclusion

To conclude, I consider the location to be sustainable and accessible for residential use and the proposed amount of development to be appropriate for the size and context of the site in principle.

With the above in mind I consider the principle of the proposed development to be acceptable and recommend that Permission in Principle is granted.

It should be noted that conditions cannot be attached to a Permission in Principle. Conditions would be attached to the Technical Details Consent. The Permission in Principle and the Technical Details Consent together form the full permission. No development can commence until both have been approved.

Technical Consent Submission Requirements

- Completed Technical Details Consent Application Form
- Site Location Plan
- Proposed Site Plan (including details of access, boundary treatments and landscaping)
- Proposed Plans and Elevations
- Tree Survey

RECOMMENDATION

That Permission in Principle is approved.

Unconditional

Notes to Applicant

01

The Technical Details Consent application is required to be submitted within three years of the decision date. The Council's up to date Development Plan Policy sets out the criteria for which all new development should be assessed against. This includes but is not limited to safe and inclusive access, parking provision, drainage, impact on amenity, local distinctiveness and character and biodiversity and green infrastructure. The technical details consent application would need to carefully consider these criteria.

BACKGROUND PAPERS

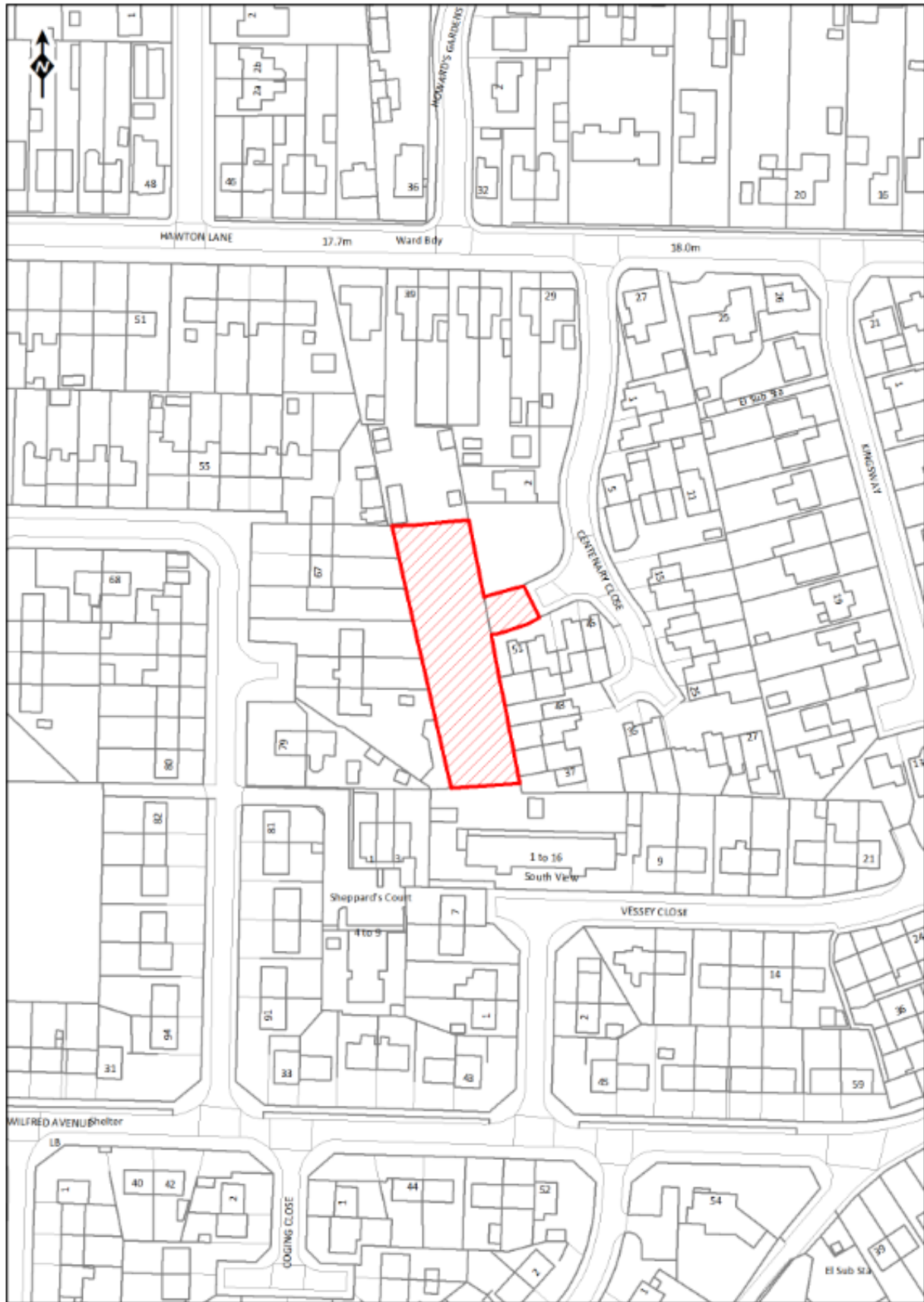
Application case file.

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 - 21/01081/PIP



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PLANNING COMMITTEE – 6 JULY 2021

Application No:	21/01283/HOUSE	
Proposal:	Proposed two storey side extension and alterations to existing front entrance porch.	
Location:	1 Beacon Hill Road, Newark on Trent, NG24 1NT	
Applicant:	Clare Walker	
Agent:	Lamar Excell Design Ltd- Mr Timothy Nutter	
Registered:	9 June 2021	Target Date: 4 August 2021
Link To Application:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QU6ER8LBFWP00	

In line with the Constitution the application is referred to members of the Planning Committee for determination as the applicant is an officer of the Council.

The Site

The application site comprises of a two storey detached dwelling within the defined Newark Urban Area. The dwelling is set back from the highway by approximately 16 metres, allowing for off road parking, it also benefits from modest front and rear garden areas. The site is adjoined by residential garages to the east and north with other residential properties beyond. The Grade II Listed '21 Friary Road' is located to the site's western boundary and the Newark Conservation Area is located to the south.

Relevant Planning History

21/00936/HPRIOR- Householder prior approval for single storey rear extension. The length that the extension extends beyond the rear wall of the original house: 6.38 metres Eaves height of the extension: 2.4 metres Maximum height of the extension: 3 metres. Prior Approval Not Required- Approved by Planning Committee 1 June 2021.

The Proposal

The application seeks permission to erect a two storey side extension off the eastern elevation. Alterations to the existing front porch are also proposed. The plans also show the single storey extension approved by Committee last month.

Approximate dimensions of the two storey extension are as follows; 7.4 metres in length, 4.4 metres in width, 4.7 metres to the eaves and 6.6 metres in total height.

Submitted Documents (Proposed)

The application has been submitted with the following documents:

- Site Location Plan 4 rev A- received 4 June 2021;
- Proposed Block Plan 5- received 4 June 2021;
- Proposed Plans and Elevations 3 Rev A- received 4 June 2021;
- Support information- Heritage Impact Statement and Tree information received 9 June 2021.

Departure/Public Advertisement Procedure

Occupiers of 9 properties have been individually notified by letter. A site notice has been displayed (10/6/21) nearby to the site and a notice has been placed in the local newspaper.

Earliest decision date- 8th July 2021

Planning Policy Framework

The Development Plan

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

Core Policy 9 -Sustainable Design

Core Policy 14 – Historic Environment

Allocations & Development Management DPD

DM6 – Householder Development

DM9 – Protecting and Enhancing the Historic Environment

DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2019

Planning Practice Guidance

Householder Development SPD Adopted 2014

Sections 66 and 72 of the Town and Country Planning (Listed Buildings & Conservation Areas) Act 1990.

Consultations

Tree Officer: The protection would be pertinent to trees/hedges to front/rear and possibly any adjacent that might be unduly affected by construction activity or materials storage. Landscaping would be mitigation for the proposed loss of 3 trees. Suggests 5 conditions.

Historic England: On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

Newark Town Council: No representations received to date.

NSDC Conservation Officer: Conservation has no objection to the proposed development.

Principle of Development

Policy DM12 of the DPD states 'A positive approach to considering development proposals will be taken that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The Development Plan is the statutory starting point for decision making. Planning applications that accord with the policies in the Development Plan for Newark and Sherwood (including, where relevant, policies in Neighbourhood Development Plans) will be approved without delay, unless material considerations indicate otherwise.'

Policy DM6 of the DPD states that planning permission will be granted for the alteration and extension of dwellings provided that the development meets a number of criteria regarding access, impact on amenities of neighbouring users, layout and separation distances, the design and the character of the area.

With the above in mind the proposal is acceptable in principle subject to a site specific assessment, this is carried out in the following report.

Impact on Visual Amenity

Core Policy 9 seeks to achieve a high standard of sustainable design which is appropriate in its form and scale to its context, complementing the existing built and landscape environment.

Policy DM6 states that proposals should respect the design, materials and detailing of the host dwelling. The Householder Development SPD reflects this policy; paragraph 7.23 highlights the importance of the choice of external materials for householder developments and states that materials which are unsympathetic to the host dwelling will detrimentally affect the appearance of the property and potentially local distinctiveness.

The proposal is for a two storey side extension as well as alterations to an existing porch area to the front.

The host property is two storey in scale and is set back into the site by approximately 16 metres, its set back position means that it is not read in line with other properties along Beacon Hill Road. The two storey side extension does not necessarily follow the guidance within the SPD for Householder Development, which advises that side extensions ideally should be set down from the main ridge of the host dwelling whilst also being stepped at the front and rear, however, given that the property is detached and sits within a large plot I am satisfied there will be no harm to the wider area nor will there be a negative impact on the character and appearance of the host dwelling.

The alterations to the existing front porch consist of a new front door, with vertical cladding to the front gable end. These alterations are purely aesthetic with no increase in the footprint of this area. There are no concerns arising from these alterations which respect the host dwellings appearance.

Proposed materials to be used in the extension will match those used in the existing dwelling, this is considered acceptable.

To conclude, I consider that the proposal will have no harmful visual impact on the wider area and therefore meets the aims of the policies within the Development Plan.

Impact on Conservation Area and Listed Building

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

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Sections 16 and 66 require the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess.

Whilst the site is not located within the defined map of the Newark Conservation Area, the site's southern boundary, adjacent to the highway abuts the edge of the Conservation Area. The Grade II Listed 21 Friary Road is also located adjacent to the west.

The proposals, being of a minor scale would not make the dwelling any more prominent or visible within the Conservation Area than it is as existing. The proposed extension, being located off the east elevation, would not materially alter the site's relationship with the neighbouring Listed Building (21 Friary Road). It is noted that the Conservation Officer has no objections to the proposals. It is considered that the proposal would cause no harm to the setting of the nearby Listed Building nor would it harm the character or appearance of the Conservation Area.

Impact on Residential Amenity

Policy DM6 accepts extensions to dwellings provided that there is no adverse impact on the amenities of neighbouring users including loss of privacy, loss of light and overbearing impact, and that the host dwelling retains a reasonable amount of amenity space relative to its size.

Residential garages which serve properties along Wellington Road are located to the site's northern and eastern boundaries with residential properties beyond this at a distance of approximately 12 and 17 metres away respectively. As previously stated 21 Friary Road is located adjacent to the site's western boundary.

There will be no new proposed windows in the side (east) elevation of the extension, there is a new first floor window in the rear (north) elevation, however, first floor openings already exist in this elevation and as such I do not consider that the addition of this window will cause harm in terms of overlooking. Given the large separation distances to neighbouring dwellings there are no concerns in terms of overbearing or overshadowing impacts.

In terms of amenity for the occupiers of the application dwelling, the garden area would still be of an adequate size. As such, I do not feel there would be any negative impact for the host dwelling.

Considering the above, I do not feel that the proposal would have an unacceptable impact on neighbouring amenity in terms of loss of light, loss of privacy, or overbearing impact and therefore the proposal accords to Policy DM6, the Householder Development SPD and the NPPF.

Trees

There are three trees within the vicinity of the proposed side extension. One of the trees is dead and another is in a poor condition, these would need to be removed to accommodate the extension. There is another tree located further to the east and close to the site's boundary, the application states that the applicant would prefer to retain this tree if possible.

There are other mature trees located to the front of the site which provide screening and are located over 15 metres away from the extension.

It is noted that the site is not within the Conservation Area nor are any of these three trees protected by a Tree Preservation Order (TPO) and as such approval from the Local Planning Authority for the removal of these trees would not be required, and they could be removed at any time. The Tree Officer has not stated that any of these trees would be worthy of protection through a TPO nor is there an objection to their removal.

To mitigate the loss of these trees the Tree Officer has recommended conditions in the event that permission is granted. It has been recommended that a landscaping scheme should be provided as well as an arboricultural method statement.

However, considering that the two trees to be removed are dead/dying, and, as previously stated, permission from the Local Planning Authority to remove any of the three identified would not be required, I do not consider it necessary or reasonable to request an arboricultural statement or a landscaping scheme in this instance. However, to try and ensure retained trees are protected as far as possible, a condition requiring materials to be stored on the existing hard surface is reasonable, as opposed to the potential of them being stored within a tree's root protection area.

Conclusion

To summarise, I do not consider that the design would be detrimental to the character of the area nor the host dwelling, and that it would not unduly impact upon neighbouring residential amenity. It is also considered that the proposal will preserve the setting of the nearby Listed Building and would not harm the character and appearance of the Newark Conservation Area. The proposals therefore accord to the policies contained within the Amended Core Strategy and the ADM DPD as well as the statutory duties contained within the Town and Country Planning (Listed Buildings & Conservation Areas) Act 1990. It is recommended that planning permission is approved.

RECOMMENDATION

That planning permission is approved subject to:

- **No new material considerations arising prior to the expiry of the consultation period (8th July 2021) Should any new arise within the intervening period, then the application may be referred back to the Committee for further consideration.**
- **Otherwise subject to the conditions below:**

Conditions

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

During the construction phase all building materials shall only be stored on the existing hardstanding areas within the site.

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

03

The development hereby permitted shall not be carried out except in accordance with the following approved plans/submitted documents:

- Site Location Plan 4 rev A- received 4 June 2021;
- Proposed Block Plan 5 - received 4 June 2021;
- Proposed Plans and Elevations 3 rev A- received 4 June 2021;
- Support information- Heritage Impact Statement and Tree information received 9 June 2021.

Reason: So as to define this permission.

04

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.

Notes to Applicant

01

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

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

02

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).

BACKGROUND PAPERS

Application case file.

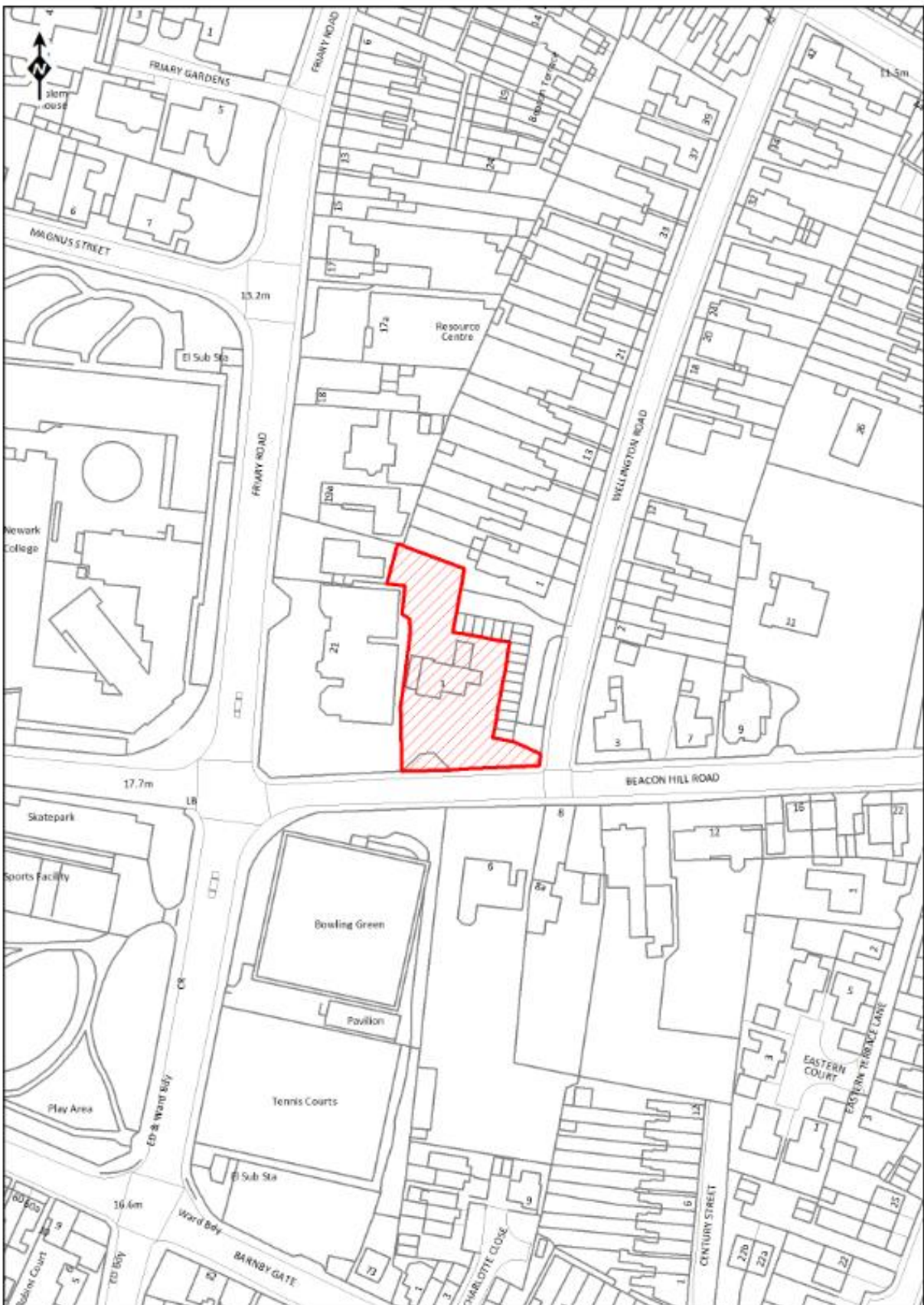
For further information, please contact Danielle Peck on ext 5314

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 - 21/01283/HOUSE



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Planning Committee – 6 JULY 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 14 May 2021 and 21 June 2021).

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/D/21/327167 4	20/02553/HOUSE	Vicarage Cottage High Street Laxton Newark On Trent NG22 0NX	Construction of first floor to outbuilding to form home office	Fast Track Appeal	Refusal of a planning application
APP/B3030/D/21/327277 2	20/02207/HOUSE	Jaleno Church Lane Eakring NG22 0DH	Relocate the vehicular entrance to the opposite side of the drive. Conversion of garage to storage area and a WC / shower room, and single storey front porch extension with carport. Single storey rear extension. Re-render the rear gable elevation.	Fast Track Appeal	Refusal of a planning application
APP/B3030/D/21/327415 9	20/02239/HOUSE	5 Lambley Road Lowdham NG14 7AZ	Demolish existing single storey side extension and construct two storey and part single storey side and rear extension	Fast Track Appeal	Refusal of a planning application

APP/B3030/C/21/327136 1	20/00411/ENFC	2 Rose Cottage Newark Road Caunton Newark On Trent NG23 6AE	Without planning permission, the erection of an open-sided outbuilding (referred to as a pergola) forward of the principal elevation	Written Representation	Service of Enforcement Notice
APP/B3030/W/21/32733 80	21/00138/FUL	Hillsborough House Boat Lane Hoveringham NG14 7JP	Erection of a new dwelling	Written Representation	Refusal of a planning application
APP/B3030/C/21/327410 0	21/00018/ENFB	6 Windsor Road Newark On Trent NG24 4HS	Appeal against Enforcement Notice - Development not in accordance with plans attached to planning permission 20/00655/FUL	Written Representation	Service of Enforcement Notice
APP/B3030/W/21/32745 28	20/01936/FUL	The Paddocks Halloughton NG25 0QP	Erect New Self Build Dwelling in side garden of Existing Property	Written Representation	Refusal of a planning application
APP/B3030/W/21/32745 62	21/00066/FUL	200 Norwood Gardens Southwell NG25 0DS	Demolition of Existing Detached Garage and Erection of a Two Bedroom Bungalow	Written Representation	Refusal of a planning application

APP/B3030/W/21/32746 99	20/01582/FUL	Willow Bend 68 Station Road Collingham NG23 7RA	Construction of new dormer bungalow with a new detached double garage and a new detached double garage for Willow Bend, existing garage and timber outbuildings to be removed.	Written Representation	Refusal of a planning application
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PLANNING COMMITTEE – 6 JULY 2021

Appendix B: Appeals Determined (between 14 May 2021 and 21 June 2021)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
19/00332/TPO	31 Centenary Close Balderton Newark On Trent NG24 3FE	2 No. Silver Birch Trees Identified as Part of Group 1 of Tree Preservation Order 'Land to the Rear of 27-31 Hawton Lane Balderton Tree Preservation Order 1994 (TPO N243) - Overall crown reduction to both trees including: Reduction in height to match ridge height of No. 31; Crown lifting to a height of 3m; and Crown reduction by shortening the crown spread of each tree by around 1.5m in all directions to re-shape the tree	Delegated Officer	Not applicable	Appeal Dismissed	7th June 2021
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	Planning Committee	Committee Overturn	Appeal Allowed	21st June 2021
19/00854/OUTM	Flowserve Pump Division Hawton Lane Balderton NG24 3BU	Outline application with all matters reserved except access for up to 322-unit residential development on land at Flowserve premises, Hawton Lane, Balderton, Newark	Planning Committee	Committee Overturn	Appeal Allowed	17th June 2021
20/00373/FUL	Victoria Cottage Station Road Lowdham Nottinghamshire NG14 7DU	Proposed re-use (incorporating refurbishment, remodelling, partial demolition and first floor extensions) of former residential care home to 9no. apartments	Delegated Officer	Not applicable	Appeal Dismissed	28th May 2021

20/01874/FUL	The Haven Newark Road Ollerton NG22 0EH	Siting of a park home	Delegated Officer	Not applicable	Appeal Dismissed	8th June 2021
20/01776/OUT	Land To The Rear Of Corner Farm Fiskerton Road Rolleston NG23 5SH	Erection of a proposed bungalow and associated access arrangements.	Delegated Officer	Not applicable	Appeal Dismissed	24th May 2021
20/02349/HOUSE	20 Churchfield Drive Rainworth NG21 0BJ	Erection of a detached double garage after demolition of the existing semi-detached outbuilding and timber shed (re-submission of 20/01847/HOUSE).	Delegated Officer	Not applicable	Appeal Dismissed	8th June 2021
20/00109/ENF	15 Hickman Grove Collingham Newark On Trent NG23 7QU	Without planning permission, the material change of use of open countryside land to residential use (C3), with facilitating operational development including, but not limited to, the erection of a terraced steps and platform/decking, and the regrading of the land	Not Applicable	Not Applicable	Appeal Allowed	14th June 2021
20/00336/ENFC	7 Ransome Close Newark On Trent NG24 2LQ	Appeal against Enforcement Notice - Alleged unauthorised fence	Not Applicable	Not Applicable	Appeal Dismissed	20th May 2021
20/00336/ENFC	7 Ransome Close Newark On Trent NG24 2LQ	Appeal against Enforcement Notice - Alleged unauthorised fence	Not Applicable	Not Applicable	Appeal Dismissed	20th May 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 0136 650000 or email planning@nsdc.info quoting the relevant application number.

Lisa Hughes
Business Manager – Planning Development



Appeal Decision

Site visit made on 5 May 2021

by **B.S.Rogers BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/B3030/C/21/3268786

Land to the rear of 15 Hickman Grove, Collingham, NG23 7QU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Simon Chapman against an enforcement notice issued by Newark & Sherwood District Council.
 - The enforcement notice was issued on 14 January 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of open countryside land to residential use (C3), with facilitating operational development including, but not limited to, the erection of a terraced steps and platform/decking, and the regrading of the land, as shown in Figures 1 and 2.
 - The requirements of the notice are A. Dismantle and remove the terraced steps and platform and all above-ground visible component parts (railings, decking, timber boarding and pillars/legs) – indicated on Figure 1 and Figure 2 – from the Land; B. return the Land to its condition before the development took place; and C. cease using the land for residential purposes, including the removal of all planting of a domestic nature, in order to achieve a visual finish similar to that of the neighbouring bank to the north and south of the Land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (d), (f) & (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. It is directed that the enforcement notice be corrected by:-
 - i. replacing the breach of planning control with "Without planning permission, the erection of a platform/decking for domestic use and the regrading of the land, as shown in Figures 1 and 2."; and
 - ii. replacing "ten" with "four" in the first reason for issuing the notice.

Subject to these corrections, the appeal is allowed and the enforcement notice is quashed.

Background

2. No.15 Hickman Grove forms part of a recent housing development, built pursuant to the grant of planning permission in July 2014 (ref: 14/00720/FULM). Along with a number of other dwellings on the western edge of this development, no.15 has a rear garden which extends westward at a similar level to the house itself. The land then falls away, in the form of a very steep embankment, to a watercourse known as The Fleet. I understand that the

ownership of the embankment is divided to accord with the width of each property backing onto it.

3. The appeal site is that part of the steep embankment which extends in line with no.15. Here, the appellant has constructed an extremely large, wooden deck structure virtually the full width of, and at a similar height to, his garden. The deck extends over most of depth of the embankment and is very significantly higher than ground level at its western extremity.

The enforcement notice

4. The allegation in the notice is of a material change of use to residential use, indicating that the erection of the decking etc. facilitates that use. The Council appears to rely on the principles established in *Murfitt*¹ for its approach of requiring the removal of operational development, which has been in place for more than 4 years prior to the issue of the notice, to restore the land to its condition before the breach took place. In *Murfitt*, it was held that an enforcement notice may require that such works carried out to facilitate the material change of use are removed.
5. There are two limbs to 'development', the carrying out of building, engineering, mining or other operations in, on, over or under land and the making of any material change in the use of any buildings or other land. I note that, in S.336(1) of The Act "use", in relation to land, does not include the use of land for the carrying out of any building or other operations on it. It was held by Lord Denning in *Parkes*² that operational development 'comprises activities which result in some physical alteration to the land, which has some degree of permanence to the land itself, whereas ... 'use' comprises activities which are done in, alongside or on the land but do not interfere with the actual physical characteristics of the land.'
6. Waller LJ sought to clarify this difference in *Murfitt* in opining that a breach subject to the 'four year rule' is one where "something is done that, on the whole, would be obvious – that, on the whole, would be permanent by the mere fact that it is done and, therefore something that should be dealt with within a period of four years." He contrasted this with the case before him in which the works were for an ancillary purpose, which would leave the land in a useless condition for any purpose, and so the land should be restored to the condition it was before the unauthorised development took place.
7. In the present case, the development carried out appears to me to primarily comprise building operations which have resulted in a very noticeable and permanent physical alteration to the land. To my mind, the development is not incidental to a material change of use – it is a large and very visible operational development in its own right, designed for domestic use. It appears to me to be the type of development alluded to by Waller LJ and one which should be challenged within four years. For this reason, I shall correct the allegation in the notice to reflect its status as operational development and to refer to the relevant four year period.
8. I have considered whether this correction would give rise to any injustice to any party and have concluded that would not be the case. The parties have

¹ *Murfitt v SSE and E.Cambridgeshire DC* [1980] 40 P&CR 254

² *Parkes v SSE* [1979] 1 All ER 21172

addressed this matter fully in their cases and have been given an opportunity to comment on the proposed correction.

The appeal on ground (b)

9. The purpose of ground (b) is to submit that those matters alleged in the notice have not occurred. In the allegation as originally drafted, the land in question is being put to a residential use and the 'facilitating' operational development has taken place. In any event, I have corrected the allegation to refer only to the operational development. The appeal on ground (b) fails.

The Appeal on ground (d)

10. Having regard to my correction of the allegation in the notice, the onus is on the appellant to demonstrate that the development was substantially completed more than 4 years prior to the issue of the notice on 14 January 2021.
11. The appellant has submitted photographs showing the decking substantially complete and in use on 25 March 2016. Photographs of the appellant's children using the decking in 2016 and again in 2020 show a clear age change, consistent with the quoted dates. Miss Wilson of 11 Hickman Grove attests to the fact that the decking has been in position since March 2016 and Mrs Fawcett of 16 Hickman Grove confirms in her letter of 4 May 2021 that the structure has been in place for more than 5 years. The Council has not disputed any of this evidence, nor provided any alternative evidence on this matter such as to cast doubt on the appellant's version of events.
12. Accordingly, I am satisfied, on the balance of probability, that the development in question was substantially completed more than 4 years prior to the issue of the notice and that no enforcement action could be taken. The appeal on ground (d) succeeds and I shall quash the notice.

The Appeal on grounds (f) and (g)

13. Having come to my conclusion on ground (d), there is no need to go on to consider grounds (f) and (g).

Other matters

14. The Council has drawn my attention to an appeal decision of October 2020 concerning the neighbouring dwelling, no.3 Pitomy Drive (Ref: APP/B3030/W/20/3254592), arguing for a consistent approach to decision making. In that case, an appeal against the Council's refusal to grant planning permission for 'the change of use of land to extend the residential curtilage, erection of timber decking and partial replacement of boundary fence with picket handrail' was dismissed.
15. However, there is a crucial difference between an appeal under S.78 of the Act and one under S.174. In the former case, the question as to whether the development should have been described as a material change of use or operational development was not put before the Inspector. He was simply charged with considering the planning merits of the proposed development.
16. I may well have come to a similar conclusion on the planning merits in the present case had there been a ground (a) appeal and a deemed application before me. However, such considerations were not before me. I am only able

to consider the grounds of appeal that were submitted by the appellant, as they apply to a development that was demonstrably carried out more than four years prior to the issue of the enforcement notice.

B.S. Rogers

Inspector



Appeal Decision

Inquiry Held on 24-26 March 2021

Site visit made on 22 March 2021

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Appeal Ref: APP/B3030/W/20/3260970

Land at Flowserve Pump Division, Hawton Lane, Balderton, Notts NG24 3BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by C B Collier NK Limited against the decision of Newark and Sherwood District Council.
 - The application Ref: 19/00854/OUTM, dated 18 April 2019, was refused by notice dated 6 August 2020.
 - The development proposed is an outline application with all matters reserved except access for up to 322-unit residential development.
-

Decision

1. The appeal is allowed and outline planning permission with all matters reserved except access is granted for a residential development of up to 322 units at land at Flowserve Pump Division, Hawton Lane, Balderton, Notts NG24 3BU in accordance with the terms of the application, Ref 19/00854/OUTM, dated 18 April 2019, subject to the conditions set out in the schedule to this decision.

Procedural Matters

2. The Inquiry sat for 3 days between 24 and 26 March 2021 and due to Covid-19 restrictions, was conducted virtually. An unaccompanied site visit was carried out on 22 March 2021 in accordance with an itinerary agreed with the Appellant and Council. With agreement of the same, a second site inspection was not deemed necessary.
3. Although the application was submitted in outline with only access to be determined at this stage, it was accompanied by a suite of indicative drawings and supporting technical documentation in relation to highways, ecology, noise, air quality and surface water drainage. This material is broadly accepted by technical consultees and demonstrates that a number of matters are capable of being satisfactorily dealt with either by condition or planning obligation.
4. A signed and dated agreement under s106 of the Town and Country Planning Act 1990 (s106) was submitted after the close of the Inquiry. This contains two obligations relating to on-site public open space and parking for the Sports and Social Club (SSC). The proposed obligations need to be assessed against the statutory Community Infrastructure Levy (CIL) tests, a matter I return to later.

5. A Statement of Common Ground (SoCG) was submitted prior to the Inquiry and I have had regard to this in reaching my decision.
6. I held a pre-Inquiry Case Management Conference on 12 February 2021 to discuss the arrangements for the Inquiry. A summary of the conference was subsequently sent to the main parties.
7. After the close of the Inquiry, the Royal Institution of Chartered Surveyors published a new guidance note, "*Assessing viability in planning under the National Planning Policy Framework 2019*". I wrote to the main parties seeking comments on whether the new guidance would give them cause to revisit, amend or add to their evidence presented to the Inquiry. In response, the main parties agree that matters of relevance raised in the guidance were dealt with at the application stage and as a consequence, the guidance has no material effect on the determination of the appeal.

Main Issues and Background

8. The appeal site is described in section 2 of the SoCG. Put briefly, the site comprises a large swathe of former industrial land approximately 12.6 hectares in size which surrounds the existing Flowserve premises and the SSC, both of which are to be retained.
9. The site which is previously developed and widely contaminated is included on the Council's brownfield register¹. It is also shown on the Proposals Map as a housing site within the Newark Urban Area. Moreover, it is identified as having residential potential in the Council's Strategic Housing Land Availability Assessment (SHLAA)². Permission was granted on part of the appeal site in 2007 for the erection of a new factory, relocation of sports facilities and erection of up to 210 new dwellings together with associated works³. This scheme was never implemented, and the permission has now expired.
10. An application to remediate the appeal site including flood alleviation works was approved in 2018⁴. The purpose of the scheme was to prepare the appeal site for redevelopment. The 2018 permission has now been partly implemented at a cost of £2.15m but works ceased following the Council's decision to refuse the appeal scheme in August 2020. The outstanding works are costed at approximately £1.7m⁵ and amongst other things, include the delivery of the flood prevention scheme to Middle Beck and completion of the land contamination remediation strategy.
11. The Appellant sought pre-application advice from the Council⁶. The response to that request set out the anticipated developer contributions and highlighted the need for a Viability Appraisal (VA) and the requirement for it to be independently assessed by the Council.
12. The VA⁷ submitted with the application concluded:

"The financial appraisals demonstrate that the development will not support affordable housing or further Section 106 Contributions on the assumption that

¹ CD: B7 site ref BF0001

² CD: B8 site ref 08_0434

³ LPA Ref: 07/01840/OUTM

⁴ LPA Ref: 18/01235/FULM CDs: G10, E36 and G11

⁵ See Appendix 5, Downes PoE

⁶ CD: L2

⁷ CD: D18

a reasonable market profit for a developer would be in the order of 20% on revenue (25% on costs) for private sale units in the present market and taking into account the high risks associated with this brownfield site."

13. The SoCG confirms that the VA has "been reviewed by the Council's [independent] consultant who confirms that the viability of the scheme is such that the Appeal Scheme cannot viably meet requests". Consequently, there is no dispute that the appeal scheme would be unviable if affordable housing and infrastructure contributions were to be provided.
14. In refusing planning permission, contrary to the recommendation of its professional officers, the Council was concerned that the absence of affordable housing and infrastructure contributions would result in an unsustainable form of development conflicting with the development plan.
15. In light of the above, the main issue is whether the development would comply with the development plan and if so, do any material considerations indicate that the appeal should be dismissed. I deal first with the issue of development plan compliance before turning to look at other material considerations.

Reasons

Relevant Policy and Guidance

16. At the national level, paragraph 57 of the National Planning Policy Framework (the Framework) states the following about viability:

"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force".
17. In respect of affordable housing, paragraph 64 of the Framework states:

"Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups".
18. Although a number of exemptions to the 10% requirement are set out in paragraph 64, it is no part of the Appellant's case that the appeal scheme would meet any of these.
19. At paragraph 118 the Framework states that planning decisions should, amongst other things, "give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land".
20. The Planning Practice Guidance (PPG) confirms that a viability assessment is a process of assessing whether a scheme is financially viable by looking at whether the value generated by the development is more than the cost of

developing it. The PPG aims to achieve a standardised approach to viability and to ensure that a balance is struck between the aspirations of developers and landowners in terms of return against risk, and the aims of the planning system to secure the maximum benefits in the public interest through the granting of planning permission. The key elements to consider include Gross Development Value, costs, land value, landowner premium and developer return.

21. The Council has an up-to-date development plan which comprises the "Amended Core Strategy 2019"⁸ (CS) and an "Allocations and Development Management DPD 2013"⁹ (ADMP). CS Spatial Policy 6 (SP6) states that:

"Local Infrastructure, including facilities and services that are essential for development to take place on individual sites, or which are needed to mitigate the impact of development at the site or neighbourhood level, will be secured through Planning Obligations in line with the Policies of the Core Strategy, Policy DM3 Developer Contributions and Planning Obligations and supported by a Developer Contributions & Planning Obligations Supplementary Planning Document (the obligations SPD)".
22. It is clear from the wording above, that infrastructure contributions must be 'essential' and 'mitigate the impact of development'. It is also clear that Policy SP6 effectively defers to ADMP Policy DM3 on the matter of contributions which in turn defers to the Contributions SPD¹⁰. Although the policies need to be read alongside the SPD, as the Council pointed out, it is in fact the SPD rather than the policies which sets out the finer detail of the Council's approach to developer contributions.
23. At paragraph 7.6, the supporting text to Policy DM3 states: *"In facilitating the delivery of new development it will be necessary to ensure that new development is not made unviable because of infrastructure and planning obligation requirements"*. That approach is entirely consistent with the Contributions SPD which uses almost identical language in its paragraph 5.4. The flow diagram (Figure 1) to the SPD explains the general process to be followed. This includes establishing the viability of the proposal before finalising an agreement on developer contributions.
24. In relation to viability, paragraph 6.17 of the SPD makes clear that the Council will seek an independent assessment of VAs on sites where the developer has raised issues of viability. The results of the assessment will indicate the level of affordable housing and other planning obligation contributions that the proposed development may reasonably accommodate without becoming economically unviable. At paragraph 6.19 it states that where an otherwise desirable development cannot be fully policy compliant and remain viable, a reduced package of planning obligations may be recommended based on the VA. The SPD does not set out a moratorium on development (of any size) in circumstances where the scheme cannot sustain contributions or affordable housing.
25. At paragraph 2.7 the SPD states: *"In accordance with the NPPF, no proposals should be subject to such a scale of obligation and policy burden that its ability*

⁸ CD: B1

⁹ CD: B2

¹⁰ CD: C2

- to be developed viably is threatened*". This is again consistent with the supporting text to Policy DM3.
26. In relation to the contributions themselves, the highlighted box of page 3 of the SPD states that *"contributions will not be requested as a per dwelling payment as a matter of course. It is the impact of each individual proposal that will need to be assessed on a site by site basis to identify what contributions may be needed to make development acceptable"*. Such an approach is entirely consistent with paragraph 56 of the Framework which sets out the three statutory tests for planning obligations.
27. The Council suggested that the SPD is not applicable to the appeal scheme because it is a windfall rather than an allocated site. However, as paragraph 2.6 refers to allocated and *"other sites/development"*, I do not consider the SPD was ever intended to relate solely to allocated sites.
28. In relation to affordable housing, Core Policy 1 (CP1) of the CS states:
- "The District Council will seek to secure 30% of new housing development on qualifying sites as Affordable Housing, but in doing so will consider the nature of the housing need in the local housing market; the cost of developing the site; and the impact of this on the viability of any proposed scheme. In circumstances where the viability of the scheme is in question, the developer will be required to demonstrate, to the satisfaction of the District Council, that this is the case. Viability will be assessed in accordance with Policy DM3 – Developer Contributions and Planning Obligations"*
29. At page 14, the Council's Affordable Housing Supplementary Planning Document¹¹ (AHSPD) refers back to Policy CP1. The AHSPD takes much the same approach to viability as the Contributions SPD. At paragraph 5.1 it is said that *"the Council will carefully consider local housing need and market conditions on each site and provide flexibility in the application of the Council's affordable housing policy"*. At paragraph 5.2 it goes on to set out the process where viability is an issue and states: *"The onus will be on the developer to produce a financial assessment showing the maximum number of affordable homes that could be achieved"*. In assessing applications, it is made clear that issues such as economic viability and site costs will be taken into account.
30. Relevant to NCC's contributions (libraries and public transport) is paragraph 3.15 of the Planning Obligations Strategy January 2021¹² which states:
- "There may be certain circumstances, e.g. due to viability, where a developer may put forward a case for reduced or zero contributions. This will have a significant impact on the delivery of infrastructure, especially where there are no other funding sources available which could lead to a shortfall in monies to fund infrastructure projects. Where there is clear justification for a reduced contribution the County Council will not object to a proposal."* (my emphasis)
31. The Council confirmed that its SPD's are up to date, consistent with the approach advocated in the Framework and should carry full statutory weight. I see no reason to disagree. Based on the wording of Policies SP6, DM3 and CP1, the supporting justification and the more detailed guidance contained in the SPDs, the following salient principles emerge:

¹¹ CD: C1

¹² CD: B14

- The need for flexibility, taking account of an agreed VA, is central to the Council's approach,
- The level of affordable housing and developer contributions a development can sustain without becoming economically unviable will be informed by a VA,
- Contributions should be based upon a careful assessment of impact and need rather than a slavish adherence to formulas,
- Viability is not a trump card, nonetheless, it is capable of being a significant material consideration and the weight to be applied to a VA is a matter for the decision maker,
- There is no lower threshold for affordable housing or financial contributions beyond which a development will be refused,
- Similarly, advice in the SPDs applies to all residential development irrespective of scale,
- Development proposals should not be subject to planning obligations that would prevent otherwise acceptable development coming forward, and
- Policies SP6, DM3 and CP1 as well as the accompanying SPDs all countenance reduced obligations in circumstances where the viability of the scheme is in question.

Conclusions on Policy

32. In this case, the VA is unequivocal that the development cannot afford to provide affordable housing or financial contributions. The Council accepts that conclusion and takes no issue with any part of the VA. On that basis alone, the VA must carry significant weight. Given that its own development plan permits reduced obligations where supported by an agreed VA, the Council's stance in relation to the appeal scheme is difficult to comprehend. The main argument offered by the Council is that it has never approved a strategic-scale development where no planning obligations were offered.
33. With respect, that argument is entirely misplaced. Whilst I accept the development is strategic in size, there is no qualification in Policies DM3 and CP1 nor the SPDs that there is, or should be, a threshold above which the general provisions of these policies cease to apply. There is also no support in the Framework for such an approach.
34. The Council has accepted, as a matter of principle, that reduced contributions are acceptable when supported by an agreed VA. The Council's issue is therefore concerned with the scale of the reduction and not the principle. However, those concerns fail to engage with the Council's own policies and guidance which do not set a lower threshold beyond which a development should be deemed unsustainable.
35. The Appellant's planning witness confirmed to the Inquiry that he has personally been involved in brownfield regeneration schemes where the issue of viability has led to the removal of all S106 obligations in order to ensure that a viable scheme is brought forward. It seems to me that such an approach should apply here.

36. Despite the Council's reference to 'allocated sites' and 'planned growth', on any plain reading, there is no support in the development plan for the approach taken by the Council in this case. Nowhere in the development plan, is it stated that development should be refused in cases where the viability of a scheme indicates that no obligations can be made. On the contrary, read as a whole, the development plan is clear that planning obligations should not adversely affect the viability of a scheme and prevent otherwise acceptable development from coming forward.
37. In support of its case, the Council drew my attention to ADMP Figure 2. However, that flow diagram is not policy, and, in any event, it says that 'deferred obligations' and 'alternative methods of funding' should be explored where viability is a major issue. As I understand it, both of these options have been considered and discounted. The Council can therefore garner no significant support from Figure 2. I therefore conclude that the non-provision of affordable housing and infrastructure contributions would not conflict with Policies SP6, DM3 and CP1.
38. On that basis and given that no other policy conflicts are alleged by the Council, I conclude that there would be compliance with the development plan taken as a whole. Accordingly, the development should be approved unless material considerations indicate otherwise¹³. To enable the planning balance to be properly calibrated, I consider below whether there are any 'material considerations' indicating a decision otherwise in accordance with the development plan.

Other Material Considerations

Affordable Housing

39. There is no dispute that the provision of affordable housing is an important planning objective at a national and local level. The matter in this case is rather what harm would arise in this case from the failure to provide affordable housing and whether this would outweigh the benefits of the scheme.
40. The Council contend that the harm would be real, and that the Government is clear that the provision of affordable housing is important to securing mixed and inclusive communities. I do not disagree. However, the issue at hand is whether those objectives would be harmed to a greater degree by leaving the site undeveloped in its part-remediated condition for an extended period of time, which according to the Appellant would be the inevitable consequence if I were to dismiss the appeal.
41. In my view, it is unarguable that the interests of those seeking to own a home, would be better served by the delivery of up to 322 houses as opposed to no houses on a site which the parties readily agree is acceptable in all other respects. In my view, allowing the site to remain vacant, perhaps for decades, rather than providing homes would be a retrograde step in the context of a national housing crisis, notwithstanding that the Council can demonstrate a healthy 5-year housing land supply position.
42. The Council made the understandable point that without an appropriate level of affordable housing many people would simply be unable to afford the houses.

¹³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

However, this is a site with specific remediation costs and associated viability issues. In line with CS Policy CP3, the indicative housing mix¹⁴ is heavily orientated towards smaller units comprising 198 (60%) 2-bed terrace properties and apartments. There is no suggestion from the Council that an alternative mix could better meet local needs or that the units are likely to remain empty due to local affordability issues.

43. The Council also argued that the dismissal of the appeal would not necessarily result in the site remaining vacant for a prolonged period of time, since other options could be pursued by the Appellant. These in turn might bring forward a development which could provide the requisite level of affordable housing and financial contributions. However, the Council did not suggest what other options could be pursued by the Appellant beyond those already explored and discounted at the application stage as set out in the Committee Report¹⁵. As the Appellant explained, its efforts in this regard have proved 'fruitless' because an impasse was reached and remains. The Council has not suggested a credible way forward and therefore claims that the site might be brought forward on more favourable terms in the future is nothing more than hopeful speculation. If anything, the evidence before the Inquiry suggests the opposite - the viability position of the site has deteriorated significantly in recent years and this is likely to continue in the absence of a grant of planning permission.

Transport Contributions

44. The requested transport contributions consist of:

- £225,000.00 to support the provision of a bus service to serve the development,
- £50,000 for bus stop infrastructure to serve the site, and
- £9,000 for Bus Taster Tickets Contribution to provide new occupants with a 2-week smartcard bus pass for use on the local bus network, to encourage use of sustainable modes of travel.

45. The contributions are supported by a consultation response from NCC's Transport and Travel Services team¹⁶. This explains that the level of contribution sought will vary according to the specific characteristics of each development but is likely to take into account, amongst other things, the current network capacity, existing routes and access to key services; the expected number of trips that would be generated; and the likely modal split in terms of transport usage, taking account of the Transport Assessment.

46. In this case, the closest served bus stops are situated on Lansbury Road, approximately 850 metres from the centre of the site. According to NCC, this is substantially in excess of the maximum walking distance referred to in its Highway Design Guidance and therefore, without appropriate mitigation, the development would not be considered sustainable for public transport access. Therefore £50,000 would be spent on a new pair of bus stops closer to the site entrance. The £225,000 contribution would be used to increase capacity on local bus services in order to serve the aforementioned stops. NCC's witness¹⁷

¹⁴ Paragraph 3.4 to SoCG

¹⁵ CD: G11

¹⁶ CD: K61

¹⁷ Mr Riley

explained that the route of the existing No 3 service would be extended so that the buses would travel further west along Hawton Lane.

47. Whilst the encouragement of public transport use is clearly a legitimate planning objective, I have a number of concerns with the contributions sought. Firstly, on a procedural point, the case put forward by NCC's Transport and Travel Services team at the Inquiry, was totally at odds with the consultation response from NCC's Principal Development Control Officer¹⁸ which stated:
- "It would be unreasonable to expect a bus service to enter the site, but the less-than-ideal walking distances to a bus stop is not sufficient in itself to justify refusal of the application when walking and cycling links are good, and promote sustainable travel"*.
48. It is evident that there is an internal disagreement. For my part, I consider that the holistic approach to the issue of sustainable transport taken by the Development Control team is more appropriate as it reflects the wider site circumstances, an approach expressly supported by Manual for Streets.
49. Development Control's position is also endorsed in the SoCG which confirms that the site is '*locationally sustainable*'¹⁹. Moreover, there is further support in the SHLAA entry which identifies that the site has suitable access to services including bus stops. In my view, the existence of a high quality, traffic free, Sustrans walking/cycling route on the site's doorstep giving easy and convenient access to the town centre is a factor that must command significant weight when assessing compliance with Framework paragraphs 91(c), 102 (c) and 103. Public transport whilst an important objective, cannot be considered in isolation.
50. The existing bus stops on Lansbury Road would be well over the recommended 400m in the Highway Authority's Design Guidance. However, as I understand it, that document is guidance not policy. It is also pertinent that the 400m distance is considerably less than the distances cited in the Institution of Highways and Transportation's '*Guidelines for Providing Journeys on Foot*' which sets an 'acceptable' benchmark of between 800-1000m. I note that the Council's SHLAA assessment was similarly based on 800m or 10-minute walk to a bus stop.
51. Putting that matter to one side, it is important to bear in mind that the 850m distance has been measured from the centre of the site and therefore some houses will inevitably be closer whilst others will be further away. For example, those dwellings closest to Hawton Lane would be much closer than 850m to the Lansbury Road stops. This is important because paragraph 2.8 of the Highway Design Guidance, states '*affordable housing, and higher-density residential development should all be located within 400m of a bus stop*' (my emphasis). That is very clearly not the same as saying all houses must be within 400m which was essentially the case NCC advanced at the Inquiry.
52. Dwellings in the southern portion of the site would be able to access stops on London Road via the footpath to Mead Way albeit over the recommended 400m distance. The Inquiry also heard that the adjacent housing site known as 'Middle Beck' will be served by public transport. Given the proximity of that site, there appears scope to provide a bus stop in the vicinity of the pedestrian

¹⁸ CD: K10

¹⁹ See paragraph 6.1(6)

link to the appeal site. This could potentially bring a significant portion of the application site within or close to 400m of a bus stop. In light of the foregoing and given that 'layout' is reserved for future approval, it might well be possible to locate the higher density housing in the aforementioned areas so that walk distances are minimised.

53. Finally, under cross-examination, NCC's witness conceded that Stagecoach (operators of the No 3 service) rather than agreeing to the route extension had only agreed to discuss the matter. Accordingly, even if I were satisfied that the public transport contribution met the relevant tests, there is no certainty the proposed scheme would be delivered.
54. For the reasons given above, I conclude that the bus service contribution is not required to make the development acceptable. In terms of the bus stop improvements and free passes, further information is required to demonstrate the efficacy of such measures in terms of increasing or encouraging public transport take-up.

Health Contribution

55. A figure of £316,403.64 is sought from the Nottingham and Nottinghamshire Clinical Commissioning Group (CCG) on the basis that the nearest surgeries to the appeal site are at capacity. The justification for the contribution rests on CCG's consultation response²⁰ supplemented by an email²¹. These explain that 'at capacity' means the practices have no more space available to them either within their building or the ability to convert space internally.
56. As the Council's planning witness accepted, this does not mean; 1) that the surgeries are unable to accommodate new patients, or 2) that existing or projected appointment wait times would be unacceptably long. There is no dispute that the nearest surgeries are accepting new patients and no evidence of excessive waiting times or any other operational issues was put to the Inquiry.
57. The contribution has been calculated via a standard formula which assumes each unit on the site would be equivalent to the average house size in the Borough. That approach ignores the site-specific housing mix set out above. Based on an average 2.3 people per dwelling, it is then calculated that the appeal scheme would generate an increased patient population of 810. However, in light of the Appellant's evidence on the likely origin of future residents²², that assumption is fundamentally flawed.
58. There is nothing in the responses to demonstrate that the CCG has looked at the specific impact of the proposed development on GP practices in the area. Instead it has relied on a standard, per dwelling, approach which fails to accord with the approach to contributions advocated for in the SPD.
59. Finally, the supplementary email draws attention to the CCG's intention to relocate one of the four surgeries to a new building with sufficient space to accommodate one of the other practices. However, there is nothing to suggest that the delivery of this programme, which appears at an advanced stage, is dependent on s106 funding from this development or any others.

²⁰ CD: K19

²¹ See Appendix C, Kurihara PoE

²² See Appendix 8, Downes PoE

60. For the reasons set out above, the health contribution does not meet the statutory CIL tests, it is also difficult to identify what harm would arise from the failure to provide it.

Community Facilities Contribution

61. The Council requests £445,670.54 which it says is necessary in order to improve, extend and expand the existing SSC to provide improved/increased community capacity to meet the demands created primarily by the proposed development and thereby positively contribute to improving the health and wellbeing of the local community.
62. The figure has again been calculated via a standard formula in contravention of the Council's own guidance in the SPD. There has been no analysis done of the club's existing capacity or facilities and no evidence to suggest a deficiency in either area. No analysis has been done to understand the specific impact of the development on the SSC. Finally, there are no details of what the money would be spent on and no evidence of any engagement with the SCC.
63. As a consequence, the contribution does not meet the statutory tests. Moreover, there is no basis on which to conclude that the failure to provide this contribution would result in any material planning harm.

Open Space Contribution

64. As there would be a shortfall in on-site open space²³, the Council requests a contribution of £197,836.80 towards off-site provision for children and young people, £237,545.84 towards outdoor sports facilities and £39,644.64 towards allotments and community gardens.
65. Whilst the Appellant accepts there would be an on-site shortfall and therefore under normal circumstances, a need for a financial contribution, it is pointed out that there a number of existing play areas nearby which future residents would be able to access.
66. The children and young people contribution would be spent on the improvement of the Mead Way, Grove Street and Stafford Avenue play areas. Whilst I accept the development is likely to generate some increased demand for these facilities, the improvements identified by the Council appear to have little to do with creating additional capacity but rather the resolution of on-going maintenance issues. It is not clear for example how, inter alia, resurfacing, moss removal, a new bin and the replacement of outdated play equipment is necessary to make the development acceptable in planning terms.
67. Information about the proposed improvements at Grove Street and Stafford Avenue Playing Fields is scant but appears to involve capacity improvements along with the resolution of historic maintenance issues²⁴. There has again been a failure to identify what the specific impact of the development would be on these facilities. In addition, no costings for the works have been provided. Without this information, I cannot conclude the contribution is essential and necessary to mitigate the specific impact of the development.

²³ 3,840m²

²⁴ See paragraphs 3.65-3.68 Kurihara PoE

68. According to the Council, the outdoor sports facilities contribution would be spent on the refurbishment of the existing artificial grass pitch at the Magnus Academy in line with its Playing Pitch Strategy. From the limited information available, this again appears to relate to the resolution of an existing maintenance issue rather than mitigating the specific impact of the development.
69. Finally, in terms of the allotment contribution the Council confirms²⁵ that the monies would be spent on 1) qualitative improvements to the Glebe and St Giles Community allotment sites, and 2) the provision of new allotments at Stafford Avenue Playing Fields.
70. According to the Council's evidence, both existing allotment sites are at 100% occupancy with a combined waiting list of 16 local residents. On that basis, there would appear to be little imminent prospect of any additional demand for allotments from the appeal scheme being met at either the Glebe or Giles Community sites. Accordingly, I do not consider it reasonable to expect the developer to pay for upgrades to existing facilities, which future residents of the development would have no access to.
71. The provision of new allotments at the Stafford Avenue Playing Fields site would be entirely reasonable given the current deficit. The non-provision of this contribution would therefore cause some harm to future residents who might have allotment owning aspirations. However, without any further information about the number of new allotments to be created versus the demand likely to be generated from the appeal scheme, I cannot be sure that the contribution would be reasonably related in scale and kind to the development.

Libraries Contribution

72. To ensure the development does not place stock levels at Balderton Library under further pressure, NCC seeks £11,352. The amount is calculated on the basis of 2.3 persons per dwelling or 741 new residents and is supported by Appendix 4 to NCC's Obligations Strategy. This states that where a library building is able to accommodate the extra demand created due to a new development but it is known that the stock levels are only adequate to meet the needs of the existing catchment population, a "stock only" contribution will be sought.
73. I need not re-iterate my earlier concerns about the use of per dwelling assumptions. The development patently would not result in 741 new people joining the library given a significant proportion are likely to move from within the local area. Nonetheless, the failure to provide a library contribution would contribute to the on-going optimum stock shortfall at Balderton library and this weighs against the development in the overall planning balance.

Other Matters

74. Local residents voiced strong concerns about the use of Lowfield Lane as an emergency access. As I saw on my site visit, the road is a narrow, lightly trafficked, rural lane popular with pedestrians and cyclists. It is clearly unsuited in its current condition to accommodate any material increase in vehicular traffic. However, the concerns of local residents are based on a

²⁵ See paragraph 3.72, Kurihara PoE

fundamental misunderstanding of what is proposed in terms of the 'emergency access'.

75. As NCC's Highway Development Control Officer²⁶ made clear, Lowfield Lane would only ever be used in the event that; 1) the main site access is completely blocked to traffic and at the same time, 2) there was a genuine emergency on site that required the attendance of the emergency services. As established at the Inquiry, the probability of these two events occurring individually let alone simultaneously is extremely low. Accordingly, I have no concerns with the proposed use of Lowfield Lane as an emergency access.
76. Local residents have expressed a wide range of concerns which are set out on page 6 of the Council's Committee Report. Whilst I can understand some of these concerns, it is evident from the Committee Report that the matters raised have been carefully considered by the Council and there is no compelling evidence before me which would lead me to conclude differently.

Conclusions and Planning Balance

77. I am required to determine this proposal in accordance with the development plan, unless material considerations indicate otherwise. The starting point is therefore the development plan.
78. I have found that the development would not conflict with CS Policies SP6, CP1 and CP9, ADMP Policy DM3, advice and guidance in the SPDs, the PPG or the Framework. No other policy conflicts have been alleged or identified.
79. As to whether other considerations indicate a decision otherwise in accordance with the development plan, I have found that the majority of the obligations sought by the Council do not meet the statutory CIL tests nor do they comply with the approach in the SPDs. Referring back to the wording of Policy SP6 the Council has not adduced sufficient evidence to demonstrate how the contributions 'are essential for development to take place' or necessary to 'mitigate the impact of development'.
80. Nonetheless, there would be harm attached to the non-provision of affordable housing. However, the weight given to that harm carries only limited weight in the overall planning balance given that there would be no breach of Policy CP1. I have also identified limited harm from the failure to provide a library contribution in accordance with NCC's adopted Obligations Strategy. However, that again must be viewed through the lens of paragraph 3.15 of the same. These limited harms must be weighed against the very significant regenerative benefits of bringing a contaminated, brownfield site with excellent accessibility back into active use, along with a raft of flood alleviation, ecology, housing delivery, visual amenity and economic benefits.
81. Collectively these benefits must carry very substantial weight even in a Borough with a 5-year supply of deliverable housing sites. Even, if I had found a breach of Policies SP6, CP1, CP9 and DM3, the substantial benefits of the scheme would clearly be sufficient to outweigh the limited harm arising from that policy conflict.
82. Accordingly, the proposal passes the section 38(6) test and in accordance with ADMP Policy DM12 and NPPF paragraph 11(c), should be approved without

²⁶ Mr Witco

delay. I therefore conclude that the proposed development would be sustainable and should be allowed, subject to the imposition of a number of conditions and planning obligations, as discussed at the Inquiry and as set out below.

Planning Obligations

83. A signed and dated s106 Agreement was submitted after the close of the Inquiry. A draft version of the document was discussed at the Inquiry.
84. The Framework sets out policy tests for planning obligations; obligations must be necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development. The same tests are enshrined in the statutory tests set out in regulation 122 of the CIL regulations.
85. The s106 Agreement contains two obligations; the first relates to parking for the SCC and essentially seeks to ensure an adequate level parking is safeguarded in order to ensure the viability of the club in line with the requirements of CS Policy SP8. The second obligation concerns the provision and future management of the on-site open space which includes a Local Equipped Area for Play.
86. In both cases I am satisfied that the obligations meet the statutory tests.

Conditions

87. The parties have suggested a number of planning conditions which I have considered against the advice in the PPG. In some instances, I have amended the conditions in the interests of brevity or to ensure compliance with the PPG.
88. Conditions covering time limits and the reserved matters are necessary to provide certainty and in the interests of proper planning [conditions 1-3]. A site-wide phasing plan is necessary to ensure the development comes forward in a coherent and planned manner [condition 4]. Drainage and flood prevention conditions are necessary to ensure satisfactory drainage and future maintenance of the site in the interests of flood prevention [conditions 5-6].
89. Conditions relating to the access onto Hawton Lane as well as an extension to the existing 30mph zone are necessary to ensure a suitable and safe access [conditions 7-9]. A Travel Plan is necessary to promote sustainable modes of transport [condition 10]. A condition requiring details of the emergency access onto Lowfield Lane to be submitted and agreed with the Council is necessary to ensure the development does not give rise to a material increase in traffic on an unsuitable route [condition 11].
90. Ecology conditions are necessary to ensure the development delivers a net-gain for biodiversity [conditions 12-15]. Conditions relating to trees and landscaping are necessary to protect existing trees and to ensure that the visual amenity benefits of the scheme are maximised [conditions 16-18]. Noise and land remediation conditions are necessary to ensure the land is suitable for its intended use and to safeguard the amenity of future residents [19-23]. Finally, a Construction Method Statement is necessary to ensure all aspects of the construction adhere to best practice and do not adversely affect the amenity of local residents [condition 24].

91. Conditions 5, 8, 9, 13, 17, 19, 22 and 24 are 'pre-commencement' form conditions and require certain actions before the commencement of development. In all cases the conditions were agreed between the main parties and address matters that are of an importance or effect and need to be resolved before construction begins.

Conclusion

92. For the reasons set out above I conclude that the appeal should succeed, and outline planning permission allowed subject to the conditions set out below.

D. M. Young

Inspector

APPEARANCES

Wayne Beglan of Counsel, he called:

Melissa Kurihara ^{MLPM, MRTPI}

Associate Director of Planning at Land Use Consultants

Robin Riley

Development and Funding Officer for Transport & Travel Services, NCC

Honor Whitfield

Planning Officer at NSDC

Jan Witko

Highway Development Control Team Leader
NCC

Appellant

Ian Ponter of Counsel he called:

Patrick Downes ^{BSc (Hons) MRICS}

Director, Harris Lamb Planning Consultancy

Interested Parties

Cllr Roger Blaney

Chair of NSDC Planning Committee

Des Kay

Local Resident

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The first reserved matters application should be accompanied by a Phasing Plan detailing how the development is to come forward in each phase of the development. The Phasing Plan shall be submitted to and approved in writing by the Local Planning Authority before development begins and the development shall be carried out as approved. The plan should be re-submitted and updated where necessary through subsequent reserved matters applications.
5. No development shall be commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. No drainage systems for the infiltration of surface water to the ground are permitted. Any proposals for such systems must be supported by an assessment of the risks to controlled waters and shall be submitted to the Local Planning Authority for approval in writing. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
6. The development shall be carried out in accordance with the submitted flood risk assessment (FRA for Land at Hawton Lane, Newark, March 2019, JBA Consulting, C.B.Collier, V7) and the following mitigation measures it details:
 - The finished floor levels shall be set no lower than the greatest height of the following;
 - 1 in 100 year fluvial flood event (0.1% annual exceedance event) with 30% climate change from the Middle Beck plus 600mm freeboard.
 - 1 in 100 year fluvial flood event (0.1% annual exceedance event) with 50% climate change from the Middle Beck.
 - 1 in 100 year fluvial flood event (0.1% annual exceedance event) with 30% climate change from the Middle Beck plus 75% blockage at the Lowfield Lane Culvert (Found within section 5.1 of the FRA).
 - No development may commence on site until the proposed realignment and deculverting of the Middle Beck has been completed.
 - No development may commence on site until the construction of the 10,408.50m³ flood storage pond which contains a 60m lateral spill/inlet with a crest set at 13.2mAOD. This will have a finished bed level of 12m AoD or 12m AoD permanent water level. The Local Planning Authority will need to be re-consulted if any alterations are made to the proposed flood storage pond.

- The culvert diameter must be maintained to a size of 1.04m at the Lowfield Lane crossing.
- No development may commence on site until the applicant has demonstrated that no development other than that of water compactible development will be within Flood Zone 3b.

These mitigation measures shall be fully implemented in accordance with the above stated timescales relevant to each phase or sub phase pursuant to Condition 4. All mitigation measures must be fully implemented prior to occupation and shall be retained and maintained thereafter throughout the lifetime of the development.

7. Prior to first occupation of any dwelling, access shall be provided onto Hawton Lane in accordance with the details shown on drawing A18361-209-P1.
8. No part of the development hereby permitted shall be commenced until the visibility splays of 2.4m x 120m at the new junction with Hawton Lane are provided in accordance with drawing A18361-209-P1 (page 61 of the Transport Assessment V.7 reference A18361C dated May 2020). The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height (with the exception of the existing culvert wall parapet to the east of the access).
9. No development shall commence until details of the measures to reduce the speed limit on Hawton Lane, including a timeframe for implementation have been submitted to and agreed by the Local Planning Authority. The approved scheme to be implemented as approved and in accordance with the approved timetable.
10. No part of the development hereby permitted shall be occupied until a revised Travel Plan in general accordance with the Framework Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the Local Planning Authority and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan.
11. Prior to first occupation of any dwelling details of a emergency link with Lowfield Lane shall be provided in accordance with details that have first been submitted to an agreed in writing with the Local Planning Authority.
12. Any subsequent reserved matters application shall be accompanied by an updated ecological survey carried out by a qualified ecologist within the relevant appropriate timeframes outlining the ecological potential of the site at that time. The development approved as part of that Reserved Matters shall thereafter be carried out in accordance with any recommended mitigation measures incorporated within the results of such survey.
13. Notwithstanding the requirements of Condition 11, no development shall take place within any phase or sub phase pursuant to Condition 4 until a scheme for ecological mitigation, management and enhancement ('the Ecological Scheme') for that phase or sub phase has been submitted to and approved in writing by the Local Planning Authority. The Ecological Scheme shall include:

Part A:

Recommendations relating to amphibians, reptiles, aquatic habitats, birds, badgers, bats and invasive species, as set out in the Mitigation Measures outlined at Section 4 of the Preliminary Ecological Appraisal at: Lowfield Works, Hawton Lane, Balderton. Reference: PE00022 prepared by Dr Holly Smith, Harris Lamb dated 13th May 2019.

Part B:

An Ecological Management Plan which shall include:

- a) description and evaluation of the features species to be managed,
- b) ecological trends and constraints on site that may influence management,
- c) aims and objectives of management,
- d) appropriate management options for achieving aims and objectives,
- e) prescriptions for management actions,
- f) preparation of a work schedule (including a 5-year project register, an annual work plan and the means by which the plan will be rolled forward annually),
- g) personnel responsible for the implementation of the plan, and
- h) monitoring and remedial/contingency measures triggered by monitoring.

Part C:

A Habitat Creation and Landscape Management Plan to provide mitigation measures for the partial loss of the Local Wildlife Site (LWS) and scrub habitat which shall include:

- a) purpose, aims and objectives of the scheme,
- b) a review of the site's ecological potential and any constraints,
- c) description of target habitats and range of species appropriate for the site,
- d) selection of appropriate strategies for creating/restoring target habitats and introducing target species either on site or elsewhere to adequately compensate for loss of onsite habitats ensuring there is a net gain in habitat provision,
- e) selection of specific techniques and practices for establishing vegetation,
- f) sources of habitat materials (e.g. plant stock) or species individuals,
- g) method statement for site preparation and establishment of target features,
- h) extent and location of proposed works,
- i) aftercare and long-term management,
- j) the personnel responsible for the work,
- k) timing of the works,

- l) monitoring, and
- m) disposal of wastes arising from the works.

The agreed schemes shall be implemented in full in accordance with an approved phasing timetable and prior to the occupation of any dwellings within that phase.

14. No works shall take place within a 10 metre buffer around the Local Wildlife Site (Balderton Scrubby Grassland Local Wildlife Site LWS 5/332) to the north-west of the site until a scheme for the protection of the Local Wildlife Site has been submitted to and agreed in writing with the Local Planning Authority. This scheme shall include:

- a) A plan showing details and positions of the ground protection areas.
- b) Details and position of protection barriers.
- c) Details of working methods to be employed for any groundwork within or adjacent to the Local Wildlife Site.
- d) Details of any scaffolding erection and associated ground protection within the Local Wildlife Site
- e) Details of timing for the various phases of works or development in the context of the Local Wildlife Site protection measures.

All works/development shall be carried out in full accordance with the approved Local Wildlife Site protection scheme. The protection measures shall be retained during the development of the site.

15. Prior to the clearance of any land within the Local Wildlife Site, an investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of contamination within the Local Wildlife Site (whether or not it originates on the site). The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

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

The report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11', or any subsequent adaptation, and shall be submitted to and approved in writing by the Local Planning Authority. All

works/development must be carried out in full accordance with the approved report.

16. Any details submitted in relation to reserved matters for landscaping within any phase or sub phase pursuant to Condition 4 shall include a schedule (including planting plans and written specifications, cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species and shall include details of a management plan (including long term objectives, management responsibilities and maintenance schedule for all landscape areas, other than privately owned, domestic gardens). All of which should integrate with the Habitat Creation and Landscape Management Plan and Ecological Management Plans required by Condition 11. The landscaping works shall thereafter be carried out in accordance with the approved details. If within a period of 5 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place.
17. No development shall be commenced within any phase or sub phase pursuant to Condition 4 until the scheme for protection of the retained trees/hedgerows has been agreed in writing with the Local Planning Authority. This scheme shall include:
 - a) A plan showing details and positions of the ground protection areas,
 - b) Details and position of protection barriers,
 - c) Details and position of underground service/drainage runs/soakways and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site,
 - d) Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing),
 - e) Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site,
 - f) Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site,
 - g) Details of any scaffolding erection and associated ground protection within the root protection areas, and,
 - h) Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.
18. All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme. For the avoidance of doubt, the following activities must not be carried out under any circumstances:

- a) No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site,
 - b) No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,
 - c) No temporary access within designated root protection areas without the prior written approval of the District Planning Authority,
 - d) No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site,
 - e) No soakaways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site,
 - f) No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site, and,
 - g) No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
19. Development other than that required to be carried out as part of an approved scheme of remediation must not commence within any phase or sub phase pursuant to Condition 4 until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

Part A: Site Characterisation

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

- i. a survey of the extent, scale and nature of contamination (including all previous uses and contaminants associated with those uses);
- ii. a conceptual model of the site indicating sources, pathways and receptors;
- iii. an assessment of the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;

- ecological systems; and,
 - archaeological sites and ancient monuments;
- iv. an appraisal of remedial options, and proposal of the preferred option(s).

Part B: Submission of Remediation Scheme

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

Part C: Implementation of Approved Remediation Scheme

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

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

Part D: Reporting of Unexpected Contamination

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

20. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.
21. No occupation of the dwellings pursuant to each relevant phase or sub phase pursuant to Condition 4 shall occur until a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.
22. No development shall take place within any phase or sub phase pursuant to Condition 4 until a scheme for noise mitigation ('the Noise Mitigation Scheme') for that phase or sub phase has been submitted to and approved

in writing by the Local Planning Authority. The Noise Mitigation Scheme shall include the recommended noise mitigation measures set out within the Noise Impact Assessments ('Assessment of Noise Impact on a Proposed Residential Development' Report No: P18-035-R01-V3 dated July 2019, 'Sports and Social Club Noise Assessment' Report No: P18-035-R02v2 dated September 2019 and 'Further Assessment of Potential Impact from Flowserve Generator Noise on a Proposed Residential Development' Report No: P18-035-R02v1 dated July 2020) submitted to accompany this application. The agreed scheme shall be implemented in full prior to occupation of any of the dwellings approved in that phase.

23. Prior to first occupation of any dwelling, a noise mitigation of the Flowserve Factory Generator (as identified in the 'Further Assessment of Potential Impact from Flowserve Generator Noise on a Proposed Residential Development' noise assessment, Report No: P18-035-R02v1 dated July 2020) ('the Generator Noise Mitigation Scheme') shall be implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The Generator Noise Mitigation Scheme shall incorporate the recommended noise mitigation measures set out at points 4.5 and 4.7 of the aforementioned noise assessment submitted to accompany this application. The agreed scheme shall be implemented in full prior to the commencement of development and retained in perpetuity.
24. No development shall take place within any phase or sub phase pursuant to Condition 4 until a Construction Method Statement which incorporates the Construction Mitigation Measures contained within Appendix D of the Air Quality Assessment (for that phase or sub phase has been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall provide consideration of the need for the following and details the measures required;
- a) access and parking of vehicles of site operatives and visitors,
 - b) lorry routing,
 - c) loading and unloading of plant and materials,
 - d) storage of plant and materials used in constructing the development,
 - e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate,
 - f) wheel washing facilities,
 - g) measures to control the emission of noise, dust and dirt during construction,
 - h) a scheme for recycling/disposing of waste resulting from construction works,
 - i) hours of operation, and,
 - j) a scheme to treat and remove suspended solids from surface water run-off during construction.

The approved Statement shall be adhered to throughout the construction period.



Appeal Decision

Site Visit made on 4 May 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2021

Appeal Ref: APP/B3030/W/20/3260155

Orchard Stables, Cottage Lane, Collingham NG23 7QL

- 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 Ian Taylor against the decision of Newark & Sherwood District Council.
 - The application Ref 20/00550/FUL, dated 31 March 2020, was refused by notice dated 6 August 2020.
 - The development proposed is change of use of land at Orchard Stables to site up to six wigwam pods, one managers office with storage, biodisc tank and associated infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of land at Orchard Stables to site up to six wigwam pods, one managers office with storage, biodisc tank and associated infrastructure, at Orchard Stables, Cottage Lane, Collingham NG23 7QL, in accordance with the terms of the application Ref 20/00550/FUL, dated 31 March 2020, and subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is whether the proposal would represent a suitable location for tourism accommodation, having regard to relevant development plan policies, the impact on highway safety and living conditions of neighbouring occupants.

Reasons

Location for Tourism Accommodation

3. The appeal site comprises paddocks forming part of a livery business operating across a wider site to the south of the village of Collingham. The site is accessed via Cottage Lane, a narrow country lane leading from the A1133 into the village from the south. Collingham Tennis Club and Collingham Cricket Club are located on the opposite side of the road from the site entrance.
4. The site is located outside of the main built-up area and defined village envelope of Collingham, and therefore is in the countryside for planning purposes. Policy DM8 of the Allocations and Development Management Development Plan Document (ADM) (July 2013) supports tourist accommodation where it is necessary to meet identified tourism needs, it constitutes appropriate rural diversification, including the conversion of existing buildings, and can support local employment, community services and infrastructure. In a similar vein, Core Policy 7 of the Amended Core Strategy (March 2019) (the ACS) recognises the economic benefits of sustainable

- tourism, and supports proposals for tourism development in the open countryside which meet one or more criteria.
5. The application proposes six wigwam pods and a manager's office with associated infrastructure. The facility would be accessed from the same entrance as the livery. It is indicated that the livery business already accommodates some camping facilities and the proposed pods seek to expand the tourist accommodation offer at the site. The site is also the location of the Collingham Horse Adventure Park (CHAPS), a tourist attraction in its own right.
 6. The application was recommended for approval by planning officers, but the Council's Planning Committee voted to refuse permission on the basis that the proposal did not represent sustainable tourism that met an identified need. Members cited accommodation already available in the village, namely three bed and breakfasts and a large caravan site. The Council's statement of case adds that the proposal is not considered to constitute rural diversification, citing paragraph 7.51 of the ADM which states that the Council will be firm in distinguishing between proposals for genuine diversification and those for independent businesses that may be more sustainably located elsewhere.
 7. The appellant's Business Statement confirms that whilst the proposed accommodation would be branded as part of the existing Wigwam Holidays business, this would be on a franchise basis where the appellant would continue to operate the business on site. Given the existing camping offered on site and the tourist attraction provided by the CHAPS facility, I am satisfied that the proposal would not be a wholly separate venture and would represent further diversification of the main livery business. However, even if this were in doubt, Core Policy 7 requires only one of seven criteria to be met in order for tourism development to be supported. These can include supporting an existing countryside attraction; having a functional need to be located in the countryside; constituting an appropriate expansion of an existing tourism visitor facility; supporting local employment; and meeting an identified need not provided for through existing facilities.
 8. In this case, the proposal would support an existing countryside attraction in the CHAPS facility. Moreover, it is an inherent aspect of such cabin-type accommodation that they are located away from built-up areas, as their attraction lies in factors such as a quiet environment, proximity to nature and countryside views. Therefore, I find that the proposal would be appropriate to a countryside location in principle. The proposal would also be a source of local employment, providing two to three new jobs with the potential for indirect employment elsewhere in the local tourism, retail, leisure and hospitality sectors as a consequence of visitors spending money in the local economy.
 9. In terms of need, reference is made to a report¹ by the Local Enterprise Partnership (LEP), which identifies that there is a dearth of glamping-style accommodation across Nottinghamshire and a lack of self-catering accommodation in and around Newark-on-Trent. I also note the aims of the Council's Destination Management Plan 2018 (the DMP) to increase visitors to Newark and the surrounding area and the amount of time and money these visitors spend, aims which are consistent with the National Planning Policy Framework (the Framework) which encourages the sustainable growth and

¹ Local Enterprise Partnership D2N2's Accommodation Strategy Report 2017

expansion of all types of business in rural areas, including sustainable rural tourism and leisure developments.

10. Despite this evidence, the Council appears to have taken a narrow view that the range of accommodation in Collingham itself is sufficient to meet demand arising. However, none of the facilities referred to is comparable to the type of accommodation proposed here. Moreover, the policies referred to do not specify that need should be assessed only in respect of a single settlement or particular type of accommodation. The fact that the LEP report highlights the lack of glamping and other self-catering forms of accommodation indicates these are sectors where demand is rising across the county, and specifically around Newark. This is reinforced by the aims of the DMP to increase visitors to Newark and the surrounding area, which would include Collingham given its proximity to Newark. These are clearly expressed tourism needs in respect of both the type of accommodation proposed and its location, which the proposal would help to meet. I also acknowledge the several letters submitted in support of the proposal which cite its potential economic benefits for the village. On this evidence, therefore, I find that the proposal would address an identified need for tourism accommodation in the local area.
11. For these reasons, the proposal would satisfy several of the criteria of Core Policy 7 and the similar criteria set out under Policy DM8. The site would also be located at the edge of a defined sustainable settlement in Collingham, where visitors would be able to support the several local businesses and would be able to do so without relying wholly on the private car.
12. Consequently, I conclude that the principle of tourist accommodation on site would accord with the aims of Core Policy 7 of the ACS and Policy DM8 of the ADM, and those of supporting documents including the LEP Report and the Newark Town Destination Management Plan (2018). The overall acceptability of the proposal therefore depends on its effect on highway safety and neighbours' living conditions.

Highway Safety

13. Spatial Policy 7 of the ACS states that development proposals should provide safe, convenient and attractive accesses for all, be appropriate for the highway network in terms of the volume and nature of traffic generated, and ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected..
14. The existing operation on site comprises 18 livery businesses (11 stabled and 7 grass) operated on a DIY basis, meaning horse owners rent the stable or paddock but then visit the site to care for the horses themselves. The appellant sets out that the existing livery businesses are typically attended twice a day, all year round, to meet the needs of the horses, added to which are staff, vet and other trips. In comparison, the wigwams are estimated to generate traffic only seasonally, with an aim to have bookings on 100 nights of the year, mainly during holidays in spring and summer, and at weekends.
15. The appellant states that the proposal would result in an overall reduction in vehicular movements compared to the existing livery business, as the reduction in the number of livery businesses on site by four, and corresponding reduction in number of trips to those livery businesses, would be greater than the increase in trips made by visitors to the proposed accommodation. Evidence supplied by the

appellant indicates an average of 100 one-way trips per day to the liveries and 20 to the wigwams, at 5.5 trips per livery and 3.3 per wigwam. A reduction of four liveries would therefore result in some 22 fewer trips per day, offset by an increase of almost 20 trips to and from the wigwams, but this would be the case only for the days the wigwams are occupied. Overall, it is estimated that there are some 6128 one-way journeys per annum to four liveries, and there would be some 1720 visits to the proposed wigwams, based on 100-day occupancy and inclusive of staff journeys. This equates to a reduction of 4408 journeys per annum, an almost 72% reduction.

16. Nottinghamshire County Council (NCC) as the local highway authority has considered the supplied data and concluded that the proposal with a reduced livery offering would reduce daily traffic levels compared to present levels. It adds that there is record of two collisions on Cottage Lane over the past 5 years, but it is not possible to attribute these to Orchard Stables.
17. Notwithstanding this data, the Council's Planning Committee concluded that the proposal would result in 'immense pressure' on the local highway network through increased numbers of vehicles using Cottage Lane, which it considered is too narrow to accommodate additional traffic, and would be a source of potential conflict given it is frequented by walkers and cyclists, particularly given it is part of the National Cycle Network and the Trent Vale Trail. I have had regard to the several representations of interested parties in the matter of highway safety, which refer to the narrowness of Cottage Lane, its forming part of the Trail and Sustrans route, the potential for conflict between vehicles and pedestrians, and the likelihood that traffic is and would be greater than accounted for in the appellant's data.
18. I acknowledge the concerns raised in these respects. Cottage Lane is narrow, particularly at its southern end between the site and its junction with the A1133. However, the Council has not advanced any contrary evidence to that supplied by the appellant to support its conclusions that rather than a decrease in overall traffic, there would in fact be increases in traffic which would be 'too intensive for local infrastructure'. I accept that there will be times when traffic is slightly higher than calculated in the appellant's data. There will also be occasions, as documented by photographic evidence supplied by an interested party, where multiple walkers and cyclists may be using Cottage Lane at the same time. However, there will equally be times when usage of the lane will be much lower, and where traffic would be demonstrably less than at present, such as when the wigwams are not occupied during the low holiday season. Given this, and the absence of data to contradict the appellant's evidence, I find it presents a reasonable summary of traffic generated by the site upon which to base my considerations.
19. There will always be an element of risk where a road is narrow and road users are not segregated, but it would be expected that those using Cottage Lane would be aware of this risk and proceed accordingly. I saw the road to be very lightly trafficked during my visit, but I accept this was only a snapshot on an overcast weekday. However, the appellant's evidence indicates that the combined livery and accommodation on the site would generate an average of just over 7 one-way trips per hour between 0500 hours and 2200 hours, roughly one every 8.5 minutes. Even accepting that trips from the wigwams may take place later in the morning and during the middle of the day when walkers are more likely to be present, compared to the typically early morning

and evening visits to the liveries, I do not consider such volume of traffic to be intensive or result in 'immense pressure' on the highway network as argued by the Council. Rather, the evidence indicates that this volume would be no greater than that generated by the existing development.

20. I note the concerns of interested parties that estimates of only one vehicle per wigwam are too low, and that four-person accommodation will often mean two vehicles bringing guests to and from site. However, even if the estimate of trips was doubled, it would still be well below the existing estimates for the four liveries. Based on the appellant's figures, trip levels would also remain below existing levels even if occupancy were at 150 nights per annum, which is roughly the 40% occupancy rate aspired to in the longer term. Other trips by delivery drivers and refuse vehicles would be less frequent and unlikely to contribute significantly to the overall volume of traffic generated by the proposal. Overall, when compared to the existing situation, and accounting for periods of vacancy during the year, I find that the proposal would not create a demonstrably greater risk of conflict between vehicles and pedestrians than occurs at present.
21. Interested parties have also expressed concern at the potential for more wigwams to be added in future, and the associated traffic impacts this would have. However, any such proposal would be subject to a separate application for planning permission, which would fall to be determined on its own planning merits. I have considered the appeal on the basis of the six wigwams proposed.
22. For these reasons, I conclude that the proposal would not result in unacceptable harm to highway safety, and no conflict would arise with Core Policy 7 of the ACS and Policy DM8 of the ADM in terms of their aims that tourism development has an acceptable impact on local character in terms of transport, nor with Spatial Policy 3 of the ACS which states that development should not generate excessive car-borne traffic from out of the area. Moreover, there would not be conflict with the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Effect on living conditions

23. The Council's concerns in this respect are briefly expressed. In essence, the concern is that the accommodation would have the potential for group bookings and late night activity which would be to the detriment of neighbours' living conditions.
24. The nearest dwellings are some 130 metres to the north, across open fields. At this distance, general noise from occupants of the wigwams conversing, even late into the evening, is unlikely to be heard at any significant volume within the nearest properties. Were music to be played or a larger party to occupy the accommodation, it is possible that louder and more sustained noise may be audible at the nearest properties, though I found the site itself to be exposed to the wind which is likely to dissipate noise produced at the site. Nonetheless, the appellant has indicated that it is not his intention to cater to larger parties, and he has volunteered a condition requiring a Site Management Plan to be submitted and agreed by the Council. This would include measures to mitigate noise pollution, including restrictions on the time the proposed play area can be used and not allowing music to be played after 2200 hours. The appellant is

also prepared to install an acoustic fence along the northern side of the site. In my view, such measures would ensure potential sources of disturbing noise were minimised to a level where they would not cause harm to neighbours.

25. Interested parties also raise concern at the potential for occupants of the wigwams to cause noise and disturbance if returning late at night to the accommodation on foot via Cottage Lane. This may occur on occasion, but given the small size of the facility, and potential inclusion within the Site Management Plan of actions for managing visitor behaviour, I am satisfied that such incidents would not be so frequent or intrusive as to harm the living conditions of neighbouring occupants.
26. I find similarly in respect of noise from the generator which may be required in the event of a power cut, as such incidents would be very infrequent. Even so, at the distances involved, the noise would not be intrusive to neighbouring occupants. The same considerations would apply to concerns over cooking smells from barbecues and fires, though the appellant has stated the latter would not be permitted in any event for safety reasons.
27. For these reasons, subject to a condition requiring the submission, approval and implementation of a Site Management Plan, I conclude that the proposal would not lead to demonstrable harm to neighbours' living conditions, and no conflict would arise with Core Policy 7 or Spatial Policy 3 in this regard. Nor would there be conflict with aim of the Framework that development should create places with a high standard of amenity for existing and future users.

Other Matters

Effect on landscape character

28. The Council did not oppose the proposal in terms of its design or effect on the landscape character of the area. The surrounding Winthorpe Village Farmlands landscape is described in the Council's Landscape Character Assessment Supplementary Planning Document as a generally flat and gently undulating arable landscape with numerous woodland blocks, in moderate condition with moderate sensitivity to change and a policy to conserve and create.
29. In this case, the proposed reinforcement of the existing hedgerows would help to screen the development and help it to assimilate into the landscape, given the site is presently open paddocks. A proposed 1.5 metre high earth bund planted with native species would further screen the development from the roadside. Though criticised as out-of-character, the land itself is raised above Cottage Lane, and the bund would be seen as a modest continuation of this. It would also be planted which in time would minimise any initially stark appearance and contribute towards a woodland character seen elsewhere within the landscape. Having regard to all of the evidence, I agree with the Council that the proposal would not adversely affect the quality of the surrounding landscape, and would comply with the requirements of Policy DM5 of the ADM, which requires that the rich local distinctiveness of the district's landscape and character of built form should be reflected in new development.

Effect on Heritage

30. The appeal site is located outside of the Collingham Conservation Area (CCA), but it falls within its setting as the CCA extends to the cricket and tennis clubs on the opposite side of Cottage Lane. The nearest listed buildings are within

the built-up area of the village, but I concur with the Council that given their distance from the appeal site, and the low level built form proposed, the proposal would preserve the settings of these listed buildings.

31. Similarly, I agree that the screening provided by the bund and planting would minimise the visual impact of the development in views from within the CCA, such as from the cricket pitch, and the rural surroundings of the CCA would not be demonstrably eroded. Accordingly, I find that the proposal would preserve the setting of the CCA.

Ecology

32. The site comprises open paddocks used for grazing, and no evidence of particular habitats or biodiversity has been advanced. Existing hedgerows to the northern and eastern boundaries would not be adversely affected by the proposal, whilst the proposed planting, along with other measures such as bird boxes and hedgehog houses would provide for a net gain in biodiversity on the site. Precise details of such measures could be secured by condition.

Flood risk and drainage

33. The site lies within Flood Zone 1 and the proposal is minor in scale and site coverage. The evidence before me does not indicate there would be a significant risk in terms of flooding or drainage. Sewage would be suitably managed through the proposed biodisc tank located to the north-western corner of the site. I have no concerns, therefore, in respect of these matters.

Conditions

34. I have had regard to the list of suggested conditions provided by the Council and the appellant. Where necessary, I have amended their wording to ensure they meet the relevant test for conditions set out in the Framework.
35. In addition to the standard time limit for implementation, a condition setting out the approved plans is necessary to provide certainty. A condition requiring adherence to the proposed external materials is also necessary to ensure a satisfactory appearance.
36. Conditions requiring the submission, approval and implementation of details of the proposed access, and requiring the implementation of parking and turning areas in accordance with the approved plans, are necessary in the interests of highway and pedestrian safety.
37. I shall also impose conditions relating to the provision of a Site Management Plan, details of external lighting, and the installation of the proposed acoustic fence, in the interest of safeguarding neighbours' living conditions. Given the limited window and door openings in the wigwams, it is not necessary to require details of internal lighting by condition.
38. A condition is required for the submission, approval and implementation of a scheme of hard and soft landscaping, in order to preserve the landscape character of the area. To provide net gain in biodiversity, it is necessary to condition details of proposed hedgehog houses/nest boxes and other ecological enhancements, and their subsequent implementation.
39. It is necessary to restrict use of the wigwams to holiday purposes only, in order to prevent use of the site as permanent residential accommodation. However,

it is not necessary to do this by way of three separate conditions, as suggested by the Council. I have therefore combined these into a single condition which will achieve the purpose of preventing permanent residential occupation, which would not be supported in the countryside under the development plan.

40. The appellant invited a condition requiring details of electric vehicle charging points to be submitted and approved by the Council. However, the Council does not suggest such a condition and has not provided any reason why it should be imposed. Therefore, I have not imposed a condition to this effect.
41. The Council also seeks a condition removing permitted development (PD) rights for changes of use under Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The Planning Practice Guidance states that conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity and should be precisely defined. The brief reason given by the Council is to retain control over future uses of the site which would normally be permitted under the GPDO. However, it is not specified which classes of development under Schedule 2, Part 3 are relevant, or even applicable in this case, given that Part 3 does not permit changes of use from holiday accommodation. I therefore find no justification has been advanced for removing these permitted development rights, and I shall not impose the condition.

Conclusion

42. For these reasons, and taking all relevant matters into consideration, I conclude that the proposal accords with the development plan, taken as a whole, and material considerations arising in this case do not indicate that permission should nevertheless be withheld. Therefore, the appeal is allowed.

K Savage

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

S(--)001 (Location plan as existing); G(--)001 Rev A (Block Plan as Proposed); G(--)002 Rev A (Long Section 1-1 and East Elevation as Proposed); G(--)003 Rev A (North and South Elevations as Proposed); G(--)004 (Sight Lines and Entrance Upgrade Details as Proposed); G(--)101 (Wigwam Deluxe Cabin as Proposed); G(--)102 (Wigwam Deluxe Cabin as Proposed); G(--)201 (Accessible Cabin as Proposed); G(--)202 (Accessible Cabin as Proposed); G(--)301 (Timber Clad Container as Proposed); SK(--)001 (Masterplan Sketch as Proposed); SK(--)002 (North East Entrance Corner Sketch as Proposed); SK(--)003 (North West Corner Sketch as Proposed); SK(--)004 (South West Corner Sketch as Proposed); SK(--)005 (South Corner Sketch as Proposed); SK(--)006 (Reception and Storage Container Sketch as Proposed).
- 3) The materials to be used in the construction of the external surfaces of the wigwam units and storage building hereby approved shall accord with the details submitted within the application form and on the approved drawings unless otherwise agreed in writing with the local planning authority.
- 4) Notwithstanding the submitted drawings, no part of the development hereby permitted shall be brought into use until the access to the site has been completed and surfaced in a bound material for a minimum distance of 8m, along with the installation of a suitable means of surface water disposal behind the highway boundary in accordance with a plan first submitted and approved in writing by the local planning authority. Thereafter the access shall be constructed in accordance with the approved plans and retained for the life of the development.
- 5) No part of the development hereby permitted shall be brought into use until the parking and turning areas are provided in accordance with the approved plan, G(--)001 Rev A (Block Plan as Proposed). The parking and turning areas shall not be used for any purpose other than parking and turning of vehicles.
- 6) No part of the development hereby permitted shall be brought into use until details of any external lighting to be used in the development have first been submitted to and approved in writing by the local planning authority. The details shall include location, design and levels of brightness. The lighting scheme shall thereafter be carried out in accordance with the approved details and retained for the lifetime of the development.
- 7) No part of the development hereby permitted shall be brought into use until full details of both hard and soft landscape works have first been submitted to and approved in writing by the local planning authority. These details shall include:
 - full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting)

and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;
- design and location of the acoustic fence;
- any other hard surfacing materials.

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

- 8) Notwithstanding the requirements of Condition No 7, the approved acoustic fence shall be installed prior to the development hereby approved being brought into use and shall be retained for the lifetime of the development.
- 9) No building on site shall be first occupied until details including location of a hedgehog house and bird nest boxes and any other ecological enhancement, have been submitted to and approved in writing by the local planning authority. The hedgehog houses/nest boxes and the approved ecological enhancement scheme shall then be installed prior to first use or in accordance with a timeframe to be agreed with the local planning authority, in accordance with the approved details and retained thereafter for the lifetime of the development.
- 10) No part of the development hereby permitted shall be brought into use until a Site Management Plan has first been submitted to, and approved in writing by, the local planning authority. The Site Management Plan shall include details of measures to be employed to minimise noise and disturbance on site, measures to ensure behaviour by occupants when on site and entering and leaving the facility, how breaches of the plan may be reported to the site owner/manager and details of measures which will be undertaken by the site owner/manager to remedy any breaches of the plan. The approved Site Management Plan shall thereafter be adhered to at all times and for the life of the development.
- 11) The wigwam units hereby approved shall be used for holiday accommodation purposes only and shall not be occupied for any other purpose other than as holiday accommodation. In particular the accommodation shall not be used as the sole or principal residence by any person or persons, and shall not be occupied by the same person or persons for a total period exceeding 28 days in any calendar year. The owner of the site shall maintain an up-to-date register of occupants for each calendar year, which shall be made available for inspection by the local planning authority, at any time.

End of Schedule

PLANNING COMMITTEE - 6 JULY 2021

Planning Fees and Charges Supplementary Guidance Document: Clarification on how planning fees are calculated

1.0 Purpose of Report

- 1.1 To provide Planning Committee with information on a document prepared by the Council which will assist in guiding applicants on how planning fees are calculated.

2.0 Background Information

- 2.1 The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 sets out how the majority of fees for applications should be determined. This statutory instrument (SI) has been amended in part via The Town and Country Planning (Fees for Applications, Deemed Requests and Site Visits) (England) (Amendment) Regulations 2017. Primarily the later SI has increased the amount payable for planning applications. Notwithstanding these SIs setting out the detail, there are times when it is not clear such as proposals for annexes.

3.0 Proposals

- 3.1 In order to speed up the processing of applications i.e. to ensure that the correct fee is paid when submitted, as well as to ensure consistency, the document attached at Appendix 1 has been prepared. It is also hoped that the publication of this document on the Council's website might reduce the number of complaints and challenges the Planning Support Team receive in relation to fees. Alongside using our own experience and knowledge, reference has been made to other councils, where possible, to confirm that the approach set out is consistent as well as complies with known legal challenges.
- 3.2 Notwithstanding the publication of this document, it would not prevent an applicant who considers that we are applying the incorrect fee to challenge this via the validation dispute route set out within Article 12 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO).

4.0 Legal Implications

- 4.1 Legislation relating to planning applications and associated fee is set out by Government within Statutory Instruments, two of which are referenced earlier. In addition, the validation of applications is set out in the DMPO. There are no further legal implications.

5.0 Equalities Implications

- 5.1 There are no equalities implications within this report.

6.0 Digital Implications

- 6.1 There are no digital implications.

7.0 Financial Implications

7.1 There are minimal financial implications associated with this report. There is a possibility the amount of time disputing the fee due might be reduced.

8.0 Community Plan – Alignment to Objectives

8.1 As dealing with planning applications is a statutory function, alignment to the Community Plan is limited.

9.0 RECOMMENDATION

That Planning Committee note the contents of this report and Appendix 1.

Background Papers: None

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

Matt Lamb
Director of Planning & Growth

PLANNING COMMITTEE - 6 JULY 2021

Residential Cycle and Car Parking Standards & Design Guide Supplementary Planning Document (SPD)

1.0 Purpose of Report

1.1 To inform Planning Committee about the adoption of the Residential Cycle and Car Parking Standards & Design Guide SPD and provide Planning Committee with information on the use of the document in determining planning applications.

2.0 Background Information

2.1 The SPD was adopted at Economic Development Committee on 16th June 2021 following two 8-week consultation periods. A link to the adopted SPD is here:
<https://www.newark-sherwooddc.gov.uk/spd/>

3.0 Proposals

3.1 The SPD provides an understanding of what constitutes good or bad design and whether a development proposal will deliver effective parking solutions and strikes the right balance between providing sufficient parking spaces and good design. The need to provide car parking needs to be balanced with the aim of achieving places that feel safe to use and support sustainable attractive residential developments.

3.2 The adopted SPD provides detailed guidance to articulate how Local Plan policies should be implemented. It is not the role of an SPD to set new policy, and Government guidance states that SPDs should build upon and provide more detailed advice or guidance on policies in the Development Plan. The SPD provides additional guidance in relation to Spatial Policy 7 (Sustainable Transport), Core Policy 9 (Sustainable Design) and Policy DM5 (Design). SPDs are a material consideration in the determination of planning applications, but cannot be used as a reason for refusal as they can only provide guidance as to whether proposals comply with policies in the Development Plan.

4.0 Legal Implications

4.1 An SPD is a statutory document, and the legal requirements in relation to its use as a local development documents are prescribed by the Town and Country Planning (Local Planning) (England) Regulations 2012 which requires that Supplementary Planning Documents alone do not guide or regulate applications for planning permission.

5.0 Equalities Implications

5.1 There are no equalities implications within this report.

6.0 Digital Implications

6.1 There are no digital implications.

7.0 Financial Implications –FIN21-22/7668

7.1 There are no financial implications.

8.0 Community Plan – Alignment to Objectives

8.1 The Community Plan Objective “Create more and better quality homes through our role as landlord, developer and planning authority” is supported by the production of the SPD as this Objective seeks to provide a positive, proactive and timely planning service which secures good quality homes.

8.2 The Community Plan Objective “Continue to maintain the high standard of cleanliness and appearance of the local environment” is indirectly supported by the SPD as it seeks to reduce the likelihood of on street parking in new residential developments and thus improving the appearance of the local environment.

9.0 RECOMMENDATION

Committee note the contents of the report.

Background Papers

None

For further information please contact Emma Raine Planner (Policy) on Ext 5767 or Matthew Norton Business Manager – Planning Policy and Infrastructure on Ext 5852.

Matt Lamb
Director of Planning & Growth

PLANNING COMMITTEE - 6 JULY 2021

PLANNING COMMITTEE ANNUAL REPORT 2020-2021

1.0 Purpose of Report

1.1 Members are presented with reports of the performance of the Planning Department each quarter. However, this does not provide information of the performance of Planning Committee. It is therefore proposed to provide an annual report of performance each municipal year. This is the first of those reports. Should Members require any different information in future reports, this can be investigated.

2.0 Background Information

2.1 Committee meetings have been held on a Tuesday virtually throughout the year due to the Covid-19 pandemic commencing at 1400 hours. It is understood that many have been 'attended' by members of the public, professional agents etc. watching via You Tube, viewing the proceedings with a general interest.

2.2 Facts, Planning Applications and Reports

- Newark & Sherwood District Council's Planning Committee sat on 12 occasions throughout the municipal year 2020- 2021.
- The committee did not undertake any official site visits, due to the Covid-19 pandemic restrictions.

2.3 Planning Applications:

The Planning Committee determined 66 planning applications over the 12 meetings which includes three deferrals and re-submissions:

- 44 applications were granted in line with officer recommendation;
- 2 applications were refused in line with officer recommendation;
- 2 applications were granted contrary to officer recommendation;
- 18 applications were refused contrary to officer recommendation; and
- 4 deferred for negotiation or further information.

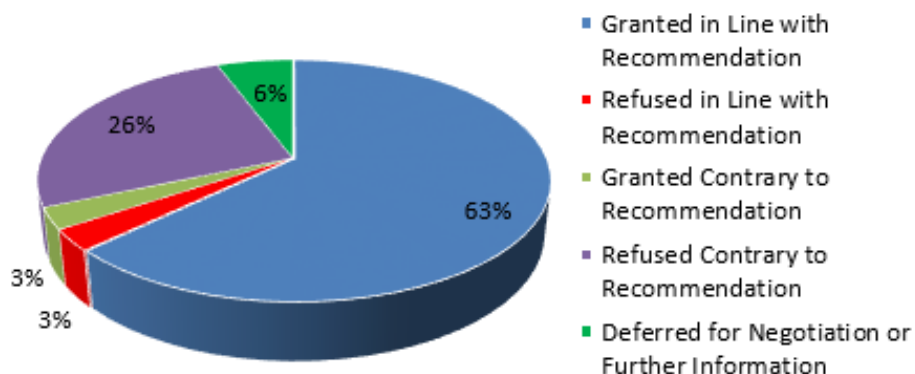


Chart 1: How applications were determined

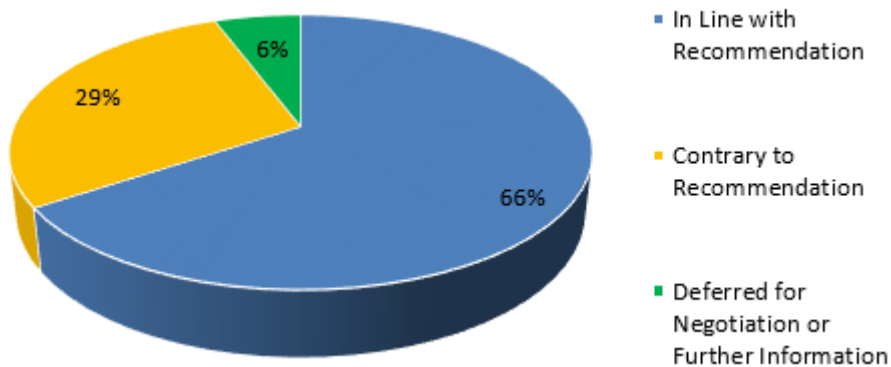


Chart 2: Percentage of Decisions in Accordance with or Contrary to Officer Recommendation

2.4 Appeals Decisions:

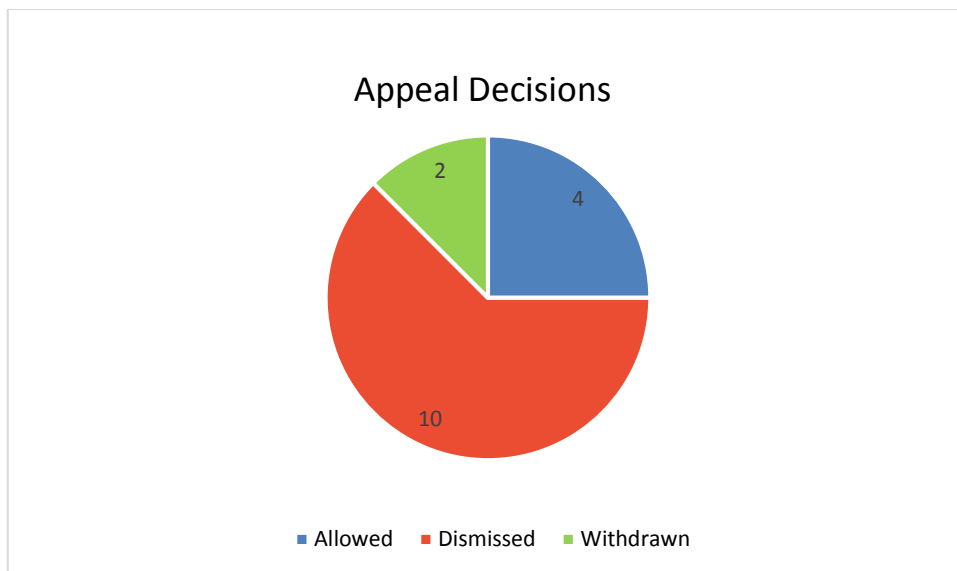
Throughout the municipal year Newark & Sherwood District Council received 16 appeal decisions in respect of decisions made by the Planning Committee.

Out of the sixteen, 4 of the appeals were allowed (i.e. granted) by the Inspector and 10 were dismissed (refused), supporting the decision of the committee.

Two appeals were withdrawn prior to being determined by the Planning Inspectorate following a further planning application being submitted by the appellant.

Of the appeals:

- 13 of these had been recommended for approval by Officers but overturned by Committee;
- 3 had been recommended by Officers to be refused;
- Of the overturns appeals 4 were allowed, 7 dismissed and 2 withdrawn.



The allowed appeals were:

- 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)
- 20/00579/FUL - Friary Fields Residential Nursing Home, 21 Friary Road, Newark On Trent, NG24 1LE - Proposed change of use from Residential Institution (class C2) to large House in Multiple Occupation (class - Sui-Generis)
- 19/00782/FUL – Ashleigh, Great North Road, South Muskham, Newark On Trent, NG23 6EA - Proposed erection of 3 dwellings

- 20/00041/FUL - Land Adjacent Old Norse House, Station Road, Bleasby, NG14 7GD - Change of use of land from paddock land to residential use and erection of three bay garage with store above (for use by Old Norse House)

2.5 **Additional reporting**

In addition to planning applications the Committee also received a variety of reporting:

Planning Application Validation Check List

Presented by the Business Manager the committee were advised that the Council currently validated planning applications in accordance with a local list which was last reviewed in 2013. The list was updated to take account of policy changes since it was last adopted.

Committee agreed the officer recommendation and noted the proposed check list; agreed that the checklists would be subject to consultation for a minimum of 6 weeks and that a report on the consultation responses would be returned to the planning committee.

The Check List was adopted at the April 2021 committee meeting.

Planning Enforcement Plan

Prior to seeking adoption by the Economic Development Committee in September 2020, the Planning Enforcement Plan (PEP) was presented by the Senior Enforcement Officer. The report detailed how the PEP provides information on how the Council would respond to suspected breaches of planning control, tackle unauthorised developments and monitor the implementation of planning permissions. It also made clear that enforcement action was discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Temporary Structures

Presented by the Business Manager, approval was sought from Committee for the adoption of a policy for under enforcement of temporary structures as a result of the Covid – 19 pandemic. This report was presented firstly in November 2020 and subsequently in March 2021 as a result of the ongoing pandemic. A number of businesses have taken advantage of this relaxation. All cases are being monitored by the planning enforcement team.

Legislative updates

There have been significant numbers of changes to legislation over the municipal year. Key changes have been reported to members in August and December. The majority of these have either related to amendments needed as a result of the Covid-19 pandemic, such as extending the timescales for the implementation of planning permissions or further relaxing permitted development rights.

Alongside this, further changes are afoot with the Planning White Paper. As further information is published/consulted upon, details will be provided at appropriate times to Committee.

Review of Scheme of Delegation

Following the adoption of the Planning Scheme amendments in November 2019, it was agreed that a review would be undertaken within approximately 12 months. The changes implemented in 2019 had had positive effects upon the numbers and type of applications that Committee were requested to determine. However, there were many frustrations by all with the amended process and a review was undertaken and changes suggested to overcome these concerns and frustrations presented to Planning Committee. The changes as drafted were agreed by Full Council in May 2021. They will be reviewed for effectiveness alongside the possible change in Council structure to a Cabinet system.

3.0 RECOMMENDATION

That Members note the contents of this report

Reason for Recommendation(s)

To provide an account of the work the Committee has undertaken with the opportunity to input suggestions for improvements.

Background Papers

None

For further information please contact Lisa Hughes on Ext 5565

Matt Lamb
Director Growth & Regeneration