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**Monday, 30 August 2021**

**Chairman: Councillor R Blaney  
Vice-Chairman: Councillor Mrs L Dales**

**Members of the Committee:**

**Councillor L Brazier  
Councillor M Brock  
Councillor R Crowe  
Councillor L Goff  
Councillor Mrs R Holloway  
Councillor Mrs P Rainbow**

**Councillor Mrs S Saddington  
Councillor M Skinner  
Councillor T Smith  
Councillor I Walker  
Councillor K Walker  
Councillor Wildgust  
Councillor Mrs Y Woodhead**

**MEETING: Planning Committee**

**DATE: Tuesday, 7 September 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](mailto:catharine.saxton@newark-sherwooddc.gov.uk).**



## AGENDA

### Page Nos.

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| 1. | Apologies for Absence                               |       |
| 2. | Declarations of Interest by Members and Officers    |       |
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#### **Part 1 - Items for Decision**

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| 5. | Land off Sandhills Sconce, Tolney Lane, Newark (21/00891/S73) | 8 - 24  |
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#### **Part 2 - Items for Information**

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| 7. | Land North of Halloughton, Southwell (20/01242/FULM) | 57 - 65 |
| 8. | Appeals Lodged                                       | 66 - 67 |
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#### **Part 3 - Statistical and Performance Review Items**

None

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

None

#### NOTES:-

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

## Why NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 3 August 2021 at 4.00 pm.

PRESENT: Councillor R Blaney (Chairman)

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

APOLOGIES FOR ABSENCE: Councillor L Brazier (Committee Member) and Councillor Mrs R Holloway (Committee Member)

### 27 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor M Brock declared a personal interest in Agenda Item No. 5 – 45 Westgate, Southwell (21/00759/FUL), as he was involved in consideration of the application at Southwell Town Council and would not take part in the discussion or vote.

### 28 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.

### 29 MINUTES OF THE MEETING HELD ON 6 JULY 2021

AGREED that the minutes of the meeting held on 6 July 2021, were approved as a correct record of the meeting and signed by the Chairman.

### 30 45 WESTGATE, SOUTHWELL (21/00759/FUL)

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the demolition of the existing single storey outbuilding. New 1-1.5 storey dwelling to the rear. Renovation to Beckett's Yard Radio and Cycle Office wall to Westgate elevation and new garage.

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 applicants and neighbours at 47 Westgate. Southwell.

Councillor D Martin on behalf of Southwell Town Council spoke against the application, in accordance with the views of Southwell Town Council, as contained within the report.

Members considered the application and the loss of two car parking spaces on the highway was considered a major loss given the problem with car parking in this location. Concern was also raised regarding surface water and pressure on the Potwell Dyke. It was further commented that on first view the site appeared constrained, however when looking at the plan the site was deep and would not be visible from the street scene. It was suggested to alleviate surface water condition 13 could be amended to require the hard surfacing to be permeable.

Councillor M Brock having declared a personal interest took no part in the vote.

AGREED (with 10 votes For and 2 votes Against) that planning permission be approved subject to the conditions and reasons contained within the report, with the amendment to Condition 13 for the hard surfacing to be permeable.

*Councillor M Skinner left the meeting at this point.*

31 RINGLET HOUSE, Highbury Green, Eakring (21/01333/HOUSE)

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the erection of a single storey rear extension.

Members considered the presentation from the Business Manager - Planning Development, which included photographs and plans of the proposed development. The Committee was also informed that Eakring Parish Council had responded to the consultation with no comments.

Members considered the application acceptable.

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

32 RINGLET HOUSE Highbury Green Eakring (21/01524/TWCA)

The Committee considered the report of the Business Manager – Planning Development, which sought the reduction of one Plum tree to obtain end height of 4 metres and spread of approximately 3.5 metres.

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

Members considered the application acceptable.

AGREED (unanimously) that no objection was raised to the proposal.

33 NOMINATIONS TO THE LOCAL DEVELOPMENT TASK GROUP

The Committee were asked to nominate three Members of the Planning Committee to sit on the Local Development Framework Task Group.

AGREED (unanimously) that Councillors R. Blaney, L. Dales and M. Skinner be appointed as the Planning Committee representatives on the Local Development Framework Task Group for 2021/22.

34 REVISED S106 AGREEMENT FOR LAND SOUTH OF NEWARK

The Committee considered the urgent report of the Business Manager – Planning Development, as the applicant needed to know whether there was agreement for an amendment to the Section 106 Planning Obligation relating to this land prior to the next Planning Committee in September 2021.

The application proposed to modify the Section 106 Agreement pursuant to Planning application 14/01978/OUTM for modifications sought in relation to altering the trigger for the build out of the Southern Link Road (SLR) and Off site sports contribution.

Members considered the proposal and agreed that it was in the Council’s interest to support the developer by agreeing the proposed amendments.

AGREED (with 12 votes for and 1 vote against) that the proposed variation to the Section 106 be agreed as per the amendments to Schedule 1 (Highway Improvement), Schedule 2 (Affordable Housing) and Schedule 3 (Community Facilities).

35 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

The Committee considered the verbal update of the Business Manager – Planning Development, regarding the Flowserve Pump Division appeal which was refused by the Planning Committee, contrary to Officer recommendation and granted permission on appeal.

The Business Manager – Planning Development informed Members that the outcome would not be challenged.

AGREED that the verbal report be noted.

36 APPEALS LODGED

AGREED that the report be noted.

37 APPEALS DETERMINED

AGREED that the report be noted.

38 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 April to June 2021. In order for the latest quarter's performance to be understood in context, in some areas data going back to April 2019 was provided. The performance of the Planning Enforcement team was provided as a separate report.

AGREED that the report be noted.

39 QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

The Planning Committee considered the report of the Director of Planning & Regeneration which provided an update on Enforcement Action for the first quarter from 1 April to the 30 June 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.

Schedule A within the report outlined the enforcement activity for Q1 in terms of the numbers of cases that had been received and closed and also provided a breakdown of the reason that cases had been closed. Schedule B provided a more detailed position statement on formal action (such as enforcement notices served) since the previous performance report was brought before the Planning Committee. This section did not detail Planning Contravention Notices served.

It was reported that formal enforcement action was usually the last resort and where negotiations had failed to produce a satisfactory resolution of a breach of planning control. In the vast majority of cases, negotiation, or the threat of formal action, was enough to secure compliance with planning legislation.

AGREED that the report be noted.

Meeting closed at 5.10 pm.

Chairman

## PLANNING COMMITTEE – 7 SEPTEMBER 2021

<b>Application No:</b>	<b>21/00891/S73</b>	
<b>Proposal:</b>	<b>Application to vary condition 1 of planning permission 18/01443/FUL to amend the temporary permission to permanent</b>	
<b>Location:</b>	<b>Land Off Sandhills Sconce, Tolney Lane, Newark</b>	
<b>Applicant:</b>	<b>Messers Coates, Gray, Wilson, Calladine, Biddle, Coates etc</b>	
<b>Agent:</b>	<b>Murdoch Planning Ltd - Dr Angus Murdoch</b>	
<b>Registered:</b>	<b>19 April 2021</b>	<b>Target Date: 14 June 2021</b>
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>	

**This application is being reported to the Planning Committee as the specifics of the application warrant determination by the Planning Committee in line with the Council's Scheme of Delegation.**

### The Site

The application site is situated west of the Newark Urban Area, within the Rural Area as defined by the Newark and Sherwood Core Strategy and within the open countryside. The site is located at the south-westernmost end of Tolney Lane which runs from the Great North Road, on the north-west side of the River Trent and which leads to a dead end. The site, known as Green Park, is accessed from Tolney Lane via an access road through an existing Gypsy and Traveller site known as Hiram's Paddock, which has been extended to the south-west to serve this site. Green Park represents the final gypsy and traveller site at the south-western end of Tolney Lane.

The site measures 1.35 hectares in area, is roughly rectangular in shape and its authorised use is as a gypsy and traveller residential caravan site on a temporary basis. The site is sub-divided into 10 pitches, all served by a central roadway. There are open fields to the north-west and south-west of the site with a more recent gypsy and traveller site to the south-east.

Hedges define the north-west and south-east boundaries, which are protected by a Tree Preservation Order (11/00099/TPO) and the Old Trent Dyke forms the south-western boundary of the application site.

The majority of the site is within Flood Zone 3b on the Environment Agency's flood maps, which means it is at the highest risk of fluvial flooding, and is defined as being within the functional floodplain. Parts of Tolney Lane itself, the only access to and from the site, are also at high risk of flooding from the River Trent, with low points that are liable to flood before the site itself.

Tolney Lane accommodates a large gypsy and traveller community providing approx. 300 pitches.



## Relevant Site History

### **18/01443/FUL**

Application for the variation of condition 1, to make the temporary permission permanent, attached to planning permission 12/00562/FUL granted on appeal at Plots 1-10 Green Park, Tolney Lane (PI Ref: APP/B3030/C/12/2186072 and APP/B3030/A/12/2186071) (Change of use from paddock to gypsy and traveller residential caravan site - retrospective). Temporary permission was extended for a further 3 years until 30 Nov 2021.

### **17/00954/FUL**

Removal of part of condition 1 attached to planning permission 12/00562/FUL (Change of use from paddock to gypsy and traveller residential caravan site) to allow the site to be permanent, refused 02.07.2018 by Planning Committee for the following reason:

“The proposed development represents highly vulnerable development that would be located within Flood Zone 3b and therefore would be inappropriate and should not be permitted in accordance with the National Planning Policy Framework and the PPG. The NPPF states that all development should be directed towards areas at lower risk of flooding. When temporary permission was first granted on this site there were no available Gypsy & Traveller sites in areas at lower risk of flooding. Whilst the Local Planning Authority cannot currently demonstrate a five year supply of pitches, the shortfall of 2 pitches is not considered significant or severe. The purpose of granting temporary consent was to cater for the applicant's immediate accommodation needs whilst allowing for the possibility of identifying other sites at lesser risk of flooding. The temporary consent still has almost 8 months to run (up to 30th September 2018) and the Authority is pro-actively pursuing the identification of a suitable site to meet future gypsy and traveller needs within, or adjoining, the Newark Urban Area. Although there would be some social and economic factors which would weigh in favour of the proposal it is not considered that these, in combination with the supply position, are sufficient to outweigh the severe flood risk and warrant the granting of permanent consent.

In the opinion of the Local Planning Authority, to allow permanent occupation of the site at such high risk of flooding would therefore place both the occupants of the site and members of the emergency services at unnecessary risk and be contrary to the National Planning Policy Framework and the Planning Practice Guidance, Core Policies 5 and 10 of the Newark and Sherwood Core Strategy and Policy DM5 of the Allocations and Development Management DPD.”

### **14/01640/FULM**

Remove/Vary conditions 5 and 6 attached to the planning permission granted on appeal at Plots 1-10 Green Park, Tolney Lane (PI Ref: APP/B3030/C/12/2186072 and APP/B3030/A/12/2186071; NSDC Ref: 12/00562/FUL). Condition 5 required the removal of all solid walls and close boarded timber fences from site and replacement with post and rail fences within 3 months of the date of the permission and Condition 6 required the ground level within Pitch 8 to be reduced within 3 months of the permission. This application was refused by Planning Committee 18.12.2015 on grounds of failure to demonstrate it would result in no increased flood risk.

### **12/00562/FUL**

Change of use from paddock to gypsy and traveller residential caravan site (retrospective), refused by Planning Committee 12.10.2012 on grounds of impact on flood risk, harm to open countryside and prematurity. Following an extensive Public Inquiry the Inspector resolved 10.06.2014 to grant temporary planning permission for 5 years until 30 September 2018 (PI Ref: APP/B3030/C/12/2186072 and APP/B3030/A/12/2186071).

## The Proposal

Planning permission is sought to vary Condition 1 attached to the current permission under reference 18/01443/FUL to allow the gypsy and traveller use to become permanent rather than continue on a temporary basis.

Condition 1 states:

“The use hereby permitted shall be carried on only by the following and their resident dependents:

- Steven and/or Cherylanne Coates;
- Adam and/or Florence Gray
- Zadie Wilson (soon to be Knowles) and/or Joe Knowles
- Danny and/or Marie Knowles
- Richard and/or Theresa Calladine
- Edward and/or Margaret Biddle
- Steven and/or Toni Coates and Peter Jones
- Amos and/or Jaqueline Smith
- John and/or Kathy Hearne
- Susie and/or Billy Wiltshire

And shall be for a limited period being the period up to 30 November 2021, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 30 November 2021, whichever shall first occur, the use hereby permitted shall cease and all caravans, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 7 hereof.

Reason: In the recognition of the current need for gypsy and traveller sites within the district and to allow for further assessment of alternative sites to meet this need including sites at less risk of flooding in accordance with the aims of Core Policy 10.”

In support of the application the agent has submitted the following comments:-

*“As you know the site has been occupied without any problems since 2013 and has been subject to a series of temporary consents, the most recent of which was approved by your authority in 2018. In the Officer’s Report for that application it states:*

*“The Inspector examining the Amended Core Strategy has reached the view, as set out in post-hearing note 4 (issued 8 May 2018), that “the GTAA is very likely to have underestimated need which means that the number of pitches set out in Draft Core Policy 4, which is based on the GTAA is insufficient.”*

*This is enlarged upon later in that Report as follows:*

*“Whilst as a result of the Amended Core Strategy examination the precise level of need cannot be currently defined it is clear is that there is unmet need. Given the circumstances it is also the case that the Council is unable to demonstrate a five year supply of sites. Therefore the contribution the proposals would contribute towards meeting future need and the current supply position ought to weigh heavily in their favour.*

*Whilst the Plan Review will result in the need for a new GTAA to be carried out in the short term (over the next 2 years) and subsequent site allocations (in the forthcoming DPD) being based on the new GTAA, the current level of need cannot be accurately calculated. However, what is clear is that it will result in an identification of unmet need (precise quantum yet to be identified) and in determining this application now appropriate weight must be afforded to this consideration in favour of the application. In addition to an unmet need, there are currently no other sites with planning permission, and no allocated sites identified and consequently the Council does not have a five year supply of sites. This weighs heavily in support of this proposal.”*

*The Report concluded:*

*“The recommendation to Members is that a further temporary permission be granted for a further 3 year period, to allow the applicant’s immediate accommodation needs to continue to be met, whilst the extent of future need is quantified and more appropriate land identified through the Development Plan process. This would tie in with the Allocations and Development Management DPD which is forecast for adoption in November 2020.”*

*The reason only a temporary rather than a permanent permission was granted was because unmet [need] was still unquantified at that time and therefore flood risk was considered to outweigh that unquantified need. Since then, the 2020 GTAA has been published in June of this year (attached) which discloses a substantial level of unmet need of some 169 pitches. This means that need is now quantified. No alternative sites have been identified and no allocations made to meet these considerable needs. Each of these factors attract substantial weight.*

*In terms of flood risk, since the 2018 permission, the Applicants’ Flood Risk expert Ian Walton and I were involved in an Appeal for a Travellers site that was, like here, located in FZ3b (that site was also in the Green Belt) and where mitigation was by way of evacuation (as proposed here since 2014). I attach that Appeal Decision dated January 2020 from which you will see that the Secretary of State granted a permanent, non-personal planning permission. Need in that case was for just 21 pitches, unlike the 169 pitches required in Newark.*

*It is therefore now clear that the material considerations have changed significantly since the 2018 approval:*

- 1. Need was unquantified in 2018; the 2020 GTAA establishes an unmet need of 169 pitches;*
- 2. The 2018 Report indicated that allocations to meet need would be in place by November 2020; currently (April 2021) no such allocations have been made;*
- 3. The position in 2018 was that flood risk outweighed an unquantified need; there is recent authority from the Secretary of State that Traveller sites can be permanently located in FZ3b.*

*This is a well-run site of long-standing that that the Officer’s Report accepts is in a sustainable location. In the 6 years the site has been occupied, the residents have become part and parcel of the local community and have demonstrated by their actions that they are good neighbours. Approving this application would resolve the accommodation needs of 10 Traveller families on a Previously Developed Site, whilst reducing unmet need and making a meaningful contribution to the required 5 year supply.*

*For all these reasons, the proposal should be supported by the Council.”*

As this represents a Section 73 application, no plans or Flood Risk Assessment have been submitted with the application as reliance will be made on those submitted under reference 12/00562/FUL. The Inspector commented on the FRA's submitted with the original application stating:- *“It is common ground that the 2 FRA's submitted with the application the subject of the appeal D were inadequate. For the Environment Agency (EA), Mr Andrews pointed out that the submitted FRA's did not: analyse the flood risk from the adjacent Old Trent Dyke; identify mitigation measures to take account of works undertaken on site; or analyse the hazards associated with the access and egress route, with input from the emergency services. I still do not have a document which constitutes a FRA approved by the EA and that is an additional breach of the requirements of the Framework, PPG and CS. However, during the course of this inquiry, I have heard a considerable amount of expert evidence on behalf of the appellants and the EA regarding flood risks and it falls to me to consider the risks on that basis.”* On this basis, the Inspector sought to rely wholly on site evacuation following a Flood Alert warning from the Environment Agency.

This application submission has been supported by a copy of an appeal decision for Horton Road, Datchet dated 23 January 2020 (link to access attached to Background Papers listed at the end of this report).

#### Departure/Public Advertisement Procedure

Occupiers of 8 properties have been individually notified by letter.

#### Planning Policy Framework

##### The Development Plan

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

Spatial Policy 1 : Settlement Hierarchy

Spatial Policy 3 : Rural Areas

Spatial Policy 7 : Sustainable Transport

Core Policy 4 : Gypsies & Travellers – New Pitch Provision

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

Core Policy 9 : Sustainable Design

Core Policy 10 : Climate Change

Core Policy 13 : Landscape Character

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

Policy DM5 – Design

Policy DM8 – Development in the Open Countryside

Policy DM12 – Presumption in Favour of Sustainable Development

##### Other Material Planning Considerations

- National Planning Policy Framework 2021
- Planning Practice Guidance (on-line resource)
- Planning Policy for Traveller Sites – August 2015

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

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

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

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

The document goes on to state that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan and sites in rural areas should respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on local infrastructure.

**Annex 1** of this policy provides a definition of "gypsies and travellers" which reads:-

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

- Newark and Sherwood Gypsy and Traveller Accommodation Assessment, 2020
- Emergency Planning Guidance produced by the Nottingham and Nottinghamshire Local Resilience Forum (August 2017)

This document states: "New developments in flood risk areas must not increase the burden on emergency services. The Emergency Services are in heavy demand during flood incidents. The Fire and Safety Regulations state that "people should be able to evacuate by their own means" without support and aid from the emergency services. The emergency services and local authority emergency planners may object to proposals that increase the burden on emergency services."

"New development must have access and egress routes that allow residents to exit their property during flood conditions. This includes vehicular access to allow emergency services to safely reach the development during flood conditions. It should not be assumed that emergency services will have the resource to carry out air and water resources during significant flooding incidents; therefore safe access and egress routes are essential....."

The emergency services are unlikely to regard developments that increase the scale of any rescue as being safe..."

### Consultations

**Newark Town Council** – “It was AGREED to OBJECT to this application on the same grounds as put forward in 2012:

'The Committee OBJECT to this application on the grounds that the area is prone to flooding and is a further extension to the wash land'."

**Environment Agency** – “We wanted to point out that since the previous application in November 2018 there has been no change in flood risk/modelling information or policy and therefore we would like to re-iterate our previous response:

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the flood zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and its associated planning practice guidance (PPG).

The PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each flood zone. This site lies within flood zone 3a, which is land defined by the PPG as having a high probability of flooding. The development is classed as highly vulnerable in accordance with table 2 of the flood zones and flood risk tables of the planning practice guidance. Tables 1 and 3 make it clear that this type of development is not compatible with this flood zone and therefore should not be permitted.

Furthermore, we object to this application because it fails the second part of the flood risk exception test. The NPPF and PPG clearly state that change of use applications, where the proposed use is a caravan site, are not exempt from application of the exception test. The NPPF makes it clear that both elements of the exception test must be passed for development to be permitted. Part 2 of the test requires the applicant to demonstrate, via a site-specific flood risk assessment (FRA), that the development will be safe, without increasing flood risk elsewhere. Where possible, the development should reduce flood risk overall.

In this instance the developer's FRA fails to:

- demonstrate that the development is 'safe';
- demonstrate the provision of safe access and egress routes.

### **Flood risks to the site**

We would like to take this opportunity to highlight the risks to the site should a flood event occur. We ask that you present this information to planning committee so they are fully aware of the current day risks to the site, and even more importantly, the increased risks associated with climate change. It is our opinion that whilst climate change does not need to be considered or mitigated for temporary planning permissions, it is vitally important that the increased flood levels associated with climate change are considered and mitigated against for permanent permissions. This is essential given the much longer lifetime associated with permanent developments. It is our opinion that committee need to be fully aware of this when reaching a decision.

The flood depths that would impact this site during various flood events, according to our modelled data, are set out below. Given the highly vulnerable nature of the proposed development, you may wish to consider the flood depths arising from the 1 in 1000 year event:

- The site could flood to a level of 12.61mAOD during a 1 in 1000 year event, which equates to flood depths of up to 1.03m.
- The site could flood to a level of 12.34mAOD during a 1 in 100 year 20% climate change event, which equates to flood depths of up to 0.77m;
- The site could flood to a level of 12.15mAOD during a 1 in 100 year event, which equates to flood depths of up to 0.59m;
- The site does not get flooded during a 1 in 20 year event.

Furthermore, it is worth noting that these flood depths are those which are shown to impact the site itself, the depths increase significantly when you look at the proposed access and egress route known as Tolney Lane.

In terms of mitigation, the development is proposing to rely solely on flood warning and evacuation planning; there are no proposals to raise land, and there are no proposals to raise the touring caravans themselves. There are no innovative proposals to reduce flood risk to the development and future occupants. The FRA proposes to rely on evacuation of the site before a flood event.

Where a development proposes to rely on flood warning and evacuation, our preference is for dry access and egress routes to be provided in order to demonstrate the safety of the development and future occupants. In this particular location the access and egress route is the first area of the site to flood, and it floods to extremely significant depths. The FRA recognises this and instead proposes to manage the flood risk by way of advanced flood warning and evacuation planning; a matter which falls outside of our remit as a statutory consultee. The PPG makes clear that the Local Planning Authority are responsible for determining the adequacy of flood warning and evacuation plans, in consultation with emergency planners.

We strongly recommend that prior to determining the application, your Authority seek expert advice from the local emergency planners in order to consider whether or not the proposed flood warning and evacuation plans will demonstrate the safety of the development and future occupants over its lifetime.

### **Previous decisions**

We are mindful that a planning inspector has previously deemed temporary occupancy of this site appropriate; the inspector overruled our flood risk objection, and surprisingly deemed it appropriate to grant a temporary 5 year planning permission despite the significant flood risks to this site. The inspectors reasoning was that a temporary 5 year permission would allow the Local Plan process to develop, with the ultimate aim of identifying an alternative site of lesser flood risk to which the temporary occupants of this site could then be moved.

We have now reached the end of the 5 year permission, and an alternative site of lesser flood risk has still not been identified. We are understanding of the situation this leaves your Authority in. On the face of it, nothing has really changed since the planning inspector deemed a temporary planning permission suitable, i.e. there are still no alternative sites for gypsy and traveller provision in Newark and Sherwood, and the flood risks to the site are essentially the same as they

were 5 years ago. Having considered the planning inspector's previous decision, we understand that your Authority may be minded to grant another temporary permission. Another temporary planning permission would allow your Authority to continue long term work on identifying an alternative site, or perhaps look at options to reduce the flood risks to the existing site.

Further to this we note that the planning committee, when considering the November 2018 application resolved to grant a further 3 year temporary permission. However, it is vitally important that your Authority consider the planning position that might result from the continuous granting of temporary planning permissions; whilst case law can be seen as a fluid situation, we are aware of scenarios where continuous 'temporary' permissions could result in a 'deemed permission' for permanent use. Your Authority, and planning committee, must consider this in reaching a decision re: temporary use. Our recommendation is that if you are indeed minded to approve another temporary permission, you only do so with a time limit that would prevent the use from becoming 'permanent' through case law.

### **Next steps**

Given the information set out above, we do not foresee how this application can overcome our objection; it is contrary to the NPPF at a fundamental level, and the flood risks to the site are highly significant. Whilst we are understanding of the difficult position that your Authority are in, we must act reasonably and fulfil our role as a statutory expert on flood risk.

None the less, if your Authority are minded to approve the application on a temporary basis we ask that you re-consult us and notify us of your intention to do so.

If you are minded to approve the application on a permanent basis, we must stress that we would consider instigating the call in direction as we consider the risks to this site to be too significant to allow permanent 'highly vulnerable' development to proceed, without further work to reduce flood risks to the site beforehand."

**NB Whilst the above comments from the EA confirm that the application site is within Flood Zone 3a, the case officer sought additional clarification as it was their understanding that the majority of the site was within Flood Zone 3b. The EA have since confirmed in writing that the majority of the site is indeed within Flood Zone 3b (within the functional floodplain).**

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

### Comments of the Business Manager

Temporary planning permission was granted for the existing use of the gypsy and traveller caravan site on 10 June 2014, following an extensive Public Inquiry. The principle of the use of the site for these purposes on a temporary basis has therefore been established.

The Inspector stated within his decision following the Public Inquiry that *"...the absence of a 5 year supply of deliverable sites for gypsy and travelers must carry weight, notwithstanding paragraph 28 of PPTS. Nevertheless, principally because of the serious flood risk, I am still not persuaded that all the material considerations justify a permanent permission. .... However, the section of the PPG concerning the use of planning conditions indicates that temporary permission may be appropriate where it is expected that the planning circumstances may change by the end of the relevant period. There is at least a realistic prospect of safer, more suitable sites being*



*allocated through the development plan process and delivered, with planning permission, within the next 5 years. If the risks can be effectively managed and minimized over a finite and temporary period then, in the very particular circumstance of this case, the material considerations identified as weighing in favour of the development would cumulatively indicate that permission should be granted for a temporary period, notwithstanding the national and local policy objections.”*

The Inspector concluded in adding to the reasons for a temporary permission that *“it still requires the occupiers to leave the appeal site at the end of the temporary period, but this is a proportionate response and interference with the residents’ rights under Article 8 of the ECHR, given the legitimate objective of ensuring safety and avoiding undue additional burdens on the Council and emergency services.”*

The original permission was granted following the Inspector balancing the lack of available gypsy and traveller pitches at the time of consideration against the high level of flood risk on the site. The decision was intended to cater for the applicants’ immediate accommodation needs whilst allowing for the possibility of identifying other sites at lesser risk of flooding. That permission was renewed for a further 3 year temporary permission in 2018, which expires on 30 November 2021. As confirmed in the PPTS, there is no presumption that a temporary grant of planning permission should be granted permanently, and legal advice has been sought which confirms that as long as there is a good, sound reason for the continued granting of temporary permission, that this would not lead to a greater likelihood of a permanent permission being found to be more acceptable over time. However there would need to have been a material change in circumstance since the determination of the previous permissions to justify any permanent permission, and this is considered further below.

### Need

The Gypsy and Traveller Accommodation Assessment demonstrates a need for 118 pitches to meet the needs of those who were established to meet the planning definition between 2013-33 (this figure rises to 169 to take account of undetermined households and those who do not meet the definition – but who may require a culturally appropriate form of accommodation). The requirement of 118 pitches forms the basis of the five year land supply test, as required as part of the PPTS. Helpfully the GTAA splits this need across 5 year tranches – with 77 pitches needing to be delivered or available within the first period (2019-24) for a five year supply to be achieved. This reflects a heavy skewing towards that first tranche – due to the need to address unauthorised and temporary development, doubling up (i.e. households lacking their own pitch) and some demographic change within that timespan (i.e. individuals who will be capable of representing a household by the time 2024 is reached).

It was considered that the recent Chestnut Lodge permission near Balderton had the effect of creating an available supply of 1 pitch towards the current five year requirement (as well as having the potential to meet a further pitch required towards the end of the plan period). The Authority however has a considerable shortfall in being able to demonstrate a five year land supply, and a sizeable overall requirement which needs to be addressed. Both the extent of the pitch requirement and the lack of a five year land supply represent significant material considerations, which should weigh heavily in the favour of the granting of permission where proposals will contribute towards supply.

The new GTAA (with a baseline of February 2019) recorded 10 pitches on the application site, with 11 households meeting the planning definition of a traveller with a further 2 households being undetermined. However, notwithstanding the results of the survey carried out as part of the GTAA in 2019, it was accepted by the Inspector in 2014 that all the then applicants met the definition and given that the permission continues to be personal to 10 named households, it is accepted that this application is being assessed on this same basis. The current need is therefore considered to be for 10 pitches. Beyond this, additional need was also identified to occur within the first and then two subsequent five year tranches in order to address the needs of planning definition households forming through demographic change.

Accordingly, the granting of permanent permission would allow for the current planning definition need, picked up as part of the GTAA to be met and contribute progress towards a five year land supply. This weighs heavily in the favour of granting permanent permission, and robust and justifiable reasons are needed to depart from a permanent approval on this basis. Officers consider, however, as did the Inspector previously that given the potential risk to people and property, flood risk has the potential to form such a reason.

### Flood Risk

The final criterion of Core Policy 5 states that ‘Proposals for new pitch development on Tolney Lane will be assessed by reference to the Sequential and Exception Tests as defined in the Planning Practice Guidance. These will normally be provided temporary planning permission.’ The NPPF states that local planning authorities should minimise risk by directing development away from high risk areas to those with the lowest probability of flooding. National guidance/policy relating to flood risk since 2014 has introduced new guidance in relation to climate change that increases the bar in relation to the assessment of new development. Core Policy 10 and Policy DM5 also reflects the advice on the location of development on land at risk of flooding and aims to steer new development away from areas at highest risk of flooding. Paragraph 13 (g) of the PPTS sets out a clear objective not to locate gypsy and traveller sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.

The site is located within Flood Zone 3(b) and as such is within the functional floodplain of the River Trent, and at the highest risk of fluvial flooding, as are parts of the only access to and from it, along Tolney Lane.

Table 2 of the Planning Practice Guidance states that caravans, mobile homes and park homes intended for permanent residential use are classified as “highly vulnerable” uses. Table 3 of the Practice Guidance states that within Flood Zone 3b, highly vulnerable classification development should not be permitted. Tables 1 and 3 of the Planning Practice Guidance make it clear that this type of development is not compatible within this Flood Zone and should therefore not be permitted.

In coming to his decision in 2014, in the appeal on this site, the Inspector acknowledged that the development was contrary to local and national policies concerning flood risk such that it would represent a highly vulnerable use and therefore inappropriate development in Flood Zone 3 that should not be permitted. However, he concluded that if residents of the site could be evacuated within 8 hours of the first flood alert warning, before flood levels are likely to prevent safe evacuation from the site for the residents, then there would be no input required from the Council or emergency services, and the development need not give rise to an additional burden. (No

comments have been received from the Council's Emergency Planner on this application). The Inspector concluded that the lack of a five year supply was sufficient to warrant the grant of a temporary consent, subject to managing the risk to occupants of the site through the use of very prescriptive conditions to reduce the risk and secure a site specific evacuation plan.

In considering whether it would be appropriate to permit a permanent permission, it remains the case that the majority of the site is located within Flood Zone 3b (functional floodplain) and therefore remains at high risk of flooding and as such a permanent residential caravan site represents inappropriate development in this location.

It is accepted that the granting of permanent pitches would pass the Sequential Test, as there are currently no reasonably available alternative sites at lesser risk of flooding. The NPPF and PPG clearly state that change of use applications, where the proposed use is a caravan site, are not exempt from assessment under the Exception Test and the NPPF makes it clear that both elements must be passed for development to be permitted. Paragraph 164 of the NPPF states, "To pass the exception test, it should be demonstrated that:

- a) The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall."

Whilst it is considered that sustainability benefits to the community could be met in this case, the proposal would fail part b, as confirmed by the comments received from the Environment Agency.

The agent continues to rely on Flood Risk Assessments that were submitted in support of the 2012 application. Both FRA's submitted were considered inadequate during the Inquiry process and do not address the Exception Test or the technical ability of the site itself to be safe for its proposed use and demonstrate that it would not increase flooding elsewhere, but instead relies wholly on the requirement to evacuate the site on receipt of a Flood Alert warning from the Environment Agency prior to a flood event occurring. As such, the Environment Agency continue to object to the proposed development on the basis of the failure to pass the Exception Test.

The EA have commented previously on the appeal decision at Datchet, where the same decision was submitted in support of another application, and stated:-

"Horton Road, Datchet

- The EA's objection was solely a policy objection because of the 'highly vulnerable' development in Flood zone 3.
- The site is in both flood zones 2 and 3, so the applicant planned to raise some of the land to the flood zone 2 height, and put the caravans on the raised areas, with the finished floor levels raised further. This would mean that the caravans are a safe space during periods of flooding.
- The site had an achievable and effective floodplain compensation scheme for the proposed land raising, to replace the lost floodplain storage.
- The access road is in Flood Zone 3, there is therefore a warning and evacuation plan to evacuate the caravans in advance of flooding. This is a well-established plan with an on-site warden to manage the evacuation and receive the warnings etc."

### *Comparison with application 12/00562/FUL at Tolney Lane*

Application 12/00562/FUL (or 18/01443/FUL) at Tolney Lane has never been accompanied by an adequate Flood Risk Assessment, as quoted above in the Inspector's appeal decision, so no mitigation measures were proposed. The EA has responded with a policy objection for the same reasons as they did at the Horton Road site; a policy objection because of the PPG/NPPF. At the Horton Road appeal, the Inspector went against this policy and approved the proposal based on the 'very special circumstances' of that case (being located in Green Belt) where both local and national policy allowed for inappropriate development to be permitted where the very special circumstances justification is made. The Inspector concluded that when account was taken of all the material considerations in favour of the development, they considered them to clearly outweigh the harms identified, thereby amounting to the very special circumstances in that case. This site is not within the Green Belt and therefore 'very special circumstances' do not apply in this case.

With the Horton Road site, the caravans were high enough to be a safe refuge if for some reason a person wasn't evacuated in time, the required land raising could be effectively mitigated through a floodplain compensation scheme and EA had the assurance that there was a very robust evacuation plan, with an on-site warden. All of the above meant that the EA could be fairly assured that the occupants were likely to be safe in the event of flooding, and the scheme would not increase flood risk elsewhere.

On this site, no adequate FRA has ever been produced to demonstrate what height the caravans' finished floor levels will be compared to the flood levels, no evidence has been produced to show if there is a safe refuge on site above flood levels and no details of any floodplain compensation schemes have been submitted. In fact, the requirements set out under Conditions 5 (to removed solid boundary walls on the site and replace with post and rail fencing) and 6 (to lower the ground levels on Plot 8 to their original levels) set out by the Inspector for flood mitigation have not been complied with since their imposition in 2014. It is therefore not possible to put aside the in principle policy objection on flood risk grounds because no other acceptable forms of mitigation can be provided in this case to demonstrate that the occupants of the site would be safe from flooding, nor that flood risk would not be increased elsewhere. Looking at the flood levels in the Tolney Lane area, the EA suspect that flood levels are higher than those at Horton Road, although they don't have any figures for Horton Road to compare.

As such, the submitted appeal decision at Datchet can be given little weight in the consideration of this application, as the weight to be given to different material planning considerations will differ on different sites and the flood risk issues in particular are clearly materially different and cannot be compared, in any event.

It is therefore considered that the proposal continues to be contrary to the NPPF (and its PPG), Core Policies 5 and 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD as well as the guidance within the NPPF, PPG and PPTS.

Flood risk therefore continues to weigh significantly against the proposal for a permanent permission and this is considered further within the Conclusion and Planning Balance set out below.

## Other Matters

The remaining material planning considerations – impact on the open countryside, the site's relative close proximity to Newark Urban Area and its facilities and services, ecology, trees and hedgerows, highway safety and residential amenity, remain unchanged from the previously considered application and as such do not require further consideration in this instance. The Gypsy and Traveller status of the occupants of the site have already been established through past applications. For information, the full officer report from the previous 2018 application can be viewed by clicking on the link attached to the Background Papers listed at the end of this report.

## Conclusion and Planning Balance

Both the extent of future pitch requirements identified by the GTAA and level of shortfall towards a five year land supply are acknowledged, and weigh heavily in favour of granting permanent consent.

Crucially, however, the purpose of the temporary consent was to allow time for the Authority to conclude production of its new GTAA, establishing the level of need, and to formulate a strategy towards site allocation to ensure that those needs can be met; whilst simultaneously allowing the immediate accommodation needs of the applicants to be met. The temporary consent does not expire until the 30th November 2021, and so there remains a limited level of time until this is reached. Production of the new GTAA has been concluded, and progress towards a detailed site allocation strategy has been made – to the extent that public consultation commenced this summer. Whilst it is too early in the process to afford meaningful weight to the emerging Amended Allocations & Development Management DPD, it sets out a clear position around what sites located on Tolney Lane will be potentially considered for allocation to meet their future needs, and how planning issues in the area will be managed in the future. This position is one which would not support the allocation of land that is within functional floodplain or unless flood risk is reduced via provision of flood resilient access to Great North Road. Green Park's location within functional floodplain would be unaffected by provision of road improvements.

Flood risk, therefore represents a significant material consideration against the granting of a permanent consent, and one which is not considered to have the potential to outweigh matters of supply; particularly given the potential risk to people and property within the functional floodplain.

In allowing the appeal decision at this site (for touring caravans that would evacuate the site at the Environment Agency's flood warning as is set out within this proposal), the Inspector considered that that whilst Gypsy and Traveller development would usually be inappropriate in a high risk Flood Zone, balanced against all the other considerations that weighed positively including significant unmet need, a temporary permission was appropriate in that instance. Indeed, the reasoning behind the Inspector's granting of a temporary consent continue to remain valid at this time. This decision was reflected in the previous granting of a temporary permission for 3 years on the previous approval granted on this site. It is concluded therefore that there has been little material change to planning considerations since that decision was reached.

The continued policy and technical objection from the Environment Agency, in this regard, is also clear and unambiguous. It is therefore considered that the established need set out in the recent GTAA publication does not in itself tip the balance sufficiently in support of a permanent permission on this site by outweighing the harm and risk to occupants of this type of development being situated within unsustainable locations such as the highest flood risk zone (the functional floodplain) of the River Trent.

Notwithstanding the failure to pass the second part of the Exception Test, there is the precedent where previous permissions have accepted application of a temporary mitigation strategy - and so there can be no issue with this being repeated on this site in November when the current temporary permission expires. Progress towards the identification of land elsewhere in and around the Newark Urban Area is being made through the Plan Review, and will provide an option for the occupants to meet their accommodation needs in a location at lesser flood risk. The current timetable anticipates Examination of the Submission Amended Allocations & Development Management DPD will occur in June 2022, receipt of the final Inspector's report in December 2022 and Adoption of the DPD in February 2023. As such, an extension of the existing temporary permission for a further two years on this site may be considered appropriate in assessing any renewal of the temporary consent later this year.

However, it remains the case that the granting of a permanent consent cannot be supported.

## **RECOMMENDATION**

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

01

The application use falls within a 'highly vulnerable' flood risk vulnerability category that is inappropriate to the Flood Zone in which the application is located (Flood Zone 3b – defined as functional floodplain). Tables 1 and 3 of the PPG make it clear that this type of development is not compatible to this Flood Zone and therefore should 'not be permitted.' In addition, the proposal fails part b) of the Exception Test.

The purpose of granting temporary permission was to cater for the applicants' immediate accommodation needs whilst allowing for the possibility of identifying other sites at lesser risk of flooding and the Authority is pro-actively pursuing the identification of suitable sites to meet existing and future gypsy and traveller needs within, or adjoining, the Newark Urban Area through the Development Plan process.

Whilst the proposal would assist in the permanent supply of pitches position, it is not considered that this is sufficient to outweigh the severe flood risk and warrant the granting of permanent permission. To allow permanent occupation of a site at such high risk of flooding would therefore be contrary to Core Policy 5 and 10 of the Newark and Sherwood Amended Core Strategy 2019 and Policy DM5 of the Allocations and Development Management DPD 2013 together with the aims and guidance of the NPPF, PPG and PPTS, which are material planning considerations.

### **Background Papers**

Application case file.

Link to Committee Report for application 18/01443/FUL –  
[https://publicaccess.newark-sherwooddc.gov.uk/online-applications/files/461DBB74E8E93E1ECADF1FB2362BD61C/pdf/18\\_01443\\_FUL-COMMITTEE\\_REPORT-925151.pdf](https://publicaccess.newark-sherwooddc.gov.uk/online-applications/files/461DBB74E8E93E1ECADF1FB2362BD61C/pdf/18_01443_FUL-COMMITTEE_REPORT-925151.pdf)

Link to appeal decision from Horton Road, Datchet -  
[https://publicaccess.newark-sherwooddc.gov.uk/online-applications/files/FF1957075D103CBBADBA7C6A5EC5E615/pdf/21\\_00891\\_S73-COPY\\_OF\\_APPEAL\\_DECISION\\_FROM\\_DATCHET-1221221.pdf](https://publicaccess.newark-sherwooddc.gov.uk/online-applications/files/FF1957075D103CBBADBA7C6A5EC5E615/pdf/21_00891_S73-COPY_OF_APPEAL_DECISION_FROM_DATCHET-1221221.pdf)

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

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

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

Committee Plan - 21/00891/S73



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## PLANNING COMMITTEE – 7 SEPTEMBER 2021

<b>Application No:</b>	<b>16/00506/OUTM</b>	
<b>Proposal:</b>	<b>Outline planning application for a phased residential development of up to 1,800 dwellings; a mixed use Local Centre of up to 0.75ha to include up to 535sqm of food retail (not exceeding 420sqm) and non-food retail (not exceeding 115sqm), food and drink uses (not exceeding 115sqm), community uses (not exceeding 1,413sqm); sports pavilion up to 252sqm; primary school (2.2ha) with school expansion land (0.8ha); formal and informal open space including sports pitches, pocket parks, structural landscaping / greenspace and drainage infrastructure; principal means of access, internal roads and associated works. All other matters to be reserved.</b>	
<b>Location:</b>	<b>Land at Fernwood South</b>	
<b>Applicant:</b>	<b>Anne Dew - Persimmon Homes East Midlands</b>	
<b>Registered:</b>	<b>20.04.2016</b>	<b>Target Date: 10.08.2016</b>
	<b>Extension of Time Agreed in Principle</b>	
<b>Website Link:</b>	<a href="#"><u>16/00506/OUTM   Outline planning application for a phased residential development of up to 1,800 dwellings; a mixed use Local Centre of up to 0.75ha to include up to 535sqm of A1 food retail (not exceeding 420sqm) and non-food retail (not exceeding 115sqm), A3 food and drink uses (not exceeding 115sqm), D1 community uses (not exceeding 1,413sqm); sports pavilion up to 252sqm; primary school (2.2ha) with school expansion land (0.8ha); formal and informal open space including sports pitches, pocket parks, structural landscaping / greenspace and drainage infrastructure; principal means of access, internal roads and associated works. All other matters to be reserved.   Land At Fernwood South Nottinghamshire (newark-sherwooddc.gov.uk)</u></a>	

### Update Position

Members will recall that this application has been presented on four occasions in the past. The first was on 13 September 2016 with an Officer recommendation of approval. The second, was on 24 July 2018 where Officers outlined the original viability case presented by the applicant as well as outlining the changes which had occurred between 13 September 2016 and 24 July 2018 in respect of Section 106 negotiations and other changes in material planning considerations. The third was on 5 February 2019 where Officers presented a 'sense check' of their recommendation in the context of the revised NPPF. The most recent was on 6 October 2020 where the applicant presented updated financial appraisals to make amendments to some of the triggers in the S106.

Previous committee reports can be found at the following links (albeit the original 2016 report is not available online):

24 July 2018:

[Agenda for Planning Committee on Tuesday, 24th July, 2018, 3.00 pm - Newark and Sherwood District Council \(newark-sherwooddc.gov.uk\)](https://www.newark-sherwooddc.gov.uk)

5 February 2019:

[Agenda for Planning Committee on Tuesday, 5th February, 2019, 4.00 pm - Newark and Sherwood District Council \(newark-sherwooddc.gov.uk\)](https://www.newark-sherwooddc.gov.uk)

6 October 2020:

[Agenda for Planning Committee on Tuesday, 6th October, 2020, 2.00 pm - Newark and Sherwood District Council \(newark-sherwooddc.gov.uk\)](https://www.newark-sherwooddc.gov.uk)

At the outset it should be stated that on all occasions Members have resolved to approve the application subject to conditions and the sealing of the Section 106 agreement. The decision is yet to be issued due to discussions in relation to the S106.

The reason for bringing the application before Members again is that it has come to light that the minutes for the latest meeting did not explicitly refer to the schedule of communication received after agenda print. Specifically comments from Nottinghamshire County Council which requested that the bus stop infrastructure monies should be added into the Section 106 rather than be controlled by condition. This was agreed by Officers as a reasonable request and therefore the Section 106 discussions have been proceeding on this basis. For clarity the developer contributions table included at Appendix 2 has been updated accordingly.

Members will note that the NPPF has been updated since the previous report was presented but Officers do not consider that the changes have a material impact on the consideration presented by the October 2020 report.

The other minor amendment is a change to the description of development to remove reference to previous Use Class Orders. This does not change the substance of the application and is purely for clarity.

### **RECOMMENDATION**

**That planning permission is approved subject to the conditions outlined in Appendix 1 and subject to the sealing of a legal agreement to secure the contributions set out in Appendix 2.**

Background Papers - Application case file and links above.

For further information, including to request a copy of the original 2016 report, please contact Laura Gardner on extension 5907.

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

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

**Appendix 1 – Conditions and Informatives for 16/00506/OUTM**

Commencement	01	<p>The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved on any phase, whichever is the later.</p> <p>Reason: To conform with Section 92 (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
Time period	02	<p>The reserved matters application for the first phase or sub phase of the development shall be made to the Local Planning Authority before the expiration of five years from the date of this permission and all subsequent reserved matters applications shall be submitted before the expiration of fifteen years from the date of this permission.</p> <p>Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
Reserved Matters	03	<p>Details of the appearance, landscaping, layout (including internal accesses) and scale ('the reserved matters') for each phase or sub phase of the development (pursuant to Condition 4 (Phasing) of the development shall be submitted to and approved in writing by the local planning authority before development in that phase or sub phase begins and the development shall be carried out as approved.</p> <p>Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal to comply with the requirements of Section 92 of Town and Country Planning Act 1990, as amended by Section 51 of the Planning &amp; Compulsory Purchase Act 2004 and for reasons of sustainable travel and highway capacity.</p>
Phasing	04	<p>The development hereby approved shall be implemented in accordance with the Phasing Plan (drawing no. 6534-L-06) and each reserved matters application for each phase or sub phase of the development shall be accompanied by an up to date phasing plan and phasing programme which includes details as follows:</p> <ol style="list-style-type: none"> <li>I. Development area or parcels, including broad areas, range of residential unit numbers and/or floorspace or non-residential uses.</li> </ol>

**Appendix 1 – Conditions and Informatives for 16/00506/OUTM**

		<p>II. Site accesses and major internal infrastructure including internal roads, pedestrian and cycle crossings, footpaths, cycleways and bus stop infrastructure.</p> <p>III. Confirmation of the timescale for the implementation of the off-site highway infrastructure including highway improvements/traffic management.</p> <p>IV. Timing and delivery of the associated Green Infrastructure with that phase (including public open space, formal sports recreation facilities, allotments, NEAPs, LEAPs and associated parking facilities);</p> <p>Reason: To ensure that the site is developed in a satisfactory manner and for the avoidance doubt.</p>
Plans	05	<p>Reserved matters submissions for any phase or sub phase hereby approved shall be carried out in accordance with the following plans:</p> <ul style="list-style-type: none"> <li>• Parameters Plan A Application Boundary FPCR Drawing Reference No. 6534-L-01</li> <li>• Parameters Plan B Land Use FPCR Drawing Reference No. 6534-L-02</li> <li>• Parameters Plan C Residential Density FPCR Drawing Reference No. 6534-L-03</li> <li>• Parameters Plan D Access FPCR Drawing Reference No. 6534-L-04</li> <li>• Parameters Plan E Green Infrastructure FPCR Drawing Reference No. 6534-L-05 Rev A</li> <li>• Parameters Plan F Phasing FPCR Drawing Reference No. 6534-L-06</li> </ul> <p>Reason: To ensure that the site is developed in a satisfactory manner and for the avoidance doubt.</p>
Design	06	<p>The submission of each reserved matters and the implementation of development shall be carried out in substantial accordance with the principles described and illustrated within the Illustrated Masterplan Ref 6534-L-07 rev. I and the Design and Access Statement. For the avoidance of doubt this should include changing facilities, toilets and car parking for the sporting provision to north of Shire Lane for the relevant phase or sub phase of the development.</p> <p>Reason: To ensure that the site is developed in a satisfactory manner and for the avoidance of doubt.</p>

**Appendix 1 – Conditions and Informatives for 16/00506/OUTM**

	07	<p>Each application for reserved matters approval for each phase or sub phase of the development shall include a statement detailing how the application responds to the design principles contained within the Masterplan and Design and Access Statement on the following matters, subject to revisions agreed in writing by the Local Planning Authority;</p> <ul style="list-style-type: none"> <li>• Place making including build form, design, scale, height and massing;</li> <li>• Design, materials, detailing and boundary treatment;</li> <li>• Movement including street hierarchy, connectivity and design principles; and</li> <li>• The design and function of landscaping, green infrastructure and open space</li> </ul> <p>Reason: To ensure consistency with the Masterplan and Design and Access Statement and ensure the site is developed in a satisfactory manner.</p>
Development Quantum Residential	08	<p>The development hereby permitted authorises the erection of no more than 1800 dwellings falling within Use Class C3.</p> <p>Reason: To define the planning permission and to ensure the development takes the form agreed by the authority and thus results in a satisfactory form of development.</p>
Development Quantum Local Centre	09	<p>The development hereby permitted authorises no more than 0.75ha gross floor space falling within Class E (a, b, c, e, f) or Class F1 of the Schedule to the Town and Country Planning (Use Classes Order) 1987 (as amended) or any provision equivalent to that Class and for the avoidance of doubt the Town and Country Planning (General Permitted Development) (England) Order 2015 permitted development rights will not apply to the 0.75 ha floor space referred to in this condition and which are to be provided within a Local Centre as indicated on Parameters Plan B Land Use FPCR Drawing Reference No. 6534-L-02. Any reference to a Lawful enactment referred to herein includes any subsequent modification of said Lawful enactment.</p> <p>Reason: To define the planning permission and to ensure the development takes the form agreed by the authority and thus results in a satisfactory form of development.</p>

**Appendix 1 – Conditions and Informatives for 16/00506/OUTM**

Development Quantum Specific Uses	10	<p>Within the Local Centre as indicated on Parameters Plan B Land Use FPCR Drawing Reference No. 6534-L-02, food retail uses shall not exceed 420sqm (gross floor area) with non-food retail not exceeding 115sqm, community uses not exceeding 1,413sqm and sports pavilion not exceeding 252sqm.</p> <p>Reason: To define the planning permission and to ensure the development takes the form agreed by the authority and thus results in a satisfactory form of development.</p>
Land Contamination	11	<p>Unless otherwise agreed by the Local Planning Authority, development in any relevant phase or sub phase which has potential sources of contaminants as identified by the Preliminary Risk Assessment undertaken by RSK and dated December 2014, other than that required to be carried out as part of an approved scheme of remediation, must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.</p> <p>Part A: Site Characterisation</p> <p>An investigation and risk assessment for the relevant phase or sub phase of the development, 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:</p> <ul style="list-style-type: none"> <li>(i) a survey of the extent, scale and nature of contamination;</li> <li>(ii) an assessment of the potential risks to: <ul style="list-style-type: none"> <li>• human health;</li> <li>• property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;</li> </ul> </li> </ul>

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		<ul style="list-style-type: none"><li>• adjoining land;</li><li>• ground waters and surface waters;</li><li>• ecological systems;</li><li>• archaeological sites and ancient monuments;</li></ul> <p>(iii) an appraisal of remedial options, and proposal of the preferred option(s).</p> <p>This must be conducted in accordance with DEFRA and the Environment Agency’s ‘Model Procedures for the Management of Land Contamination, CLR 11’.</p> <p>Part B: Submission of Remediation Scheme</p> <p>A detailed remediation scheme for the relevant phase or sub phase of the development 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.</p> <p>Part C: Implementation of Approved Remediation Scheme</p> <p>The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of the relevant phase or sub phase of the development, other than that required to carry out remediation and unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.</p> <p>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.</p>
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		<p>Part D: Reporting of Unexpected Contamination</p> <p>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.</p> <p>Following completion of measures identified in the approved remediation scheme a verification report must be prepared for the relevant phase or sub phase of the development, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.</p> <p>Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.</p>
<p>Parking and Management Plan</p>	<p>12</p>	<p>The reserved matters application for the relevant phase or sub phase of the development relating to the delivery of the primary school shall include a parking and management plan (including appropriate provision to utilise car parks associated with the Local Centre and a school safety zone which shall include appropriate signing, lining, traffic calming, coloured surfacing, and parking restrictions) and shall be submitted to and approved in writing by the local planning authority.</p> <p>Reason: To ensure that the site is developed in a satisfactory manner and for the avoidance of doubt.</p>
<p>Construction Management Plan</p>	<p>13</p>	<p>No development shall take place on any phase or sub phase of the development until a Construction Environmental Management Plan (CEMP) for that phase or sub phase of the development has been submitted to and approved in writing by the local planning authority. The CEMP shall be updated if required as part of each Reserved Matters submission for each phase or sub phase of the development. The approved CEMP shall be adhered to throughout the construction period. The CEMP shall set the overall strategies for the following showing explicit regard for all existing neighbouring receptors:</p>



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- the parking of vehicles of site operatives and visitors including manoeuvring arrangements;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the proposed site compound;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel and vehicle body washing facilities;
- provision of road sweeping facilities;
- measures to control the emission of noise, dust and dirt during construction;
- a Site Waste Management Scheme for recycling/disposing of waste resulting from demolition and construction works;
- a Materials Management Plan (MMP) to address the storage and handling of materials;
- a Noise Mitigation Scheme (NMS) designed to minimise noise levels during construction such as adopting a Code of Construction Practice, adopting principles of Best Practicable Means to reduce noise levels during construction work;
- the means of access and routing strategy for construction traffic;
- details of construction traffic signage;
- management and procedures for access by abnormal loads;
- a strategy to control timings of deliveries to avoid the morning and evening peak travel times;
- hours of construction work;
- a construction Travel Plan;
- management of surface water run-off, including details of a temporary localised flooding management system;
- the storage of fuel and chemicals;
- the control of temporary lighting;
- measures for the protection of retained trees, hedgerows and watercourses as identified in Tree Survey and Constraints Report dated 19<sup>th</sup> October 2015;
- Appropriate controls for the storage of hazardous materials and fuel storage and filling areas

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		Reason: To ensure appropriate mitigation for the impact on residential amenity caused by the construction phases of the development and to reflect the scale and nature of development assessed in the submitted Environmental Statement and to accord with the objectives of the NPPF and Newark and Sherwood Core Strategy Policies CP9, CP12, CP13 and NAP2C and in line with the ES.
Phased Noise Attenuation submitted with each RMA	14	<p>Each reserved matters application for each phase or sub phase of the development hereby approved shall be accompanied by a Noise Assessment and where necessary a Noise Attenuation / Mitigation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved attenuation scheme shall be implemented on site prior to first occupation of any dwelling in that phase or sub phase or to an alternative implementation timetable as may be agreed in writing by the Local Planning Authority.</p> <p>Reason: To ensure that noise levels, specifically from the A1 Trunk Road are appropriately mitigated and that the mitigation measures are implemented in a timely manner. This condition accords with the expectations of the Environmental Statement submitted as part of this application and to ensure that the development accords with Policies DM5 and the NPPF.</p>
Noise of plant	15	<p>All new buildings containing plant and/or machinery or fixed external plant should be attenuated to achieve the noise criteria of 5dB below the measured background (L<sub>90</sub>) at adjacent dwellings' (with an acoustic feature correction applied).</p> <p>Reason: To protect the amenity of the occupiers of the proposed development.</p>
Phased Archaeology	16	<p>No development shall take place within each phase or sub phase of the development hereby approved (pursuant to Condition 4) until an Archaeological Scheme of Treatment Work for the relevant phase or sub phase is submitted to and approved in writing by the Local Planning Authority. Thereafter the development in any relevant phase or sub phase shall be implemented in accordance with the approved Archaeological Scheme for Treatment Work.</p> <p>Reason: In order to ensure that satisfactory arrangements are made for the investigation, retrieval and recording of significant archaeological remains of the site and to accord with the with the objectives of the NPPF and Newark and Sherwood Core Strategy Policies CP14 and NAP2C.</p>

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Bird protection	17	<p>No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check of vegetation for active birds’ nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.</p> <p>Reason: To safeguard protected species and to accord with the objectives of the NPPF and Newark and Sherwood Core Strategy Policies CP12 and NAP2C.</p>
Habitat Creation & Management Plan	18	<p>No development (pursuant to Condition 4) shall take place within each phase or sub phase until a Habitat Creation and Management Plan which relates to the green infrastructure associated with that phase or sub phase has been submitted to and approved in writing by the Local Planning Authority.</p> <p>The approved Habitat Creation and Management Plan shall be implemented on-site as approved, in accordance with the agreed timetable.</p> <p>Reason: To safeguard protected species and their habitats and in order to provide ecological enhancements in a timely manner in line with the CP12, NAP2C of the Development Plan and the advice contained in the NPPF as well to take account of the Nottinghamshire Local Biodiversity Action Plan. Management of Habitat with monitoring element and POS to be included in the S106.</p>
Operational phase external lighting scheme to accompany RMA	19	<p>Applications for reserved matters approval for each phase or sub phase shall be accompanied by a detailed external lighting scheme (for the operational phase) designed to ensure the impacts of artificial light are minimised and that light spill onto retained and created habitats, particularly around the site periphery and green corridors through the site are avoided. Any security lighting / floodlighting to be installed, shall be designed, located and installed so as not to cause a nuisance to users of the highway. The details of any such lighting shall be submitted to and approved by the Local Planning Authority (together with a lux plot of the estimated luminance). The development shall proceed within each phase or sub phase in accordance with the agreed external lighting scheme.</p>

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		Reason: This condition is necessary to ensure that the impacts of external lighting on nocturnal wildlife, particularly bats are minimised in accordance with CP12 and the NPPF and to protect drivers from uncontrolled light sources near the public highway.
Foul Sewage Disposal	20	<p>No development shall be commenced within each phase or sub phase (pursuant to Condition 4) until drainage plans for the disposal of foul sewage for that phase or sub phase have been submitted to and approved in writing by the Local Planning Authority. The scheme for each phase or sub phase shall be implemented in accordance with the approved details before the development in that phase or sub phase is first brought into use.</p> <p>Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce of creating or exacerbating a flooding problem and to minimise the risk of pollution.</p>
Detailed Surface Water Drainage Scheme	21	<p>No development shall be commenced within each phase or sub phase (pursuant to Condition 4) until a detailed surface water drainage scheme for that Phase or sub-phase, in accordance with the approved Flood Risk Assessment and based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented prior to first occupation of any dwelling within that Phase or sub phase.</p> <p>Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.</p>
Suspended Solids	22	<p>Prior to the commencement of any phase or sub phase (pursuant to Condition 4) of the development hereby approved a scheme detailing treatment and removal of suspended solids from surface water run-off during construction works shall be submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented within that phase or sub phase as approved.</p> <p>Reason: To reduce the risk of surface water pollution.</p>

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Flood risk	23	<p>The finished floor levels of residential development identified in the 2d Flood Depths within drawing 6534-L07 rev. I submitted to accompany the letter from RSK dated 8th August 2016 are to be set 600mm above the predicted 1% 2015 flood level based on the flood risk depths.</p> <p>Reason: To reduce flood risk to the proposed development.</p>
Travel Plan	24	<p>No development shall commence within each phase or sub phase until a scheme of implementation for the details within the Framework Travel Plan dated March 2016 and prepared by Milestone Transport Planning has been submitted to an approved in writing by the local planning authority. The Travel Plan shall be updated if required as part of each Reserved Matters submission for each phase or sub phase of development. The scheme shall be implemented as approved. For the avoidance of doubt the scheme shall include the following:</p> <ul style="list-style-type: none"> <li>• Timing and means of delivery for the revenue contributions towards the additional costs to support the bus provision;</li> <li>• Timing and means of delivery for on site bus infrastructure;</li> <li>• Timing of delivery for the temporary terminus / turn-round point for the extended bus service to the site;</li> <li>• Details of appointment and job description of the Travel Plan Coordinator in line with Table 6.1 of the Framework Travel Plan dated March 2016.</li> </ul> <p>Reason: In the interests of sustainable transport and to ensure the development takes the form agreed by the authority and thus results in a satisfactory form of development.</p>
Management Company	25	<p>Prior to the commencement of any phase or sub phase (pursuant to Condition 4) of the development hereby approved a brochure outlining management arrangements and associated charges relating to that phase or sub phase shall be submitted to and approved in writing by the local planning authority. Thereafter potential residential purchasers will be provided with the approved brochure by the developer prior to completion of sale.</p> <p>Reason: To ensure future residents are aware of the management arrangements and obligations and to deliver a satisfactory development.</p>

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Marketing Brief	26	<p>Prior to the occupation of 300 dwellings, a Marketing Brief for the Local Centre to include the mix and disposition of uses, access and circulation, public realm, parking, and urban design principles shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.</p> <p>Reason: To ensure consistency with the Design &amp; Access Statement and ensure a satisfactory form of development and in the interests of the character and appearance of the area.</p>
Highways England	27	<p>Prior to the commencement of any part of the development hereby approved, details of the form of the A1 / B6326 junction (as shown in Milestone drawing <i>14106/037</i>, and <i>14106/027 revision C</i>) shall be submitted to and agreed by the Local Planning Authority in consultation with Nottinghamshire County Council (acting as Local Highway Authority) and Highways England.</p> <p>Reason: To ensure that the A1 continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the motorway resulting from traffic entering and emerging from the application site and in the interests of road safety.</p>
	28	<p>Prior to the occupation of 100 dwellings, improvements to the A1 / B6326 junction (as shown in Milestone drawing <i>14106/037</i>) are complete and open to traffic, subject to Detailed Design and Road Safety Audit.</p> <p>Reason: To ensure that the A1 continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the motorway resulting from traffic entering and emerging from the application site and in the interests of road safety.</p>
	29	<p>Prior to the occupation of 900 dwellings, improvements to the A1 / B6326 junction (as shown in Milestone drawing <i>14106/027 revision C</i>) are complete and open to traffic, subject to Detailed Design and Road Safety Audit.</p> <p>Reason: To ensure that the A1 continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the motorway resulting from traffic entering and emerging from the application site and in the interests of road safety.</p>

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NCC Highways	30	<p>Notwithstanding the submitted indicative masterplan and layout drawings, all site highway layouts should comply with the 6Cs design guide unless otherwise agreed by the Highway Authority (see <a href="http://www.leics.gov.uk/index/6csdg">www.leics.gov.uk/index/6csdg</a>) and be submitted to and agreed in writing by the LPA.</p> <p>Reason: To ensure the development is constructed to adoptable standards.</p>
	31	<p>Prior to the occupation of Phase 2 (pursuant to Condition 4) of the development hereby approved improvements to the B6326 Great North Road/ Sylvan Way shall be delivered and made available to traffic as illustrated by drawing 14106/026 Rev. A (or through a subsequent revised drawing agreed by the LPA).</p> <p>Reason: In the interest of highway safety and capacity.</p>
	32	<p>Before occupation of the 50<sup>th</sup> dwelling, improvements to the B6326 Great North Road/ Shire Lane junction shall be delivered and made available to traffic as illustrated by drawing 14106/025 Rev. D (or through a subsequent revised drawing agreed by the LPA).</p> <p>Reason: In the interest of highway safety and capacity.</p>
	33	<p>Prior to the completion of Phase 1 (pursuant to Condition 4) of the development hereby approved improvements to the C421 Shire Lane corridor shall be delivered and made available to traffic as illustrated by drawing 14106/018 Rev. E (or through a subsequent revised drawing agreed by the LPA).</p> <p>Reason: In the interest of highway safety and capacity.</p>
	34	<p>Before occupation of the 50<sup>th</sup> dwelling, improvements to the B6326 Great North Road between Shire Lane and Dale Way shall be delivered and made available to traffic as illustrated by drawing 14106/016 Rev. D (or through a subsequent revised drawing agreed by the LPA).</p> <p>Reason: In the interest of highway safety and capacity.</p>

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	35	<p>In the event that the Barratt/DWH development the subject of planning application LPA reference 14/00465/OUTM does not commence, and unless an alternative scheme has been approved in writing and thereafter completed to the satisfaction of the Local Planning Authority, before occupation of the 630<sup>th</sup> dwelling, improvements to the Goldstraw Lane/B6326 roundabout shall be delivered and made available to traffic as illustrated by drawing 14106/038 (or through a subsequent revised drawing agreed by the LPA).</p> <p>Reason: In the interest of highway safety and capacity.</p>
	36	<p>No dwelling shall be occupied until the associated parking areas and manoeuvring areas for that dwelling have been drained and surfaced in accordance with the details approved in writing by the Local Planning Authority. The areas so provided shall not be used, thereafter, for any purpose other than the parking and manoeuvring of vehicles, unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason: In the interest of highway safety.</p>
	37	<p>Bus stop infrastructure shall be introduced throughout the build-out phases or sub phases of the development hereby approved in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: To promote sustainable travel</p>
	38	<p>Prior to development commencing, a scheme to provide street lighting on the B6326 Great North Road between Dale Way and the A1 slip road, south of the development together with implementation timescale, shall be submitted to and approved in writing by the Local Planning Authority, and thereafter implemented in accordance with the approved details.</p> <p>Reason: In the interest of highway safety.</p>



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### Notes to Applicant

#### **01 (Conditions)**

The applicant's attention is drawn to those conditions on the decision notice, which should be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised. In relation to the following explicit conditions, the applicant would be expected to provide the following:

#### *Condition 13 – Construction Management Plan*

The Noise Mitigation Scheme (NMS) relating to the construction phase of the development NMS shall be designed to minimise noise levels during construction work such as adopting a Code of Construction Practice, adopting principles of Best Practicable Means to reduce noise levels during construction work, selecting the most appropriate plant, the use of localised hoardings where noise levels at noise-sensitive properties during certain specified periods of the construction, arrangements for liaison with local residents to inform them of periods where noise levels might be higher and any other appropriate measures.

#### *Condition 18 – Habitat Creation and Management Plan*

The Habitat Creation Plan shall include details of the following within each phase, as appropriate:

- The location and extent of all new habitats including all works required for the creation;
- For the creation of new habitats, these details shall identify target habitats with reference to the Nottinghamshire Local Biodiversity Action Plan and habitats specifically designed for the cinnabar moth, and shall include details of all tree, woodland, scrub and hedgerow planting, and wetland and grassland establishment, and will provide information regarding ground preparation; cover material; soil profiles; sources of tree and shrub stock (which should be of local provenance, seed mixes for grassland, woodland and wetland areas (to be used in grassland establishment methods, and which shall be of certified native origin); proportions; size; spacing; positions; densities; sowing rates; methods of establishment; areas left for natural regeneration; creation of wetland areas; and fencing off of planting areas. For the management of created and retained habitat, these details shall include the identification of management objectives; annual work programmes; and monitoring.
- Measures to enhance retained habitats;
- How public access will be controlled to limit disturbance to wildlife;

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- Ecological enhancements to include (but shall not be limited to) bird, bat boxes and the creation of artificial hibernaculae for reptiles at appropriate points within the site which should offer immediate enhancements (prior to first occupation) and longer term enhancements where appropriate;
- Opportunities to enhance the proposed drainage features on site to benefit biodiversity;
- Details of a habitat management plan for existing and new habitats during the establishment phase including details/arrangements for on-going management and monitoring for not less than 5 years;
- An implementation timetable for all elements.

In addition to the above each reserved matters application shall be accompanied by an updated Extended Phase 1 Habitat Survey together with any Protected Species Surveys identified as being required. Where protected species are identified as being present on site, a scheme of mitigation shall be submitted. Any scheme of mitigation shall include a working design, methods statement and timetable of works to mitigate any adverse effects to protected species.

### *Condition 21 – Detailed Surface Water Drainage Scheme*

The scheme to be submitted shall include

- Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- Detailed site levels designs for the site. This information should be accompanied by a contour plan and a flood routing plan. The site should be designed to retain all surface water flows within the site and route these to the attenuation ponds. Flows crossing the site boundary onto 3<sup>rd</sup> party land are not acceptable.
- Detailed consideration of the risk of accumulation and mitigation of the pluvial flooding as shown on the Environment Agency surface water flood risk plans.
- Detailed drainage layout including building/plot drainage where possible. This is to include a fully referenced network plan with supporting calculations and documentary evidence of infiltration coefficients if used. The performance specification should follow the guidance within Sewers for Adoption 7<sup>th</sup> edition in terms of the criteria for pipe-full flows, surcharge and flooding;
- Full drainage simulation outputs to demonstrate that the drainage system can fulfil the design criteria and that failure of the drainage system during short-duration high-intensity events does not automatically mean that properties flood. The management of accumulations of water on the site should be clearly defined and the potential flow routes considered. The designers should consider how exceedance flow routes may be maintained and not blocked by fences, garden sheds and the like. In this regard they should be designed where possible to avoid reliance on 3<sup>rd</sup> party properties and should use public open space and highways.

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- All infiltration areas with supporting specification, calculations and construction details.
- Attenuation pond/tank details including volumetric calculations, geotechnical & slope-stability calculations as appropriate, specification of materials used to construct any berms.
- Full specification & general arrangement drawings for inlet/outlet structures and flow control structures. The details should also include the access arrangements for clearing and maintenance including in times of flood/failure of the infrastructure.
- Full documentary evidence for consideration by the LPA/LLFA legal advisors of the rights to discharge to any watercourse.
- All calculations should be provided using contemporary drainage software (Windes or similar). If possible electronic files should be provided to support paper and pdf outputs. Information can be provided in common software packages and formats including PDS, Windes, xyz, genio, word/excel/autocad etc. All documents should be referenced with a unique identifier – drawing number, document number/revision etc. Calculations and drawings should be cross-referenced and issue sheets provided to enable tracking of revisions to information;
- Timetable for its implementation;
- Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime;
- In addition to dealing with surface water drainage this scheme shall also be designed to maximize biodiversity opportunities.

### **02 (S106)**

A S106 Agreement (Planning Obligation) accompanies this permission and should be read in association with the legal agreement made under Section 106 of the Town and Country Planning Act 1990.

### **03 (NEAP expectations)**

The developer is advised that in respect of the NEAP, it is expected that this should be provided in accordance with the specification for a 'Neighbourhood Equipped Area for Play' taken from the Fields in Trust publication 'Planning and Design for outdoor Sport and Play'. Specifically it should include the following elements:(1) The NEAP should occupy a well-drained site, with both grass and hard surfaced areas, together with impact absorbing surfaces beneath and around play equipment or structures as appropriate; (2) it should include an activity zone of at least 1000 square metres, comprising an area for play equipment and structures, and a hard surfaced area of at least 465 square metres (the minimum needed to play 5-a-side football); (3) a buffer zone of 30 metres minimum depth should separate the activity zone and the boundary of the nearest property containing a dwelling. A greater distance may be needed where purpose-built skateboarding facilities are provided. The buffer zone should include varied planting to provide a mix of scent, colour and texture; (4) it should provide a stimulating and challenging play experience that includes equipment and other features providing opportunities for balancing, rocking, climbing, overhead activity, sliding, swinging, jumping, crawling, rotating, imaginative play, social play, natural play, ball games, wheeled sports or other activities. There should be

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a minimum of nine play experiences included; (5) seating for accompanying adults and siblings should be provided, together with one or more litter bins (6) the older children's/youth element should be either through the provision of a tarmac surfaced, fenced and marked out Multi-use Games Area or a tarmac surfaced skate/wheeled sport park containing at least 4 separate ramps (7) there should be a sign indicating that the area is for children and young people's play and that dogs are not welcome. The name and telephone number of the facility operator should be provided, together with an invitation to report any incident or damage to the NEAP.

### **04 (Highways England)**

The highway mitigation works associated with this consent involves works within the public highway, which is land over which you have no control. The Highways Agency (the Agency) therefore requires you to enter into a suitable legal Section 278 agreement to cover the design check, construction and supervision of the works. Contact should be made with the Agency's Section 278 Business Manager David Steventon to discuss these matters on [david.steventon@highways.gsi.gov.uk](mailto:david.steventon@highways.gsi.gov.uk)

### **05 (EHO)**

NSDC Environmental Health (Land Contamination) advise that an advisory booklet is available – “Developing Land in Nottinghamshire: A guide to submitting planning applications for land that may be contaminated”. This is available from Planning Services, the Proactive Team of Environmental Services or the NSDC website using the following link:

<http://www.newark-sherwooddc.gov.uk/pp/gold/viewGold.asp?IDType=Page&ID=7895>.

Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

#### **Natural England**

Block 6 & 7 Government Buildings

Chalfont Drive

Nottingham

NG8 3SN

Tel: 0115 929 1191

Fax: 0115 929 4886

Email: [eastmidlands@naturalengland.org.uk](mailto:eastmidlands@naturalengland.org.uk)

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### **Heritage England**

Ancient Monuments Inspector

44 Derngate

Northampton,

NN1 1UH

Tel: 01604 735400

Fax 01604 735401

E-mail: [eastmidlands@english-heritage.org.uk](mailto:eastmidlands@english-heritage.org.uk)

### **Heritage Planning Specialists**

Nottinghamshire County Council

Trent Bridge House

Fox Road

West Bridgford

Nottingham

NG2 6BJ

Tel: +44 (0)115 977 2162

Fax: +44 (0)115 977 2418

E-mail: [heritage@nottscc.gov.uk](mailto:heritage@nottscc.gov.uk)

to prevent damage or harm to the historic environment.

Where the presence of contamination is found or suspected the developer and/or his contractor should have regard to Health and Safety Executive guidance - “The Protection of workers and the general public during the development of contaminated land”.

### **06 (National Grid)**

The following advice from National Grid should be noted:

‘BEFORE carrying out any work you must:

- Ensure that no works are undertaken in the vicinity of our gas pipelines and that no heavy plant, machinery or vehicles cross the route of the pipeline until detailed consultation has taken place.
- Carefully read these requirements including the attached guidance documents and maps showing the location of National Grid apparatus.

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- Contact the landowner and ensure any proposed works in private land do not infringe National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- Ensure that all persons, including direct labour and contractors, working for you on or near National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>
- In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.'

### **07 (STW)**

The following advice from Severn Trent Water should be noted:

'Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.'

### **08 (Pro-active)**

This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

### **09 (CIL)**

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

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

## Appendix 1 – Conditions and Informatives for 16/00506/OUTM

### **010 (Police Architect)**

The comments of the Police Force Architectural Liaison Officer should be noted in respect of the design presented at reserved matters stage.

### **011 (Hours of construction)**

Condition 13 requires consideration of hours of construction. These would be expected to be broadly with those outlined within the ES unless otherwise justified through the discharge of condition 13. For the avoidance of doubt the hours of construction referred to in the ES are: 0700 – 1900 Monday to Friday and 0700 – 1300 Saturday (and not at all on Sundays or Bank Holidays).

### **012 (NWT)**

The comments of Nottinghamshire Wildlife Trust should be noted in terms of the offer for further advice as to how drainage features can be designed with additional wildlife benefits.

### **013 (Natural England)**

Natural England offer the following advice:

‘It is recognised that a proportion of the agricultural land affected by the development will remain undeveloped (for example as green infrastructure, landscaping, allotments and public open space etc.). In order to retain the long term potential of this land and to safeguard soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management.

Consequently, we advise that if the development proceeds, the developer uses an appropriately experienced soil specialist to advise on, and supervise, soil handling, including identifying when soils are dry enough to be handled and how to make the best use of the different soils on site. Detailed guidance is available in Defra *Construction Code of Practice for the Sustainable Use of Soils on Construction Sites.*’

### **014 (NCC Highways)**

Section 38 Agreement (Highways Act 1980)

## **Appendix 1 – Conditions and Informatives for 16/00506/OUTM**

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

The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council in writing before any work commences on site.

### Section 278 Agreement (Highways Act 1980)

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact Dave Albans on telephone number 01158 040015

It may be appropriate/helpful to submit a Design Code to include details of:

- street type/function;
- the principal dimensions of streets and boundary treatments include sight lines (visibility splays);
- junctions and types of traffic calming;
- treatment of major junctions public transport links;
- location and standards for on and off-street parking, including cycle parking, car parks and parking courts, and related specifications;
- street lighting and street furniture specifications and locations;
- pedestrian and cycle links including appropriate crossing facilities between all existing and proposed infrastructure;
- drainage which shall accompany any road layout submission;
- routeing and details of public utilities which shall accompany any proposed road layout submission;
- arrangements for maintenance and servicing including refuse collection/bin storage.



**Appendix 2 – Developer Contributions for 16/00506/OUTM**

<b>Contribution</b>	<b>Definition within S106</b>	<b>Formula / SPD Requirement</b>	<b>Anticipated Contribution</b>	<b>Trigger Points</b>
<i>Affordable Housing</i>	Affordable Rented, Discounted Low Cost Affordable Dwellings as defined in Annex 2 to the NPPF (or any successor document or definition produced by HM Government or any agency thereof)	13% (reflecting a mix of 52% affordable rent and 48% Discounted Open Market Value)	<p>234 (13%) affordable dwellings to be delivered on site:</p> <p>52% of units will be affordable rent provision owned and managed by a Private Registered Provider or the Local Authority</p> <p>48% of units to be Discount Open Market Value (DOMV) properties.</p>	<p>Affordable Housing Scheme to be submitted prior to the commencement of development of each phase Construct Affordable Housing in compliance with the approved scheme (each phase will include Affordable units)</p> <p>No occupation of more than 60% of the individual completed properties constructed on the site within any phase until at least 45% of the Intermediate Housing within any phase has been completed and transferred to an Affordable Housing Provider</p> <p>No occupation of more than 90% of the individual completed properties within any phase until the remaining 55% of the Intermediate Housing within</p>

**Appendix 2 – Developer Contributions for 16/00506/OUTM**

				any phase has been completed and transferred to an Affordable Housing Provider
<i>Community Facilities</i>	The provision on site of a Community Hall which shall incorporate a badminton court having a total gross floor area not exceeding 1,113m <sup>2</sup> and a sports pavilion which shall include changing rooms having a total gross floor area not exceeding 252m <sup>2</sup>	Provision of new infrastructure from development proposals. Where existing infrastructure exists or where small scale developments do not warrant new infrastructure, a contribution may be appropriate.	Community Hall with badminton court within the Local Centre  Sports Pavilion within the Sports Hub	To be delivered in accordance with the phasing arrangements of the development  No development to commence within each phase to which community facilities are to be location until a Community Facilities Specification has been submitted and approved by the LPA
<i>Health Provision</i>	The sum of £1.71 million to secure Healthcare Provision	Core Strategy Policy requirement for strategic site to provide facilities for 3 GPs.  The Developer Contributions SPD requires a contribution of £950 per dwelling.	Pending a Healthcare Review the monies will either be contributed towards existing healthcare facilities at the following locations:  <ul style="list-style-type: none"> <li>• Balderton Health Centre</li> <li>• Lombard Medical Centre, Newark</li> </ul>	Prior to the occupation of the 700 <sup>th</sup> [still under review by Officers and applicant] dwelling, the owner, the District Council and the CCG will carry out a healthcare review in order to determine the most suitable means of addressing the healthcare needs of the development

**Appendix 2 – Developer Contributions for 16/00506/OUTM**

		£950 per dwelling would equate to a contribution of £1.71 million	<ul style="list-style-type: none"> <li>• Fountain Medical Practice, Newark</li> <li>• Bowbridge Road Surgery, Newark</li> <li>• Newark Hospital</li> </ul> <p>Or the healthcare provision will be delivered through an on site Health Centre with a maximum floor area of 300m<sup>2</sup> with associated car parking</p>	An area of land within the site will be reserved to accommodate the Health Centre pending the outcome of the Healthcare Review
<i>Education Provision</i>	<p>The sum of up to £5,751,854 to secure the provision of the Primary School</p> <p>2.2ha of the site identified for future development of the Primary School</p> <p>0.8ha of the site adjoining the Primary School site to be reserved for future possible expansion of the Primary School</p> <p>The detailed specification for the proposed Primary School to be produced by</p>	<p>A development of 1800 dwellings would generate 378 primary places</p> <p>The LEA require a new 2 form entry (420 place) primary school to be constructed on site. A site allowance of 2ha would be required. Build specification should meet DfE requirements and Education Funding Building Bulletin 103</p> <p>Site is required to be clear of contamination, level and</p>	<p>The delivering of a 2 form entry primary school and expansion land to allow for the creation of a 3 form entry</p>	<p>The triggers for the delivery of the 2fe primary school if the County Council was to design and build it would be as follows:</p> <ul style="list-style-type: none"> <li>• Transfer of the level, contamination free, serviced site to the County Council on commencement of the residential development;</li> <li>• 10% of the total costs to be paid on commencement of the residential</li> </ul>

**Appendix 2 – Developer Contributions for 16/00506/OUTM**

	<p>the County Council to include (where applicable) the proposed phasing for the construction of the Primary School</p>	<p>serviced prior to transfer to LEA/construction of school Secondary education is delivered through CIL</p>		<p>development (to cover the design, planning and procurement;)</p> <ul style="list-style-type: none"> <li>• 37% on occupation of the 30<sup>th</sup> dwelling;</li> <li>• 15% on occupation of the 330<sup>th</sup> dwelling</li> <li>• 23% on occupation of the 780<sup>th</sup> dwelling; and</li> <li>• 15% on occupation of the 1280<sup>th</sup> dwelling</li> </ul> <p>The triggers for the delivery of the 2fe primary school if it is to be construction by the developer would be as follows:</p> <ul style="list-style-type: none"> <li>• Phase 1: Infrastructure for 420 places <u>plus</u> 4 classrooms to be completed by the occupation of the 200<sup>th</sup> dwelling OR within 16 months of commencement of</li> </ul>
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**Appendix 2 – Developer Contributions for 16/00506/OUTM**

				<p>the residential development(First occupation) whichever is the sooner;</p> <ul style="list-style-type: none"> <li>• Phase 2: 3 additional classrooms to make 210 places to be completed by the occupation of the 450th dwelling;</li> <li>• Phase 3: 4 additional classrooms to be completed by the occupation of the 900th dwelling;</li> <li>• Phase 4: 4 remaining classrooms to provide 420 places to be completed by the occupation of the 1400th dwelling.</li> <li>•</li> </ul>
<i>Public Open Space</i>	The areas of open space comprising; Amenity Green Space; On-site Children’s Play Areas to include 2 LEAPs and 1 NEAP; On site Sports Facilities; Allotments and Community Gardens;	<i>Natural and Semi Natural Green Space</i>  Policy = 10ha per 1,000 population or all residents to live within 300m.	19.1 hectares alongside structural planting and landscape buffer areas totaling 6.7 hectares including allotments 6.4 hectares of amenity green space and provision	<p>To be delivered in accordance with the phasing arrangements of the development</p> <p>No development to commence within each</p>

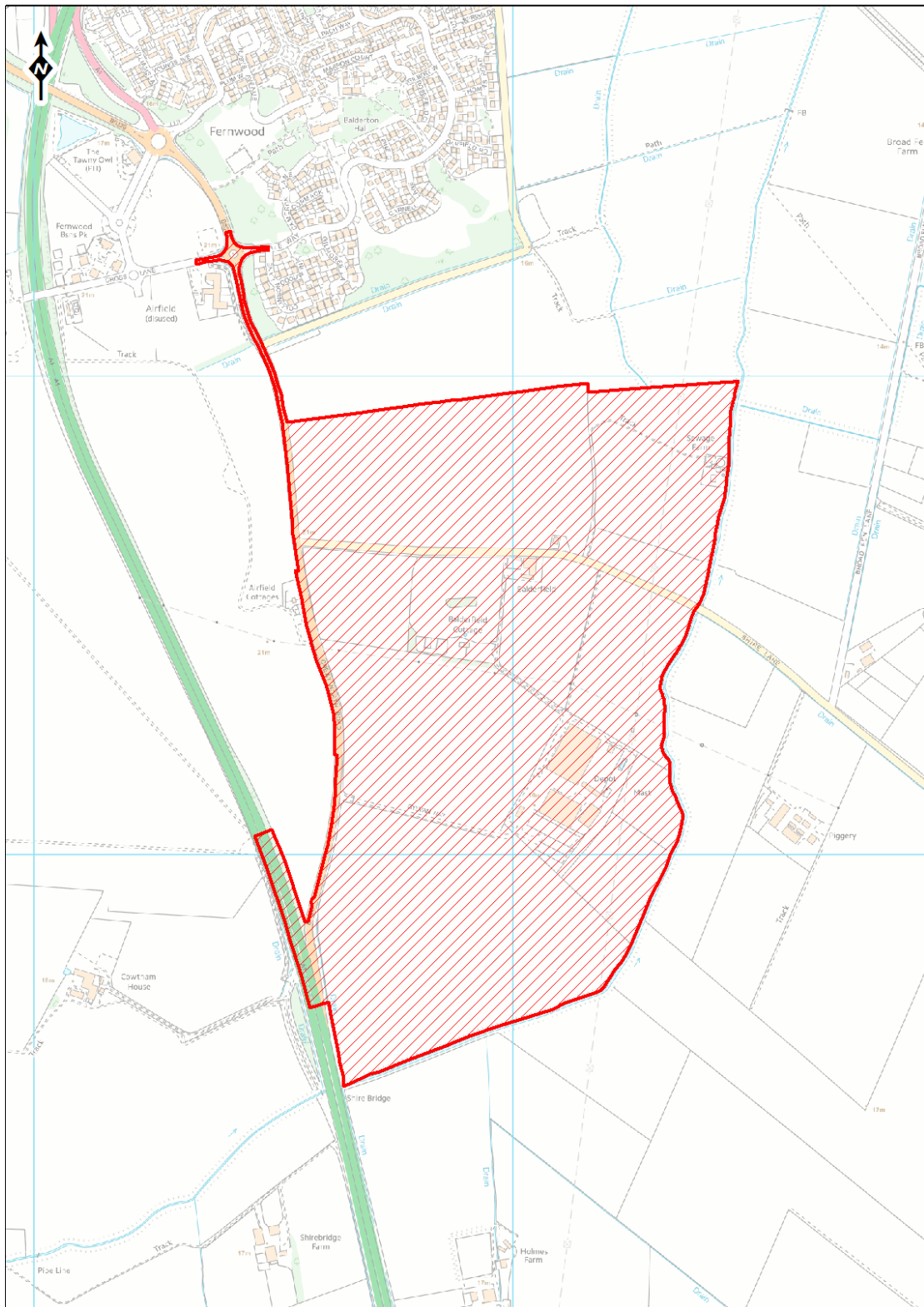
**Appendix 2 – Developer Contributions for 16/00506/OUTM**

	<p>Natural and Semi-Natural Green Space</p>	<p>1800 dwellings = 43.2 ha policy requirement.</p> <p><i>Amenity Green Space</i></p> <p>Policy = 0.6ha per 1000 population</p> <p>1800 dwellings = 2.59 ha</p> <p><i>Children and Young People</i></p> <p>Policy = 0.75ha per 1000 population.</p> <p>1800 dwellings = 3.24ha</p> <p><i>Allotments and Community Gardens</i></p> <p>Policy = 0.5ha per 1000 population</p> <p>1800 dwellings = 2.16ha.</p>	<p>for children and young people include pocket parks, 2 LEAPs and 1 LEAP</p> <p>2 adult football pitches (one grass and one AGP)</p> <p>2 mini football pitches</p> <p>1 junior football pitches</p> <p>1 adult and youth cricket pitch</p> <p>1 adult rugby pitch</p> <p>Changing facilities north of Claypole Lane</p> <p>4 tennis courts</p>	<p>phase to which public open space are to be located until an On-site Open Space Scheme has been submitted and approved by the LPA</p>
<p><i>Bus Stop Infrastructure</i></p>	<p>The sum of £525,000 for the rerouting or extension of bus services or the provision of new bus services serving the development</p>	<p>Provision of new infrastructure from development proposals.</p>	<p>Monies contributed to existing or enhanced services</p>	<p>Not to occupy any dwellings until 20% of the bus service contribution has been paid to the Council and thereafter on each of the four subsequent anniversaries of</p>

**Appendix 2 – Developer Contributions for 16/00506/OUTM**

				first occupation to pay 20% annually until the full contribution is paid
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Committee Plan - 16/00506/OUTM



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## PLANNING COMMITTEE – 7 SEPTEMBER 2021

<b>Application No:</b>	<b>20/01242/FULM</b>
<b>Proposal:</b>	<b>Construction of a solar farm and battery stations together with all associated works, equipment and necessary infrastructure.</b>
<b>Location:</b>	<b>Land North Of Halloughton, Southwell</b>
<b>Applicant:</b>	<b>JBM Solar Projects 6 Ltd</b>
<b>Agent:</b>	<b>Mr James Walker - Pegasus Group</b>
<b>Status:</b>	<b>Application Refused 04.03.2021</b>
<b>Website link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QD7J5ALB18R00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QD7J5ALB18R00</a>

### Update to Committee

Members will recall considering the above planning application to construct a 49.9 MW solar farm on approximately 106.07 ha of land/13 agricultural fields north of the village of Halloughton at Planning Committee in March of this year. Members resolved to refuse planning permission in accordance with the Officer recommendation for the following reason:

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

*Although the proposal would undoubtedly bring meaningful environmental and economic benefits to the District, in the context of paragraph 196 of the NPPF and in the overall planning balance, these are not considered sufficient to outweigh the harm identified on the setting of the abovementioned designated heritage assets or the landscape character and visual amenity of the area by the sheer scale and siting of the*

*proposal. The proposal would therefore be contrary to the objective of preservation required under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in conflict with the development plan with particular reference to policies CP9, 10, 13, 14 of the Amended Core Strategy (2019), policies DM4, 5, 9 and 12 of the Allocations and Development Management DPD (2013) in addition to the provisions of the Southwell Neighbourhood Plan (2016), Landscape Character Assessment SPD (2013) and the NPPF (2019) when read as a whole.*

The Council has recently received notification of a valid planning appeal from the Planning Inspectorate against this decision which is due to be heard at a Public Inquiry set to open on 7<sup>th</sup> December 2021. As part of this appeal the appellant (JBM Solar Projects 6 Ltd) has invited the Inspector to determine the appeal on the basis of a number of amendments to the original scheme considered by Members under the *Wheatcroft Principle*.

Good practice suggests that any intention to amend the appeal proposal should be highlighted to a council and any other interested party in advance of an Inquiry, in order to ensure an opportunity for all concerned to consider the changes and comment as appropriate. The appellant notified the Council of the intended amendments prior to submitting their appeal and has undertaken a consultation with local residents and consultees that were consulted and/or commented on the original planning application (which expired 31.08.2021). The appellant asked for responses to be sent to the Council for compiling to ensure openness and transparency. The purpose of this update report is to notify Members of these amendments, relay any comments received during the consultation process and provide an Officer assessment to allow Members to consider whether the amendments materially alter their previous assessment of the proposal.

In the interest of brevity this report will focus only on the scope of changes proposed and whether these changes materially alter the previous conclusions as set out in the committee report of March 2021.

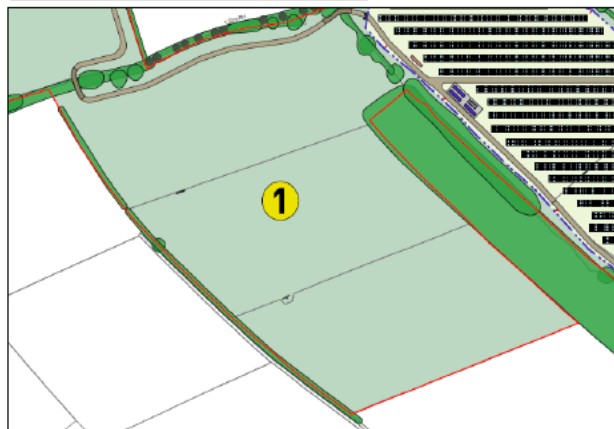
The proposed amendments to the scheme are as follows:

- Amendment 1: Removal of panels and associated infrastructure from a central field.  
The consultation letter from Pegasus Group explains: *“As illustrated below an amendment is proposed to be made to the Site Layout and Planting Proposals plan by removing an area of solar panels and associated infrastructure from a central field. This is marked as “1” below and on the attached plan at Appendix 4. This amendment has been made to reduce the visual effects upon receptors at the western extent of Halloughton and users of Public Right of Way (PRoW) Bridleway (reference: Halloughton BW3) and pull the development back from the Halloughton Conservation Area.”*

Site Layout and Planting Proposals, Revision L



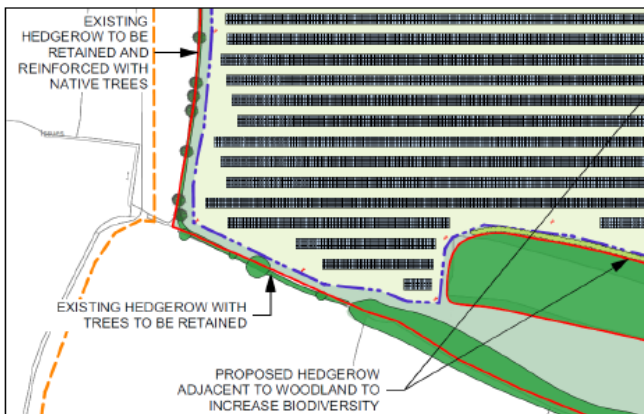
Site Layout and Planting Proposals, Revision M



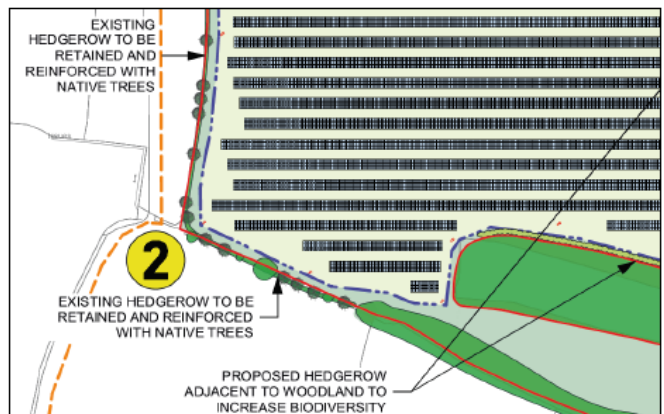
- Amendment 2: Belt of new trees are proposed within an existing hedgerow which encloses a section of the Site boundary to the southwest.

The consultation letter from Pegasus Group explains: “As illustrated at “2” on Revision M of the Site Layout and Planting Proposals plan at Appendix 4 below, a belt of new trees are proposed within an existing hedgerow which encloses a section of the Site boundary to the southwest. These trees would be a mix of native standard trees which would aid in filtering and obscuring views of the proposals from locations on PRoW Footpath (reference: Southwell FP42) to the southwest of the Site.”

Site Layout and Planting Proposals, Revision L



Site Layout and Planting Proposals, Revision M



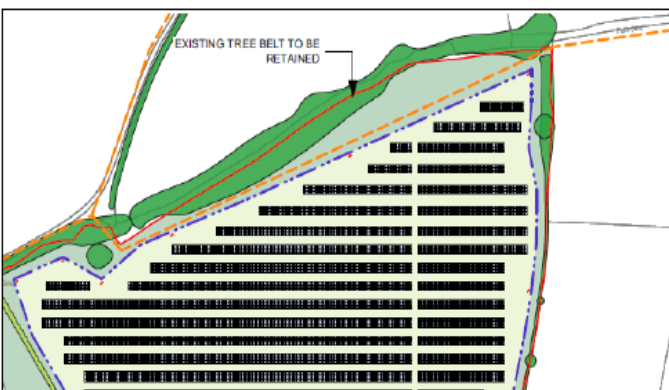
- Amendment 3: Additional native hedgerow with semi-mature hedgerow trees is proposed between the northern extent of the Proposed Development and PRoW FP43.

The consultation letter from Pegasus Group explains: “As illustrated below and at Appendix 4, a minor amendment has been added to Revision M of the Site Layout and Planting Proposals plan. This new hedgerow is proposed along the northern extent of the proposed built form, adjacent to the proposed security fencing. The hedgerow would be comprised of a mix of native hedgerow shrubs and semi-mature native trees and over time would aid in restricting and heavily filtering views of the proposals from locations along PRoW Footpath (reference: Southwell FP43).”

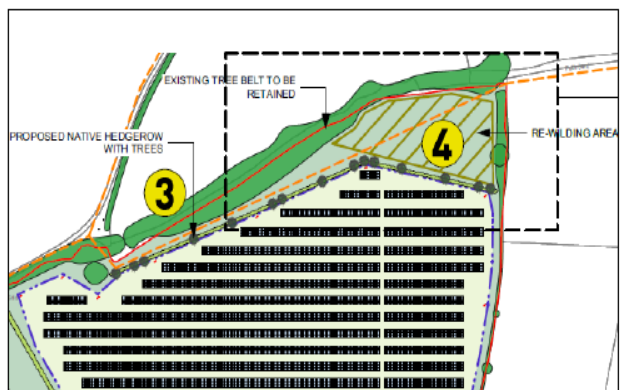
- Amendment 4: removing panels and associated infrastructure from the northeastern corner of the northern most field to facilitate the ‘re-wilding’ of this area.

The consultation letter from Pegasus Group explains: “As final amendment “4” illustrated on Revision M of the Site Layout and Planting Proposals plan at Appendix 4, the proposed solar panels and security fencing have been pulled back from the northeastern corner of the field located to the east of New Radley Farm. Removing the proposal from this corner will enable an area of existing re-wilding to continue to establish.”

Site Layout and Planting Proposals, Revision L



Site Layout and Planting Proposals, Revision M



- Appendix 1: Briefing Note outlining minor amendments to Site Layout and Planting Proposals Plan, dated 21st July 2021.
- Appendix 2: Indicative Landscape Site Sections Year 5 & 15, drawing no. P19-2590\_27, Rev A, dated 21st June 2021.
- Appendix 3: Site Layout and Planting Proposals, drawing no. P18-2917\_12, Rev L, dated 1st February 2021 (the version which was refused by Newark and Sherwood District Council).
- Appendix 4: Site Layout and Planting Proposals, drawing reference: P18-2917\_12 Rev M, prepared by Pegasus Group, dated 29th June 2021.

#### Consultation Responses Received in Relation to the Pegasus Amendments Consultation

**Halloughton Parish Council** – No comments received.

**Southwell Town Council** – Extension requested to accommodate the Town Council Meeting - comments to be provided as a late item.

**NSDC Conservation Officer** – Verbal advice given. Written comments to follow as a late item upon receipt.

**Landscape Consultant VIA East Midlands** – Verbal advice given. Written comments to follow as a late item upon receipt.

**Comments have been received from 8 interested parties (against) that can be summarised as follows:**

- The minor amendments submitted do not in any way address sufficiently the potential harm and damage to the Halloughton Conservation Area, Brackenhurst and parts of Southwell.
- While climate change is an urgent issue, it is more important than ever that the correct decisions are taken as to the siting of green energy projects, so that what we are seeking to protect through developing clean energy sources is not irreparably harmed in the process. A development such as this lasting 40 years could reasonably be described as causing irreparable harm for the foreseeable future. Siting solar farms in appropriate locations must be a key part of the process of developing green energy. Newark and Sherwood District Council has a proud record of solar farm delivery over many years, through taking decisions based on the correct balance of green energy projects and ensuring that the needs of local people are met by protecting their environment. The pandemic has shown very starkly how important is our natural landscape for the health and well-being of local inhabitants and visitors.
- The overall scale of the solar farm would continue to be a harm to the landscape
- The removal of a central small field from the scheme does nothing to mitigate the harm to the setting of the Halloughton Conservation Area or the Listed Buildings therein.
- The planting of a 'new native hedgerow', presumably deciduous, at the Eastern boundary, would not provide effective summertime cover for around 10 years. The landowner has already planted additional 20-30cm twig hedgerow/trees in plastic tubes throughout the boundary of the site, including at the South-west, which will not mature sufficiently to provide additional cover – again deciduous – for 10 years. I presume that this planting has anticipated the current submission of 'minor amendments'.
- There would continue to be sight and sound of the development, with winter views the most blatant.
- The experience of those using the important PRow Southwell FP43 which crosses the site would continue to be damaged.

- Amendment 4 - This tiny concession to the importance of the fauna and flora of the Westhorpe area will only serve to provide a stark contrast for users of the PRoW between the natural scene and the industrial solar panels and security fencing that will confront them as they continue along the path. It is, however, an indication that the developer recognizes the harm that would be done to the flora and fauna of the area by this development.
- The proposed 'minor amendments' are in the developer's own terms minor and hence a wholly inadequate response to the harms that such a massive infrastructure project would cause to the immensely valued landscape surrounding Halloughton and Southwell/Westhorpe.
- Halloughton is a tiny hamlet and the proposed solar farm is excessive in both size and height and if it went ahead would be one of the largest in the country.
- The land selected is currently farmed successfully so doesn't fit with the recommendation that brownfield land should be used for solar farms. The land also undulates meaning some residents in Halloughton would be able to see the solar panels from both downstairs and upstairs. Any hedging or trees only provide coverage for approx 6 months of the year
- Flood risk and highways safety concerns reiterated.
- Approve of amendments 1 and 4 but 2 and 3 will contribute little to the concealment of the solar panels and fencing.
- The appellants themselves admit that these are only minor amendments. These are to a proposal which will place a crescent of panels and security fencing across a swathe of farmland land (which is recognised in the Mid-Nottinghamshire Farmlands Regional Character Area for its traditional rural appearance) between the busy highways of the B6386 and A612 into Southwell, leaving only minor wildlife corridors between the ancient and significant Halloughton Wood and Halloughton and Westhorpe Dumbles, an area which is appreciated locally as being part of a unique landscape known as The Country of the Dumbles.
- Despite the amendments the public rights of way would still be badly impacted and these are of great importance to local residents and visitors who enjoy them and are attracted to the setting of Southwell Minster.
- The actual minor amendments proposed have absolutely no material effect on the overall basis on which this large project has already been rejected.
- The land assigned for "re-wilding" is a north facing slope of scrubland, which has been left wild and un-cultivated for years. To suggest that they will be re-wilding an already wild area would appear to be somewhat disingenuous.
- The additional planting to screen the panels seems to miss the fact that the beautiful views across the fields down to Southwell will be lost - this additional screening will only serve to exacerbate the situation.
- Whilst removing a field from the plan is welcomed, it doesn't really address the impact that the proposal will have on the village of Halloughton. This field in question is hardly visible from the village.
- Solar panels should be enclosed by stock fencing rather than security fencing as this has less of a visual impact.
- Concerned by the evidence that the Applicant is not properly aware of the extent of the CA. There is ample evidence that the applicant's proposal lacks attention to detail.
- Open views around the footpaths are intrinsic to their character and blocking them in with additional planting will impact user experience of these networks.
- The visuals submitted are inaccurate and misleading and do not represent the changes proposed.

## Comments of the Business Manager

The amendments to the scheme would result in an approx. 4.4Ha reduction of overall land take from solar panels (amendment 1: approx. 4.1Ha reduction and amendment 4: approx. 0.3 reduction), resulting in a 71.6Ha overall scheme. Additional planting is also proposed to the north and south-west corner of the top portion of the site.

Amendments 1 and 4 (which reduce the overall quantum of solar panels) are intended to reduce the visual effects upon receptors at the western extent of Halloughton and users of Public Right of Way (PRoW) Bridleway (Halloughton BW3) and pull the development back from the Halloughton Conservation Area (amendment 1) and enable an area of existing re-wilding to continue to establish (amendment 4). The additional planting has been proposed to aid in filtering and obscuring views of the proposals from locations on PRoW Footpath (Southwell FP42) to the southwest of the Site (amendment 2) and aid in restricting and filtering views of the proposals from locations along PRoW Footpath (Southwell FP43) (amendment 3).

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

#### Heritage

Having discussed these amendments with the Conservation Officer (CO) they have advised that the impact of the development on the setting of Halloughton Conservation Area (CA) and the listed buildings therein remains a key issue. Whilst the reduction of panels proposed is noted, concerns about the significant scale of the development remain. The CO has advised that whilst they accept that the removal of a whole field of panels close to the village would proportionately reduce the level of harm arising from the development, they still consider the overall level of harm to the setting of Halloughton Conservation Area and the Grade II listed buildings therein (notably the Church of St James (Grade II) and the Manor House (Grade II\*)) would remain at the upper end of the *'less than substantial harm'* bracket. The amended development would also continue to result in less than substantial harm to the setting of designated heritage assets within the Brackenhurst complex (Grade II), as well as South Hill House (Grade II).

The CO has reiterated that they could not reconcile the appellant's conclusion that the development would result in the *'lower end of less than substantial harm'* unless the development to the north of Halloughton was substantially reduced, or even removed from the scheme. It therefore remains our view that the sheer size of the proposal in the context of a small, idyllic rural conservation area with many attractive period buildings should not be underestimated. Whilst the proposal to increase landscaping buffers and planting is noted, the solar farm would remain a dominating and alien feature to this attractive rural landscape, which is a fundamental quality to the appreciation of Halloughton CA and the listed buildings therein. User enjoyment and experience of this landscape in the setting of the heritage assets identified within the Committee Report (March 2021) would be greatly diminished as a result of this proposal.

Despite the amendments, Officer consider they would still conclude the development would be contrary to the objective of preservation required under section 66 of the Act, heritage advice contained within CP14 and DM9 and the provisions of the SNP, in addition to section 16 of the NPPF. Therefore, referring to the original planning balance and conclusion in the context of heritage impacts and having regard to the statutory presumption in favour of preservation, Officer's consider the harm resulting from the amended development would continue to carry significant negative weight in the overall planning balance.

## Landscape and Visual Impact

In terms of landscape impact the amendments made to the scheme have removed panels from a field in the bottom section of the site (west) and a corner of the field in the top section of the site (NW corner) – the appellant advances that these amendments seek to reduce the visual effects upon receptors at the western extent of Halloughton and users of Public Rights of Way (PRoW) (Southwell FP 42 & FP43) and Bridleways (Halloughton BW3).

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

In terms of visual impact it was previously concluded that there would be “*long term impacts on PRoW Southwell 74 particularly for the viewpoints 1 and 2 which last until year 1 and dependent on the success of vegetation establishment probably longer. The visual effects are reduced by the removal of the relatively small field of panels, but they are still important*”. It was also concluded that there would be long term impacts on PRoW Southwell 43 for viewpoints 14 and 15 which continue at year 10 and would be **major adverse**. These footpaths are well used, particularly PRoW Southwell 74 which links Southwell and Halloughton, and it was concluded that the visual amenity of these routes would be reduced as views would change from open farmland to views of solar farm infrastructure including the surrounding protective fencing and enclosing planting which would affect the visual perception of the village of Halloughton.

Having discussed verbally with VIA East Midlands (VIA) (landscape consultants) they have confirmed that despite the reduction of panels and reinforcement of landscaping they still consider that there would be long term impacts on the ‘land cover’ element of the landscape and long term impacts on the ‘landscape character’ of the site area – as such VIA remain unable to support the proposed scheme due to the landscape and visual impacts. Written comments from VIA will follow as a late item to this report.

In the context of the identified landscape and visual impacts and harm, the proposal would continue to be contrary to Core Policies 9 and 13 and the policy actions identified within the corresponding Landscape Character Assessment in addition to policy E6 of the SNP. Despite the amendments it remains that the landscape and visual impacts of the scheme should not to be taken lightly and the harm identified must continue to be weighed in the overall planning balance. Therefore, referring to the original planning balance and conclusion, in the context of landscape impacts, Officers consider that in summarising the overall level of harm, the degree to which the amended scheme would have an adverse impact on the character and appearance of the countryside would continue to merit significant weight.

### *Other matters*

Owing to the additional planting proposed Officers are mindful that there is likely to be a minor increase in biodiversity net gains compared to the original calculation reported in the Committee Report. As set out in the original planning balance and conclusion, ecological mitigation, management and enhancement reflects common practice in the development of solar farms. It also accords with the expectations of local and national planning policy for developments to

contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains where possible. As such, this potential for a slight additional biodiversity net gain on site would continue to attract moderate weight.

Officers are also mindful, as reported to Members in a late item in March 2021 that the applicant/land owner had chosen to plant approx. 7,989 trees in January 2021 along the southern boundary of the site. In March Officers noted that this planting had been undertaken by the applicant/land owner of their own accord and did not prejudice the application at hand. Notwithstanding the ecological benefits of this planting, Officers considered it could be argued that the planting that has already been undertaken should no longer be counted as a direct benefit that would be brought about by the scheme itself, given it had already been undertaken outside of any permission. It therefore remains our view that, despite the potential for a minor ecological benefit as a result of the amended scheme, consideration of the ecological benefits and enhancements overall must be considered in the context of the planting that has already been undertaken outside of the planning process.

It is also of note that a revision to the NPPF was published in July 2021 following the determination of this application. Whilst Officers acknowledge the revisions made to the NPPF they are of the view that the amendments do not materially alter the Council's previous assessment of the application.

### *Conclusion*

Despite the amendments proposed, the fact remains that the proposal would introduce numerous rows of solar arrays, deer fencing, and other associated structures that would be at odds with the prevailing rural character of the area – not only in simple visual terms, but also in terms of how the site links into the natural, cultural, historic and perceptual elements of the wider area. In the context of the overall planning balance and conclusion reported in the March 2021 Committee Report Officers consider that the changes made by the appellant remain relatively minor in the context of the scheme as a whole and overall do not fundamentally avoid or minimise the conflict that was identified in the original committee report.

However, Officers request Members to consider whether the amendments put forward by the Appellant as part of the appeal materially alters their previous assessment of the development.

### Background Papers

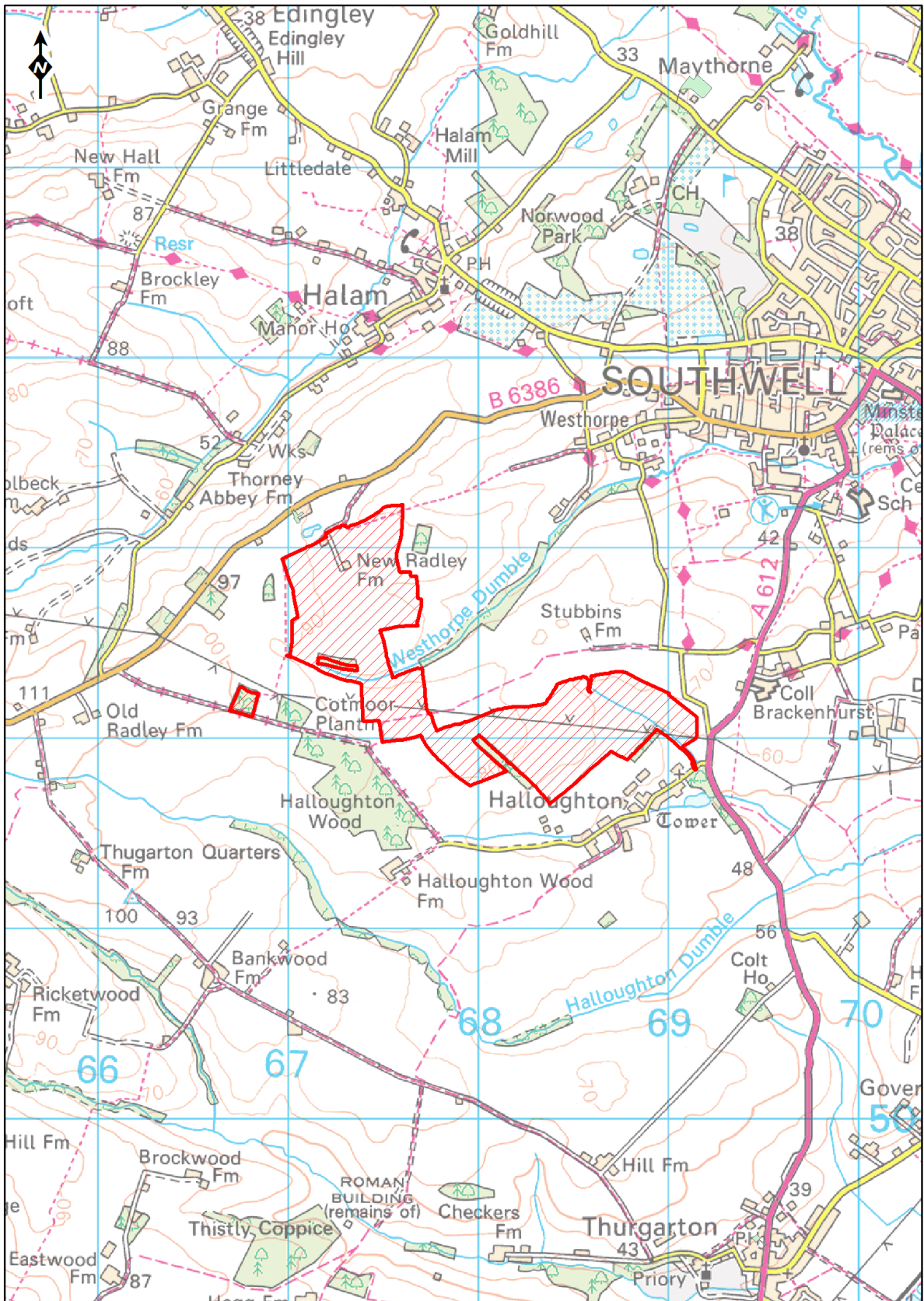
Application case file.

For further information, please contact Honor Whitfield on ext 5827

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

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





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## **PLANNING COMMITTEE – 7 SEPTEMBER 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.

### **RECOMMENDATION**

**That the report be noted.**

#### **Background Papers**

Application case files.

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

Lisa Hughes  
Business Manager – Planning Development

**APPENDIX A****Appeals Lodged (received between 19 July 2021 – 16 August 2021)**

<b>Appeal reference</b>	<b>Application number</b>	<b>Address</b>	<b>Proposal</b>	<b>Procedure</b>	<b>Appeal against</b>
APP/B3030/W/21/3275653	21/00208/HOUSE	Chapel House Church Lane Eakring NG22 0DH	Insulation and rendering to the front and side external walls of the house	Fast Track Appeal	Refusal of a planning application
APP/B3030/W/21/3276949	20/01801/FUL	The Cascades Boat Lane Hoveringham NG14 7JP	Erection of single dwelling with curtilage, hardstanding and new vehicular access	Written Representation	Refusal of a planning application
APP/B3030/W/21/3279533	20/01242/FULM	Land North Of Halloughton Southwell	Construction of a solar farm and battery stations together with all associated works, equipment and necessary infrastructure.	Public Inquiry	Refusal of a planning application

**PLANNING COMMITTEE – 7 SEPTEMBER 2021**

**APPEALS DETERMINED (BETWEEN 19 JULY 2021 – 16 AUGUST 2021)**

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
21/00108/FUL	Fern Bank Nottingham Road Thurgarton NG14 7GZ	Siting of 1no. caravan to be used as a dwelling in association with the dwelling known as Fern Bank	Delegated Officer	Not applicable	Appeal Withdrawn	28th July 2021
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.	Delegated Officer	Not applicable	Appeal Allowed	23rd July 2021

**RECOMMENDATION**

**That the report be noted.**

**Background Papers**

Application case files.

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

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Business Manager – Planning Development